BRL HOLDINGS INC
Form S-8
June 12, 2003

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER

THE SECURITIES ACT OF 1933

BRL HOLDINGS, INC.
(Exact name of registrant as specified in its charter)

Delaware	88-0218411
(State or other jurisdiction of incorporation or organization)	(I. R. S. Employment Number)

200 PERIMETER ROAD
MANCHESTER, NH 03130
(Address of Principal Executive Offices)

(603) 641-8443
(Issuer's Telephone Number, including Area Code)

CONSULTANT STOCK FOR SERVICES JUNE 2003
(Full title of the Plan)

R. BRUCE REEVES 200 PERIMETER ROAD
MANCHESTER, NH 03103
(Name and Address of Agent for Service)

(603) 641-8443
(Telephone number including area code, of agent for service)

IF ANY OF THE SECURITIES BEING REGISTERED ON THIS FORM ARE TO BE OFFERED ON A DELAYED OR CONTINUOUS BASIS PURSUANT TO RULE 415 UNDER THE SECURITIES ACT OF 1933, OTHER THAN SECURITIES OFFERED ONLY IN CONNECTION WITH DIVIDEND OR INTEREST REINVESTMENT PLANS, CHECK THE FOLLOWING BOX: [ ]

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CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to	Amount to	Proposed Maximum Price per	Proposed Maximum Aggregate	Amount of Registration

be Registered	be Registered(1)	Unit/Share	Offering Price	Fee(2)
$0.01 par value common voting stock	2,000,000	$0.06	$120,000	$9.71

(1) Pursuant to Consulting Agreements for services rendered. None of the Consultants is believed presently to be an "affiliate" of the Registrant; however, if any becomes an "affiliate" at any time that he or she owns securities that are registered hereunder, resales by that person must also be made in compliance with applicable provisions of Rule 144.

(2) Calculated according to Rule 230.457(h) of the Securities and Exchange Commission, based upon the exercise price of the options covering the underlying common stock to be issued under the Plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.

A copy of our ("BRL Holdings, Inc.," or the "Company," "we," "our" and "us" or words of similar import) proforma written Consulting Agreement (the "Consulting Agreements") is attached hereto and incorporated herein by reference. (See the Exhibit Index)

Item 2. Registrant Information and Employee Plan Annual Information.

Not Applicable.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

We are subject to the information requirements of the Securities Exchange Act of 1934 (the "Exchange Act") and, in accordance with the Exchange Act, we file reports with the Securities and Exchange Commission. The documents listed below are hereby incorporated by reference into this Registration Statement on Form S-8; and all documents subsequently filed by us pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities registered and offered hereby have been sold or which de-registers all securities remaining unsold, shall be deemed to be incorporated herein by reference in this Registration Statement, and shall be a part hereof from the date of the filings of such documents.

(a) Our Annual Report on Form 10-KSB for the fiscal year ended June 30, 2002, filed November 14, 2002; and

(b) All of our other reports filed pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act during the past twelve months, along with all

other reports filed by us pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act since June 30, 2002, including, but not limited to our 8-K Current Report dated October 2, 2002, which was filed October 4, 2002; our 8-K/A Current Report dated October 2, 2002, which was filed November 6, 2002; our 8-K Current Report dated April 1, 2002, which was filed November 7, 2002; our Definitive Information Statement which was filed November 25, 2002; Our Quarterly Report on Form 10-QSB for the quarter ended September 30, 2002, which was filed November 19, 2002; and our 8-K Current Report dated November 20, 2002, which was filed November 20, 2002; our Form 10-QSB for the quarter ended December 31, 2002 which was filed February 18, 2003; OUR Form 10-QSB for the quarter ended March 31, 2003 which was filed May 19, 2003;

(c) We are authorized to issue two class of securities, that are comprised of $0.01 par value common voting stock, and a class of preferred stock with a $0.10 par value, of which no shares are issued or outstanding.

The holders of our $0.01 par value common stock have traditional rights as to voting, dividends and liquidation. All shares of common stock are entitled to one vote on all matters; there are no pre-emptive rights and cumulative voting is not allowed. The common stock is not subject to redemption and carries no subscription or conversion rights. In the event of our liquidation, the holders of our common stock are entitled to share equally in corporate assets after satisfaction of all liabilities.

Item 4. Description of Securities.

Not applicable; however, see Item 3(c) above.

Item 5. Interest of Named Experts and Counsel.

The validity of the authorization and issuance of the common stock being registered hereby will be passed upon by John B.Lowy, P.C.

Item 6. Indemnification of Directors and Officers.

