

BEST BUY CO INC

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 08/20/98

Address	7601 PENN AVE SOUTH RICHFIELD, MN 55423
Telephone	6122911000
CIK	0000764478
Symbol	BBY
SIC Code	5731 - Radio, Television, and Consumer Electronics Stores
Industry	Retail (Technology)
Sector	Services
Fiscal Year	02/03

BEST BUY CO INC

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 8/20/1998

Address	7601 PENN AVE SOUTH RICHFIELD, Minnesota 55423
Telephone	612-291-1000
CIK	0000764478
Industry	Retail (Technology)
Sector	Services
Fiscal Year	03/01

Registration Statement No. 333-

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

BEST BUY CO., INC.

(Exact name of issuer as specified in its charter)

Minnesota

41-0907483

(State of incorporation)

(I.R.S. Employer
Identification No.)

7075 Flying Cloud Drive
Eden Prairie, Minnesota

55344

(Address of Principal Executive Offices)

(Zip Code)

Best Buy Co., Inc.

1997 Employee Non-Qualified Stock Option Plan
(Full title of the plan)

Richard M. Schulze
7075 Flying Cloud Drive
Eden Prairie, MN 55344

(Name and address of
agent for service)

(612) 947-2000

(Telephone number,
including area code,
of agent for service)

Copy of communications to:

Anne M. Rosenberg
Robins, Kaplan, Miller & Ciresi L.L.P.
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
(612) 349-8500

(cover page is continued on next page)

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered (1)	Proposed maximum offering price per share (2)	Proposed maximum aggregate offering price	Amount of registration fee
Common Stock par value \$.10 per share	11,400,000 shares	\$51.75	\$589,950,000	\$174,035

(1) An undetermined number of additional shares may be issued if the anti-dilution provisions of the Plan become operative.

(2) The shares are to be offered at prices not presently determinable. Pursuant to Rule 457(h), the offering price is estimated solely for the purpose of determining the registration fee on the basis of the average of the high and low sale prices of the Registrant's Common Stock reported on the New York Stock Exchange on August 13, 1998.

Exhibit Index on Page 10.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents filed with the Securities and Exchange Commission are incorporated in this Registration Statement by reference:

1. Registrant's Annual Report on Form 10-K for the year ended February 28, 1998.
2. All other reports filed by the Registrant pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (the "1934 Act") for periods ended or as of dates subsequent to March 1, 1998.
3. The description of the Registrant's Common Stock contained in its Registration Statement on Form 8-A filed with the Commission pursuant to Section 12 of the 1934 Act.

All documents hereafter filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the 1934 Act, prior to the filing of a post-effective amendment which indicates that all the securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated herein by reference and to be a part hereof from the date of filing such documents.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Elliot S. Kaplan, a director and Secretary of the Registrant, is also a member of the law firm of Robins, Kaplan, Miller & Ciresi L.L.P., which will be rendering an opinion as to the legality of the securities being registered.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The Registrant is subject to the Minnesota Business Corporation Act, Minnesota Statutes, Chapter 302A. Minnesota Statutes, Section 302A.521, provides that a corporation shall indemnify any person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of such person against judgments, penalties, fines, including, without limitation, excise taxes assessed against such person with respect to an employee benefit plan, settlements and reasonable expenses, including attorneys' fees and disbursements, incurred by such person in connection with the proceeding, if, with

respect to the acts or omissions of such person complained of in the proceeding, such person (1) has not been indemnified therefor by another organization or employee benefit plan; (2) acted in good faith; (3) received no improper personal benefit and Section 302A.255 (with respect to director conflicts of interest), if applicable, has been satisfied; (4) in the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and (5) reasonably believed that the conduct was in the best interests of the corporation in the case of acts or omissions in such person's official capacity for the corporation, or reasonably believed that the conduct was not opposed to the best interests of the corporation in the case of acts or omissions in such person's official capacity for other affiliated organizations.

In addition, the Registrant's Articles of Incorporation provide that a director of the Registrant shall not be personally liable to the Registrant or its shareholders for monetary damages for breach of fiduciary duty as a director except for liability (1) for any breach of the director's duty of loyalty to the Registrant or its shareholders; (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (3) for paying a dividend or approving a stock repurchase in violation of Minnesota Statutes, Section 302A.551; (4) for violating the securities registration or anti-fraud provisions of Minnesota Statutes, Section 80A.23; (5) for any transaction from which the director derived an improper personal benefit; or (6) for acts or omissions occurring prior to the date when the relevant provision of the Articles of Incorporation became effective. The Articles of Incorporation do not limit directors' liability for violations of the federal securities laws. The Articles of Incorporation are consistent with the Minnesota Business Corporation Act and if such Act is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Registrant would be eliminated or limited to the fullest extent permitted by Minnesota law.

As of September 1, 1997, the Registrant obtained a Directors' and Officers' Liability Insurance Policy, with coverage of \$30 million, subject to various deductibles and exclusions from coverage. There is no coverage for liabilities arising in connection with the filing of a registration statement by the Registrant under the Securities Act of 1933 (the "1933 Act") or under any underwriting agreement entered into in connection with a public offering of securities.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

ITEM 8. EXHIBITS.

