

INFINERA CORP  
Form SC TO-C  
April 10, 2009

# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## SCHEDULE TO

### (Rule 13e-4)

*Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)*

*of the Securities Exchange Act of 1934*

## Infinera Corporation

(Name of Subject Company (Issuer) and Filing Person (Offeror))

**Options to Purchase Common Stock, \$0.001 par value**

(Title of Class of Securities)

**45667G103**

(CUSIP Number of Common Stock Underlying Class of Securities)

**Michael O. McCarthy, III, Esq.**

**Infinera Corporation**

**169 Java Drive**

**Sunnyvale, CA 94089**

**(408) 572-5200**

(Name, address and telephone numbers of person authorized to receive notices and communications on behalf of filing persons)

*Copies to:*

**Larry Sonsini, Esq.**

**Richard A. Kline, Esq.**

**Wilson Sonsini Goodrich & Rosati**

**Professional Corporation**

**650 Page Mill Road**

**Palo Alto, CA 94304-1050**

**(650) 493-9300**

**CALCULATION OF FILING FEE**

**Transaction Valuation\***  
Not applicable\*

**Amount of Filing Fee**  
Not applicable\*

\* A filing fee is not required in connection with this filing as it relates solely to preliminary communications made before the commencement of a tender offer.

\*\* Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

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Amount Previously Paid: Not applicable.  
Form or Registration No.: Not applicable.  
Filing party: Not applicable.  
Date filed: Not applicable.

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.  
Check the appropriate boxes below to designate any transactions to which the statement relates:

third party tender offer subject to Rule 14d-1.

issuer tender offer subject to Rule 13e-4.

going-private transaction subject to Rule 13e-3.

amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

Attached as Exhibit 99.1 is Infinera Corporation's (the "Company") 2009 Notice of Annual Meeting of Stockholders and Preliminary Proxy Statement for its 2009 Annual Meeting of Stockholders to be held on June 11, 2009, and the related materials filed with the Securities and Exchange Commission in conjunction with the 2009 Notice of Annual Meeting of Stockholders and Preliminary Proxy Statement (the "proxy materials"). The proxy materials contain a proposal submitted for the approval of the Company's stockholders whereby the Company will undertake an exchange offer pursuant to which certain holders of outstanding stock options (the stock options eligible for the exchange program are referred to herein as "eligible awards") issued pursuant to the Company's 2007 Equity Incentive Plan (the "2007 Equity Plan") and granted at least one year prior to the launch date of the exchange offer will be permitted to exchange their eligible equity awards for a reduced number of stock options (in the case of executive officers subject to reporting requirements of Section 16 of the Securities Exchange Act of 1934) or restricted stock units (in the case of all other employees), each to be granted under the 2007 Equity Plan (the "exchange program"). The proxy materials do not constitute an offer to holders of options to purchase the Company's common stock to exchange such stock options.

**At the time the exchange program is commenced, the Company will provide stock option holders who are eligible to participate in the exchange program with written materials explaining the precise terms and timing of the exchange program. Persons who are eligible to participate in the exchange program should read these written materials carefully when they become available because they will contain important information about the exchange program. The Company will also file these written materials with the Securities and Exchange Commission as part of a tender offer statement upon the commencement of the exchange program. The Company's stockholders and option holders will be able to obtain these written materials and other documents filed by the Company with the Securities and Exchange Commission free of charge from the Company's website at [www.infinera.com](http://www.infinera.com) or from the Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov).**

ITEM 12. EXHIBITS.

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>
99.1	Preliminary Proxy Statement for 2009 Annual Meeting of Stockholders