Under the Delaware General Corporation Law, a corporation has the power to indemnify any person who is made a party to any civil, criminal, administrative or investigative proceeding, other than an action by or in the right of the corporation, by reason of the fact that such person was a director, officer, employee or agent of the corporation, against expenses, including reasonable attorneys' fees, judgments, fines and amounts paid in settlement of any such actions; provided, however, in any criminal proceeding, the indemnified person shall have had no reason to believe the conduct committed was unlawful.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit
Number

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5 Opinion and Consent of John B. Lowy, P.C. re the legality of the securities registered.

23.1 Consent of John B. Lowy, P.C., to use the opinion with respect to the legality of the securities being registered is contained in Exhibit 5 above.

23.2 Consent of Stephen Diamond, Certified Public Accountant

99.2.5 Form of Consulting Agreement

Item 9. Undertakings.

We hereby undertake:

(a) (1) 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 of 1933 (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; and

(iii) To include any additional or changed 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, only to the extent required by the general rules and regulations of the Securities and Exchange Commission.

(2) 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 therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) 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.

(b) That for purposes of determining any liability under the 1933 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 therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(h) Insofar as indemnification for liabilities arising under the Securities

Act, as amended, may be permitted to directors, executive officers and controlling persons of the Registrant as outlined above 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, executive officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, executive 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 of 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 Section 13 or 15(d) of the Exchange Act of 1934, 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 on Form S-8 to be signed on its behalf by the undersigned, thereunto duly authorized, on the date set forth below.

BRL Holdings, Inc.
Date: June , 2003 By: Nataliya Hearn, Ph.D.

Nataliya Hearn, President

Pursuant to the requirements of the Securities Act, the following persons on behalf of the Registrant and in the capacities and on the dates indicated have signed this registration statement below.

Date: ------- By: ---
Nataliya Hearn, President
and Director

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Date: ------- By: ---
Gerald Enloe, Director

Date: ------- By: ---
Jim Morin, Treasurer
and Director

Securities and Exchange Commission File No.000-15260

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

EXHIBITS

TO

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

BRL HOLDINGS, INC.

EXHIBIT INDEX

Exhibit Number	
5	Opinion regarding Legality
23.1	Consent of John B. Lowy, P.C. contained in Exhibit 5
23.2	Consent of Stephen Diamond Certified Public Accountants
99.2.5	Form of Consulting Agreement

June 10, 2003

BRL Holdings, Inc.
D/b/a Element 21
200 Perimeter Road
Manchester, NH 03103

Gentlemen:

We have reviewed a Registration Statement on Form S-8 (the "Registration Statement"), to be filed with the Securities and Exchange Commission, relating to 2,000,000 shares of common stock, $.01 par value per share (the "Shares") of BRL Holdings, Inc (the "Company"), which shares have been issued pursuant to certain Company's consulting agreements and employment agreements, the forms of which are filed as an exhibit to the Registration Statement (the "Agreement").

We have examined the Certificate of Incorporation, as amended, and the By-Laws of the Company and all amendments thereto, the Registration Statement and originals, or copies certified to our satisfaction, of such records of meetings written actions in lieu of meetings, or resolutions adopted at meetings, of the directors of the Company, and such other documents and instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below.

In examination of the foregoing documents, we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photo static copies, and the authenticity of the originals of such latter documents.

Based upon and subject to the foregoing, we are of the opinion that the Shares have been duly and validly authorized for issuance under the Agreement, and the Shares, when issued against payment therefore in accordance with the terms of their agreements, will be legally issued, fully paid and nonassessable.

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

Very truly yours,

JBL:ah

John B. Lowy, P.C.

CONSENT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

We consent to the incorporation by reference in BRL Holdings, Inc. Form S-8 dated June 10, 2003 of our audit report dated November 12, 2002 on the financial statements of BRL Holdings, Inc. as of and for the year ended June 30, 2002, which is included in BRL Holdings, Inc.'s annual Report on Form 10-KSB for the year ended June 30, 2002.

Stephen A. Diamond
1200 Sheppard Ave. E. Suite 203
North York, Ontario
Canada M2K 2S5
June 10, 2003

PROFORMA CONSULTANT AGREEMENT

This Consultant Agreement ("Agreement") is made by BRL Holdings, Inc., d/b/a Element 21 ("Element 21") having a place of business at 200 Perimeter Road, Manchester, N.H. 03103, its successors and subsidiaries worldwide, and _____ ("Consultant") with his/her principal office at _____ _____, and effective this _____ day of _____, 20___ ("Effective Date") for the purpose of setting forth the exclusive terms and conditions by which Element 21 acquires Consultant's services on a temporary basis.

