

REGISTRATION NO. 33-80362

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

POST-EFFECTIVE AMENDMENT NO. 2 TO

FORM S-8  
REGISTRATION STATEMENT

UNDER  
THE SECURITIES ACT OF 1933

VIVUS, INC.  
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

DELAWARE  
(STATE OF OTHER JURISDICTION OF  
INCORPORATION OR ORGANIZATION)

94-3136179  
(I.R.S. EMPLOYER IDENTIFICATION NO.)

545 MIDDLEFIELD ROAD, SUITE 200  
MENLO PARK, CA 94025  
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES, ZIP CODE)

1991 INCENTIVE STOCK PLAN  
(FULL TITLE OF THE PLAN)

DAVID YNTEMA  
CHIEF FINANCIAL OFFICER

VIVUS, INC.  
545 MIDDLEFIELD ROAD, SUITE 200  
MENLO PARK, CA 94025  
(415) 325-5511  
(NAME, ADDRESS, AND TELEPHONE NUMBER, INCLUDING AREA CODE, OF AGENT  
FOR SERVICE)

Copy to:

ROBERT D. BROWNELL, ESQ.  
WILSON SONSINI GOODRICH & ROSATI  
PROFESSIONAL CORPORATION  
650 PAGE MILL ROAD  
PALO ALTO, CA 94304  
(415) 493-9300

## 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 (no par value per share)	1,700,000	\$33.50 (2)	\$56,950,000 (3)	\$19,638

- (1) The shares covered by this Registration Statement represent shares of Common Stock which have become available for issuance under the Registrant's 1991 Incentive Stock Plan as a result of an amendment approved by the shareholders at the Registrant's Annual Meeting held on May 24, 1995 increasing the number of shares authorized for issuance thereunder from 1,400,000 to 3,100,000.
- (2) Calculated solely for the purpose of determining the registration fee on the basis of the average of the bid and ask prices of the Registrant's Common Stock as reported by the Nasdaq National Market System on December 11, 1996 in accordance with Rule 457(h)(1) and (c).
- (3) Calculated in accordance with Rule 457(h) under the Act based on the aggregate exercise price for options available for grant.

STATEMENT UNDER GENERAL INSTRUCTION E REGISTRATION OF ADDITIONAL SECURITIES.

Unless as noted herein, the contents of the Registrant's Registration Statement on Form S-8 (File No. 33-80362) are hereby incorporated by reference into this Registration Statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 8. EXHIBITS.

- 5.1 Opinion of counsel as to legality of Securities being registered.
- 23.1 Consent of Arthur Andersen LLP, Independent Public Accountants.
- 23.2 Consent of counsel (contained in Exhibit 5.1).
- 24.1 Power of Attorney (see page 5).

## 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 Post-Effective Amendment No. 2 to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Menlo Park, State of California, on this 17th day of December, 1996.

VIVUS, INC.

By: /s/ DAVID C. YNTEMA

-----  
David C. Yntema  
Chief Financial Officer

By: /s/ LELAND F. WILSON

-----  
Leland F. Wilson  
President and Chief Executive Officer

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## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert D. Brownell, David C. Yntema and Leland F. Wilson, jointly and severally, his attorneys-in-fact, each with the power of substitution, for him in any and all capacities, to sign any amendments to this Post-Effective Amendment No. 2 to the Registration Statement on Form S-8 and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorney-in-fact, or his substitute or substitutes, may 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.

Signatures	Title	Date
/s/ LELAND F. WILSON ----- Leland F. Wilson	President and Chief Executive Officer (Principal Executive Officer)	December 17, 1996
/s/ VIRGIL A. PLACE, M.D. ----- Virgil A. Place, M.D.	Chairman of the Board of Directors	December 17, 1996
/s/ DAVID C. YNTEMA ----- David C. Yntema	Chief Financial Officer (Principal Financial and Accounting Officer)	December 17, 1996
/s/ RICHARD L. CASEY ----- Richard L. Casey	Director	December 17, 1996
/s/ SAMUEL D. COLELLA ----- Samuel D. Colella	Director	December 17, 1996
/s/ BRIAN H. DOVEY ----- Brian H. Dovey	Director	December 17, 1996
/s/ ELIZABETH A. FETTER ----- Elizabeth A. Fetter	Director	December 17, 1996
/s/ PETER BARTON HUTT ----- Peter Barton Hutt	Director	December 17, 1996
/s/ LINDA JENCKES ----- Linda Jenckes	Director	December 17, 1996

## INDEX TO EXHIBITS

Exhibit Number	Description of Document	Page
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December 17, 1996

VIVUS, Inc.  
545 Middlefield Road, Suite 200  
Menlo Park, CA 94025

RE: REGISTRATION STATEMENT ON FORM S-8

Ladies and Gentlemen:

We have examined the Post-Effective Amendment No. 2 to the Registration Statement on Form S-8 (the "Registration Statement") to be filed by VIVUS, Inc., a Delaware corporation (the "Registrant" or "you"), with the Securities and Exchange Commission on or about December 17, 1996, in connection with the registration under the Securities Act of 1933, as amended, of shares of your Common Stock, no par value (the "Shares"), reserved for issuance pursuant to the 1991 Incentive Stock Plan, as amended (the "Plan"). As your legal counsel in connection with this transaction, we have reviewed the proceedings taken by you in connection with the issuance and sale of the Shares pursuant to the Plan.

It is our opinion that, when issued and sold in the manner described in the Plan and pursuant to the agreements that accompany each grant under the Plan, the Shares will be legally and validly issued, fully-paid and non-assessable.

We consent to the use of this opinion as an exhibit to the Registration Statement, and further consent to the use of our name wherever appearing in the Registration Statement and any subsequent amendment thereto.

Very truly yours,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

## CONSENT OF INDEPENDENT PUBLIC ACCOUNTANTS

As independent public accountants, we hereby consent to the incorporation by reference in this Post-Effective Amendment No. 2 to the Registration Statement on Form S-8 (No. 33-80362) pertaining to the 1991 Incentive Stock Plan of VIVUS, Inc., of our report dated January 25, 1996 included in or made part of this Registration Statement for VIVUS, Inc.

Arthur Andersen LLP

Oakland, California  
December 17, 1996