

FIREEYE, INC.

FORM 8-K (Current report filing)

Filed 09/13/17 for the Period Ending 09/12/17

Address	1440 MCCARTHY BLVD MILPITAS, CA, 95035
Telephone	408-321-6300
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Industry	Software
Sector	Technology
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of
The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): September 12, 2017

FireEye, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-36067
(Commission
File Number)

20-1548921
(IRS Employer
Identification No.)

1440 McCarthy Blvd.
Milpitas, CA 95035
(Address of principal executive offices, including zip code)

(408) 321-6300
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the Exchange Act.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors.

Election of Director

On September 12, 2017, the Board of Directors (the "Board") of FireEye, Inc. (the "Company") appointed Robert E. Switz to serve as a member of the Board, effective immediately. Mr. Switz will serve in the class of directors whose term expires at the annual meeting of stockholders to be held in 2018. In addition, Mr. Switz was appointed as a member of the Audit Committee of the Board, effective immediately.

Mr. Switz, age 70, served as the President and Chief Executive Officer of ADC Telecommunications, Inc. ("ADC"), a supplier of network infrastructure products and services, from August 2003 until December 2010, when Tyco Electronics Ltd. (now TE Connectivity Ltd.) acquired ADC. Mr. Switz served as Chairman of the Board of Directors of ADC from June 2008 to December 2010 and served on the board of directors of ADC from August 2003 until December 2010. From 1994 until August 2003, he served in various positions at ADC, including as Chief Financial Officer. Prior to ADC, he served in various positions at Burr-Brown Corporation, a multi-national manufacturer of precision micro-electronics and systems products, including as Chief Financial Officer, Vice President of European Operations, Ventures and Finance, and Director of the Ventures and Systems Business. Mr. Switz has served on the board of directors of Micron Technology, Inc. since February 2006, the board of directors of Gigamon, Inc. since June 2015, and the board of directors of Marvell Technology Group Ltd. since May 2016. He previously served on the board of directors of Broadcom Corporation from May 2003 to February 2016, the board of directors of Cyan, Inc. from March 2011 to August 2015, the board of directors of GT Advanced Technologies Inc. from May 2011 to March 2016, the board of directors of Leap Wireless International, Inc. from July 2011 to March 2014, and the board of directors of Pulse Electronics Corporation from June 2014 to April 2015. Mr. Switz holds a B.S. in Business Administration from Quinnipiac University and an M.B.A. from the University of Bridgeport.

The Board has determined that Mr. Switz is an "independent director" as defined under the applicable rules and regulations of the Securities and Exchange Commission and the listing requirements and rules of The NASDAQ Stock Market.

There is no arrangement or understanding between Mr. Switz and any other persons pursuant to which Mr. Switz was selected as a director.

In accordance with the Company's Outside Director Compensation Policy, as amended (the "Outside Director Compensation Policy"), Mr. Switz was granted a restricted stock unit award on September 12, 2017 in the amount of 24,227 shares of the Company's common stock. The award will vest over three years, with one-third (1/3rd) of the restricted stock units subject to the award vesting on each anniversary of the date of grant, in each case subject to Mr. Switz continuing to serve on the Board through the applicable vesting date. The restricted stock units are subject to the terms and conditions of the Company's 2013 Equity Incentive Plan and the related restricted stock unit award agreement. Furthermore, Mr. Switz is entitled to receive annual fees in accordance with the terms and conditions of the Outside Director Compensation Policy. The Company will also reimburse Mr. Switz for reasonable expenses in connection with his services to the Company and attendance of Board and committee meetings in accordance with the Company's established policies. A copy of the offer letter between Mr. Switz and the Company is filed as Exhibit 10.1 to this Current Report on Form 8-K.

In addition, Mr. Switz has executed the Company's standard form of indemnification agreement, a copy of which has been filed as Exhibit 10.1 to the Company's Registration Statement on Form S-1 filed with the Securities and Exchange Commission on August 2, 2013.

A copy of the press release announcing the appointment is filed as Exhibit 99.1 to this Current Report on Form 8-K.