In consideration of the mutual obligations specified in this Agreement, and any compensation paid to Consultant for their services, the parties agree to the following:

1. Work To Be Performed By Consultant

(a) Initially this Agreement shall expire on_____, but may be extended month by month on written agreement of the parties.

(b) Consultant is hereby engaged by Element 21 to perform the work defined in the Work Statement in Appendix A. (Include work milestones, dates, fixed payments and any other pertinent information - if any.)

(c) Element 21, at its sole discretion, may change the Work Statement at any time by giving written notice to Consultant. Immediately upon receipt of written notice from Element 21 narrowing the Work Statement, the Work Statement is deemed to be amended accordingly, and Consultant will cease any work on the portion of the Work Statement that is deleted.

(d) Element 21 may request that the Work Statement be broadened and Consultant will negotiate in good faith with ATS to amend the Work Statement to include the broadened work.

(e) Element 21 may request that the Work Statement be otherwise amended without narrowing or broadening the Work Statement and Consultant will negotiate in good faith with Element 21 to amend the Work Statement. Examples are changes in milestones and fixed payments.

(f) This Consultant Agreement with Consultant is personal and any work to be performed under it cannot be assigned to other s without the written approval of Element 21.

2. Compensation: Consultant hereby agrees to accept, as consideration for services rendered to the Company _____ shares of the Company's Common Stock issued. Consultant acknowledges that the aforementioned Shares are in full payment for services rendered and Consultant further acknowledges that the stock has a value of ___ per share at this time. Consultant further acknowledges that:

3. Non-Disclosure And Trade Secrets

(a) During the term of this Agreement and in the course of Consultant's performance hereunder, Consultant will receive and otherwise be exposed to highly confidential information belonging to Element 21, its customers, suppliers and others. Such confidential information includes, but is not limited to, Element 21's marketing and customer support strategies, Element 21'ss financial information including sales, costs, profits, and pricing methods, Element 21's internal organization, employee lists and customer lists, Element 21's technology including discoveries, inventions, research and development efforts, manufacturing processes, hardware/software design and maintenance tools, and hardware/software product know-how and show-how, and all derivatives, improvements, and enhancements to any of the above which are created or developed by Consultant under this Agreement (collectively referred to as "Information").

(b) Such Information may or may not contain legends or other written notice that is of a confidential nature. Such Information shall not be considered confidential if it: (a) was in the public domain or becomes part of the public domain, by publication or otherwise, except by an unauthorized act of Consultant or someone else.

(c) Consultant acknowledges the highly confidential character of the Information, and agrees that the Information is the sole, exclusive and extremely valuable property of Element 21 or third parties, and wrongful disclosure to others will cause irreparable harm to Element 21 or the third

party owners. Consultant agrees not to reproduce any of the Information except as is necessary in the performance of work contemplated under this Agreement, and not to divulge all or any part of the Information in any form to any third party, either during or after expiration or termination of this Agreement.

(d) Element 21 shall exercise reasonable care either to prominently and legibly mark all corporeal forms of Information supplied to Consultant with the legend "Confidential" or equivalent, or, if the Information is originally provided to Consultant without a "Confidential" legend, it shall be considered Confidential under this Agreement if such information is identified to Consultant as being Confidential within ten (10) business days of its original disclosure.

(e) Upon expiration or termination of this Agreement for any reason, Consultant agrees to cease using and to return to Element 21 all whole and partial copies and derivatives of Element 21's Information, whether in Consultant's possession or under Consultant's direct or indirect control, including any computer access nodes and/or codes.

(f) Consultant shall not disclose or otherwise make available to Element 21 in any manner any confidential and proprietary information received by Consultant from third parties.

(g) This Section 3 shall survive the termination of this Agreement for any reason.

4. Ownership Of Work Product

(a) Consultant agrees that any and all work product, ideas, improvements, inventions, copyrights, trademarks and trade secrets ("work product") conceived, created or first reduced to practice in the performance of work under this Agreement for Element 21 are a "work for hire" and Element 21 shall be vested with all rights, title, and interests including patents, copyrights, trade secrets and trademark rights in Consultant's work product. Consultant agrees that they shall execute all papers including, but not limited to, patent and copyright applications, patent and copyright assignments, and shall otherwise assist Element 21, at Element21's expense, and as reasonably necessary to perfect all Element 21's rights, title and other interests in Consultant's work product.

(b) This section 4 shall survive the expiration or termination of this Agreement for any reason.

