

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

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

ContraFect Corporation

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
Incorporation or organization)

39-2072586
(I.R.S. Employer
Identification No.)

28 Wells Avenue, Third Floor
Yonkers, New York 10701
(914) 207-2300
(Address of principal executive offices) (Zip code)

ContraFect Corporation 2014 Omnibus Incentive Plan
(Full title of the plans)

Natalie Bogdanos, Esq.
General Counsel and Corporate Secretary
ContraFect Corporation
28 Wells Avenue, Third Floor
Yonkers, New York 10701
(914) 207-2300
(Name and address of agent for service) (Telephone number, including area code, of agent for service)

With copies to:

Peter N. Handrinis, Esq.
Latham & Watkins LLP
John Hancock Tower
200 Clarendon Street
Boston, MA 02116
(617) 948-6060

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, anon-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 <input type="checkbox"/>	Accelerated filer <input checked="" type="checkbox"/>
Non-accelerated filer <input type="checkbox"/>	Smaller reporting company <input checked="" type="checkbox"/>
	Emerging growth company <input checked="" type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for comply with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of 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, par value \$0.0001 per share	3,176,382(2)	\$0.54(3)	\$1,715,246.28	\$208

- (1) In accordance with Rule 416 under the Securities Act of 1933, as amended, this registration statement shall be deemed to cover any additional securities that may from time to time be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.
- (2) Consists of an additional 3,176,382 shares issuable under the ContraFect Corporation 2014 Omnibus Incentive Plan (the "2014 Plan") pursuant to the terms of such plan.

- (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of the Securities Act of 1933, as amended, and based upon the average of the high and low prices of the ContraFect Corporation's (the "Registrant") common stock as reported on The Nasdaq Capital Market on May 8, 2019.
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EXPLANATORY NOTE

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional 3,176,382 shares of the Registrant's common stock to be issued pursuant to the 2014 Plan and for which a Registration Statement of the Registrant on Form S-8 relating to the same employee benefit plan is effective.

INCORPORATION BY REFERENCE OF CONTENTS OF REGISTRATION STATEMENTS ON FORMS-8

The contents of the Registration Statements on Form S-8 (File Nos. 333-224834, 333-199046 and 333-217943), filed with the Securities and Exchange Commission, relating to the 2014 Plan, are incorporated herein by reference.

Item 8. Exhibits

<u>Exhibit Number</u>	<u>Description</u>
4.1	<u>Amended and Restated Certificate of Incorporation of the Registrant, dated August 1, 2014, as amended by the Certificate of Amendment, dated May 9, 2016 and Certificate of Amendment, dated May 2, 2017 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (File No. 001-36577) filed on May 3, 2017)</u>
4.2	<u>Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K (File No. 001-36577) filed on May 10, 2016)</u>
5.1*	<u>Opinion of Latham & Watkins LLP</u>
23.1*	<u>Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm</u>
23.2*	<u>Consent of Latham & Watkins LLP (included in Exhibit 5.1)</u>
24.1*	<u>Power of Attorney (included on signature page)</u>
99.1	<u>ContraFect Corporation 2014 Omnibus Incentive Plan (incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 (Reg. No. 333-217943) filed on May 12, 2017)</u>
99.2	<u>ContraFect Corporation 2014 Omnibus Incentive Plan Form of Stock Option Grant Notice, Option Agreement and Notice of Exercise (incorporated by reference to Exhibit 99.3 to the Registrant's Registration Statement on Form S-8 (Reg. No. 333-199046) filed on September 30, 2014)</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 Yonkers, State of New York, on May 13, 2019.

CONTRAFECT CORPORATION

By: /s/ Roger J. Pomerantz

Roger J. Pomerantz, M.D., F.A.C.P.
*Chief Executive Officer, President and
Chairman of the Board*

POWER OF ATTORNEY

Each person whose signature appears below hereby constitutes and appoints Roger J. Pomerantz, M.D., F.A.C.P., Michael Messinger and Natalie Bogdanos, or each of them singly, with full power to act without the other, such person's true and lawful attorneys-in-fact and agents, with full power of substitution and re-substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign this registration statement and any and all amendments, including post-effective amendments to this registration statement, and to file the same, with exhibits and schedules 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 or desirable 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 or her 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/ Roger J. Pomerantz, M.D., F.A.C.P.</u> Roger J. Pomerantz, M.D., F.A.C.P.	Chief Executive Officer, President and Chairman of the Board <i>(Principal Executive Officer)</i>	May 13, 2019
<u>/s/ Michael Messinger</u> Michael Messinger	Chief Financial Officer <i>(Principal Financial Officer and Principal Accounting Officer)</i>	May 13, 2019
<u>/s/ Sol J. Barer, Ph.D.</u> Sol J. Barer, Ph.D.	Lead Independent Director	May 13, 2019
<u>/s/ Isaac Blech</u> Isaac Blech	Director	May 13, 2019
<u>/s/ David N. Low, Jr.</u> David N. Low, Jr.	Director	May 13, 2019
<u>/s/ Michael J. Otto, Ph.D.</u> Michael J. Otto, Ph.D.	Director	May 13, 2019
<u>/s/ Steven C. Gilman, Ph.D.</u> Steven C. Gilman, Ph.D.	Vice Chairman of the Board	May 13, 2019
<u>/s/ Cary W. Sucoff</u> Cary W. Sucoff	Director	May 13, 2019

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LATHAM & WATKINS LLP

May 13, 2019

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ContraFect Corporation
 28 Wells Avenue, Third Floor
 Yonkers, New York 10701

Re: Registration Statement on Form S-8; 3,176,382 shares of Common Stock, par value \$0.0001 per share, of ContraFect Corporation

Ladies and Gentlemen:

We have acted as special counsel to ContraFect Corporation, a Delaware corporation (the "Company"), in connection with the preparation and filing by the Company with the Securities and Exchange Commission of a registration statement on Form S-8 (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"), relating to the issuance of up to 3,176,382 shares of the Company's common stock, par value \$0.0001 per share (the "Shares"), which may be issued pursuant to the ContraFect Corporation 2014 Omnibus Incentive Plan (the "Plan"). This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the prospectus forming a part thereof, other than as expressly stated herein with respect to the issuance of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon the foregoing and upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein only as to the General Corporation Law of the State of Delaware, as amended (the "DCGL"), and we express no opinion with respect to any other laws.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the Shares shall have been duly registered on the books of the transfer agent and registrar therefor in the name or on behalf of the purchasers, and have been issued by the Company for legal consideration in excess of par value in the circumstances contemplated by the Plan, assuming in each case that the individual grants or awards under the Plan are duly authorized by all necessary corporate action and duly granted or awarded and exercised in

May 13, 2019

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accordance with the requirements of law and the Plan (and the agreements and awards duly adopted thereunder and in accordance therewith), the issue and sale of the Shares will have been duly authorized by all necessary corporate action of the Company, and the Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the DGCL.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Securities Act. We consent to your filing this opinion as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Latham & Watkins LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (FormS-8) pertaining to the ContraFect Corporation 2014 Omnibus Incentive Plan of ContraFect Corporation of our report dated March 14, 2019, with respect to the consolidated financial statements of ContraFect Corporation included in its Annual Report (Form 10-K) for the year ended December 31, 2018, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Hartford, Connecticut
May 10, 2019

A member firm of Ernst & Young Global Limited