Departure of Director

On September 12, 2017, Deepak Ahuja notified the Company of his decision to resign from the Board, effective immediately. Mr. Ahuja's decision to resign was due to increased time commitments related to other endeavors and did not involve any disagreement with the Company. Mr. Ahuja had served as a director since September 2015. The Company thanks Mr. Ahuja for his service to the Company.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	Offer Letter between the Registrant and Robert E. Switz, dated September 11, 2017
99.1	Press release dated September 13, 2017

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
10.1	Offer Letter between the Registrant and Robert E. Switz, dated September 11, 2017
99.1	Press release dated September 13, 2017

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

FIREEYE, INC.

Date: September 13, 2017

By: /s/ Alexa King

Alexa King

Executive Vice President, General Counsel and Secretary



September 11, 2017

Mr. Robert E. Switz
(via email)

Dear Bob,

On behalf of the Board of Directors (the "Board") of FireEye, Inc. (the "Company"), we are pleased to inform you that our Nominating and Corporate Governance Committee has nominated you for election as a member of our Board and our Audit Committee. This offer is subject to final approval by our Board and election as a member of our Board and Audit Committee.

As you are aware, the Company is a Delaware corporation and therefore your rights and duties as a Board member are prescribed by Delaware law and our charter documents, as well as by the policies established by our Board from time to time and the rules and regulations of the U.S. Securities and Exchange Commission and The NASDAQ Stock Market. As you are also aware, upon your formal appointment to the Board, you will become a Section 16 reporting person of the Company. You may also be requested to serve as a director of one or more of our subsidiaries in which case you may be subject to other laws while serving in such a capacity. In addition, please note that, as a director, you will be subject to the corporate policies of the Company, including but not limited to the Company's Code of Business Conduct and Ethics Policy, External Communications (Regulation FD) Policy, Anti-Corruption Policy, Insider Trading Policy and Stock Ownership Guidelines.

As a non-employee member of our Board, you will be asked to serve on one or more committees of our Board. We expect that you will be appointed by our Board to serve on the Audit Committee and possibly additional committees. In addition to committee meetings, which shall be convened as needed, our Board meetings are generally held quarterly at the Company's offices in Milpitas, California. We would hope that your schedule would permit you to attend all of the meetings of the Board and any committees of which you are a member. In addition, from time to time, there may be telephonic meetings to address special matters.

It is expected that during the term of your Board membership with the Company you will not engage in any other employment, occupation, consulting or other business activity that competes with the business in which the Company is now involved in or becomes involved in during the term of your service to the Company, nor will you engage in any other activities that conflict with your obligations to the Company.

If you decide to join the Board and to serve on the Audit Committee, then at the time of your election as a member of the Board, you will be granted an award of restricted stock units ("RSUs") with a total value of \$400,000 (the "Initial Award") (with the number of shares subject thereto determined based on that total value, but rounded down to the nearest whole share), pursuant to the Company's Outside Director Compensation Policy (the "Outside Director Compensation Policy"). The Initial Award will be subject to the terms and conditions of our 2013 Equity Incentive Plan (the "Plan") and our standard form of RSU agreement thereunder. Subject to the Outside Director Compensation Policy and the Plan, the Initial Award will vest as to one-third (1/3rd) of the RSUs subject to the Initial Award on each anniversary of the date of grant, in each case subject to you continuing to serve as a Board member through the applicable vesting date. Furthermore, after becoming a member of the Board, you will be entitled to receive additional annual equity awards in accordance with the terms and conditions of the Outside Director Compensation Policy.

In accordance with the terms of the Outside Director Compensation Policy and the Plan, in connection with a Change in Control (as defined in the Plan), all RSUs subject to the Initial Award granted in accordance with the foregoing provisions shall vest in full if the successor corporation does not assume or substitute for the Initial Award or your status as a director of the Company or the successor corporation, as applicable, is terminated other than upon a voluntary resignation by you (unless such resignation is at the request of the acquirer).