5. Indemnification / Release

(a) Consultant agrees to take all reasonable precautions to prevent injury to any persons (including employees of Element 21) or damage to Element 21's property while at Element 21's work site. Consultant shall indemnify and hold Element 21 and its officers, agents, directors, and employees harmless against all claims, losses, expenses (including reasonable attorney's fees), and injuries to person or property (including death) resulting in any way, from any negligence on the part of Consultant in the performance or failure to perform the Scope of Work under this Agreement, excepting only those losses which are due solely and directly to Element 21's negligence.

(b) Consultant warrants that he/she has good and marketable title to all work product made, created, conceived, written, invented, or provided by Consultant to Element 21 while fulfilling the requirements of the Work Statement of this Agreement. Consultant further warrants that work product created for Element 21 shall be free and clear of all liens, claims, encumbrances, or demands of third parties, including any claims by any such third parties of any right, title, or interest in or to the work product arising out of any trade

secret, copyright, or patent. Consultant shall indemnify, defend, and hold harmless Element 21 and its customers from any all liability, loss, costs, damage, judgment, or expense (including reasonable attorney's fees) resulting from or arising in any way out of any such claims by any third parties, and/or which are based upon, or are the result of any breach of the warranties contained in this section (b). In the event of a breach of warranty, Consultant shall, at no additional cost to Element 21, replace or modify the work product with a functionally equivalent and conforming work product, obtain for Element 21 the right to continue using the work product and in all other respects use its best efforts to remedy the breach. Consultant shall have no liability under this section for any work product created in accordance with detailed and specific design instructions created by ATS.

(c) Should Element 21 permit Consultant to use any of Element 21's equipment, tools, or facilities during the term of this Agreement, such permission will be gratuitous and Consultant shall indemnify and hold harmless Element 21 and its officers, directors, agents, and employees, from and against any claim, loss, expense, or judgment for injury to person or property (including death) arising out of the negligent use of any such equipment, tools, or facilities.

6. Termination

(a) Either Element 21 or Consultant may terminate this Agreement in the event of a material breach of the Agreement that is not cured within ten (10) business days after written notice to the breaching party of such breach. Material breaches include, but are not limited to, the filing of bankruptcy papers or other similar arrangements due to insolvency, the assignment of Consultant's obligations to perform to third parties, or acceptance of employment or consulting arrangements with third parties that are or may be detrimental to Element 21's business interests.

(b) Element 21 may terminate the Agreement for convenience upon written notice to Consultant. In such event, Consultant shall cease work immediately after receiving such written notice from Element 21 unless otherwise advised by Element 21, and shall notify Element 21 of costs incurred up to the termination date. Element 21 shall reimburse Consultant for all costs incurred until notice of termination.

7. Independent Contractor

(a) Consultant is an Independent Contractor, is not an agent or employee of Element 21, and is not authorized to act on behalf of Element 21.

(b) If Consultant is to autonomously perform work under this Agreement, Element 21 is entitled to provide Consultant with general guidance to assist Consultant in completing the scope of work to Element 21'ss satisfaction, nevertheless Consultant is ultimately responsible for directing and controlling the performance of the tasks comprising the scope of work, in accordance with the terms and conditions of this Agreement.

8. General

(a) Except for a reduction in Work Statement as defined in Section I, this Agreement may not be changed unless mutually agreed upon in writing by both

parties. In the event any provision of this Agreement is found to be legally unenforceable, such provision will be changed to make it legally enforceable, and such unenforceability shall not prevent enforcement of any other provision of the Agreement.

(b) Not withstanding any other provisions of this Agreement, Consultant agrees not to export, directly or indirectly, any United States source technical data acquired from Element 21 or any products utilizing such data to any countries outside the United States which export may be in violation of the United States Export Laws or Regulations. Nothing in this section releases Consultant from any obligation stated elsewhere in this Agreement not to disclose such data.

(c) If Contractor breaches any of its covenants expressed in this Agreement, he/she agrees that such a breach may cause irreparable harm to Element 21, and Element 21 shall have the right to seek equitable relief to enjoin further breach.

(d) This Agreement shall be governed by the Laws of the State of New Hampshire, without resort to its rules regarding conflict of laws. In the event that any dispute arises respecting this Agreement, the parties stipulate in advance that the courts in New Hampshire shall be the proper venue for the resolution of such dispute.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

BRL Holdings, Inc. (d/b/a Element 21)	Consultant
_____	_____
Signed, Duly Authorized	Signed
_____	_____
Printed Name	Printed Name
_____	_____
Position/Title	Position/Title
_____	_____
Date	Date
	_____
	SSN / Fed. Tax No.