FireEye, Inc., 1440 McCarthy Blvd., Milpitas, CA 95035 | +1 408.321.6300 | +1 877.FIREEYE (347.3393) | info@FireEye.com | www.FireEye.com



Mr. Robert E. Switz
September 11, 2017
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The payment of compensation to Board members is subject to many restrictions under applicable law, and as such, you should be aware that the compensation set forth above is subject to such future changes and modifications as the Board or its committees may deem necessary or appropriate. In addition, please note that unless otherwise approved by our Board or required under applicable law, directors of our subsidiaries shall not be entitled to any compensation.

You shall be entitled to reimbursement for reasonable expenses incurred by you in connection with your service to the Company and attendance of Board and committee meetings in accordance with the Company's established policies.

Please note that nothing in this letter or any agreement granting you equity awards should be construed to interfere with or otherwise restrict in any way the rights of the Company, its Board or stockholders from removing you from the Board or any committee in accordance with the provisions of applicable law. Furthermore, except as otherwise provided to other non-employee Board members or required by law, the Company does not intend to afford you any rights as an employee, including without limitation, the right to further employment or any other benefits.

This letter sets forth the entire agreement and understanding between you and the Company relating to the subject matter herein and supersedes all prior or contemporaneous discussions, understandings and agreements, whether oral or written, between you and the Company relating to the subject matter hereof.

We hope that you find the foregoing terms acceptable. You may indicate your agreement with these terms by signing both the enclosed duplicate and original letter and returning them to me. By signing this letter you also represent that the execution and delivery of this agreement and the fulfillment of the terms hereof will not require the consent of another person, constitute a default under or conflict with any agreement or other instrument to which you are bound or a party.

On behalf of the Company it gives us great pleasure to welcome you as a member of our Board. We anticipate your leadership and experience shall make a key contribution to our success at this critical time in our growth and development.

Yours very truly,

/s/ Kevin R. Mandia

Kevin R. Mandia
Chief Executive Officer and Director
FireEye, Inc.

Acknowledged and agreed to as of this
12th day of SEPT., 2017

/s/ Robert E. Switz
Robert E. Switz

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Veteran Senior Management and Finance Executive Robert Switz Joins FireEye Board of Directors

Brings business leadership and board experience across technology market and other industries

MILPITAS, Calif. – September 13, 2017 – FireEye, Inc. (NASDAQ: FEYE), the intelligence-led security company, today announced that former ADC Telecommunications chairman, president and CEO Robert Switz has been appointed to the FireEye board of directors.

Switz brings more than 30 years of experience across the technology market and other industries, including more than 15 years with ADC, a supplier of network infrastructure products and services. He joined ADC as chief financial officer in 1994, and was a major contributor to the company's financial and business success.

Prior to ADC, Switz held leadership positions at Burr-Brown, a multi-national manufacturer of precision micro-electronics and systems products; Gulfstar, a leading manufacturer of luxury motor yachts; PepsiCo, an international beverage, restaurant and snack foods company; AMF, a leisure and industrial products company; and Olin, a diversified chemical, metals and consumer products company. An active board member, Switz is currently chairman of the board of Micron Technology.

"With his history of driving financial and operational success across a number of dynamic and highly competitive markets, Bob will be a valuable addition to the FireEye board of directors," said FireEye CEO Kevin Mandia. "Few business leaders today can match the breadth and diversity of Bob's experience, and his financial acumen and management perspective will be important assets as FireEye moves forward with its focus on balancing growth and profitability while maintaining a commitment to cybersecurity leadership and innovation."

"FireEye has made great progress rightsizing its cost structure and strengthening the company's foundation for future growth," said Switz. "I'm excited by the opportunity to work with my fellow board members and the senior management team to support the continued financial and business transformations designed to better enable FireEye to protect its customers and drive shareholder value."

About FireEye, Inc.

FireEye is the intelligence-led security company. Working as a seamless, scalable extension of customer security operations, FireEye offers a single platform that blends innovative security technologies, nation-state grade threat intelligence, and world-renowned Mandiant® consulting. With this approach, FireEye eliminates the complexity and burden of cyber security for organizations struggling to prepare for, prevent, and respond to cyber-attacks. FireEye has over 6,000 customers across 67 countries, including more than 40 percent of the Forbes Global 2000.

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