The following are filed as exhibits to this Registration Statement:

Exhibits

- 4.1 Amended and Restated Articles of Incorporation of the Registrant, as amended, defining the rights of holders of its Common Stock (as filed herewith and as incorporated by reference to Exhibit 3.1 filed as part of the Registrant's Annual Report on Form 10-K for the fiscal year ended February 26, 1994 [File No. 1-9595]).
- 4.2 Amended and Restated By-Laws of the Registrant, as amended, defining the rights of holders of its Common Stock (incorporated by reference to Exhibit 4.2 filed as part of the Registrant's Registration Statement on Form S-3 [Reg. No. 33-43065]; Exhibit 3.1 filed as part of the Registrant's Quarterly Report on Form 10-Q for the quarter ended November 30, 1991 [File No. 1-9595]; Exhibit 3.3 filed as part of the Registrant's Annual Report on Form 10-K for the fiscal year ended February 25, 1995 [File No. 1-9595] and Exhibit 3.3 filed as part of the Registrant's Annual Report on Form 10-K for the fiscal year ended March 1, 1997 [File No. 1-9595]).
- 4.3 Best Buy Co., Inc. 1997 Employee Non-Qualified Stock Option Plan, as amended.
- 5 Opinion of Robins, Kaplan, Miller & Ciresi L.L.P. as to the shares of Common Stock being registered.
- 23.1 Consent of Ernst & Young LLP.
- 23.2 Consent of Robins, Kaplan, Miller & Ciresi L.L.P. (contained in their opinion filed as Exhibit 5).
- 24 Power of Attorney (included on signature page hereto).

ITEM 9. UNDERTAKINGS.

The undersigned Registrant hereby undertakes:

- a. 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 1933 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 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, that paragraphs (i) and (ii), above, do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the 1934 Act that are incorporated by reference in this Registration Statement;

b. That, for the purpose of determining any liability under the 1933 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;

c. 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;

d. 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 1934 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; and

e. Insofar as indemnification for liabilities arising under the 1933 Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, 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 1933 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, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, 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 whether such indemnification by it is against public policy as expressed in the 1933 Act and will be governed by the final adjudication of such issue.

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 Eden Prairie, State of Minnesota, on this 19th day of August, 1998.

BEST BUY CO., INC.

By: /s/ Richard M. Schulze

Richard M. Schulze
Chief Executive Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints RICHARD M. SCHULZE and ALLEN U. LENZMEIER, and each of them, his true and lawful attorneys-in-fact and agents, each acting alone, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to the Registration Statement on Form S-8 and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, each acting alone, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, 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, each acting alone, or his substitute or substitutes, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on August 19, 1998.

<i>Signature</i> -----	<i>Title</i> -----
/s/ Richard M. Schulze ----- Richard M. Schulze	Chairman, Chief Executive Officer (principal executive officer) and Director
/s/ Allen U. Lenzmeier ----- Allen U. Lenzmeier	Executive Vice President and Chief Financial Officer (principal financial officer)
/s/ Robert C. Fox ----- Robert C. Fox	Senior Vice President-Finance and Treasurer (principal accounting officer)

/s/ Bradbury H. Anderson *Director*

Bradbury H. Anderson

/s/ Culver Davis, Jr. *Director*

Culver Davis, Jr.

Director

Yvonne R. Jackson

/s/Elliot S. Kaplan *Director*

Elliot S. Kaplan

/s/ Frank D. Trestman *Director*

Frank D. Trestman

Director

Hatim A. Tyabji

Director

James C. Wetherbe

EXHIBITS

-
- 4.1 Amended and Restated Articles of Incorporation of the Registrant, as amended, defining the rights of holders of its Common Stock (as filed herewith and as incorporated by reference to Exhibit 3.1 filed as part of the Registrant's Annual Report on Form 10-K for the fiscal year ended February 26, 1994 [File No. 1-9595]).
- 4.2 Amended and Restated By-Laws of the Registrant, as amended, defining the rights of holders of its Common Stock (incorporated by reference to Exhibit 4.2 filed as part of the Registrant's Registration Statement on Form S-3 [Reg. No. 33-43065]; Exhibit 3.1 filed as part of the Registrant's Quarterly Report on Form 10-Q for the quarter ended November 30, 1991 [File No. 1-9595]; Exhibit 3.3 filed as part of the Registrant's Annual Report on Form 10-K for the fiscal year ended February 25, 1995 [File No. 1-9595] and Exhibit 3.3 filed as part of the Registrant's Annual Report on Form 10-K for the fiscal year ended March 1, 1997 [File No. 1-9595]).
- 4.3 Best Buy Co., Inc. 1997 Employee Non-Qualified Stock Option Plan, as amended.
- 5 Opinion of Robins, Kaplan, Miller & Ciresi L.L.P. as to the shares of Common Stock being registered.
- 23.1 Consent of Ernst & Young LLP.
- 23.2 Consent of Robins, Kaplan, Miller & Ciresi L.L.P. (contained in their opinion filed as Exhibit 5).
- 24 Power of Attorney (included on signature page hereto).

**ARTICLES OF AMENDMENT OF
AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
BEST BUY CO., INC.**

WE, THE UNDERSIGNED, being officers of Best Buy Co., Inc., a Minnesota corporation subject to the provisions of Minnesota Statutes, Chapter 302A, of the Minnesota Business Corporation Act, do hereby certify that the resolutions as hereinafter set forth were adopted on the 25th day of June, 1998, by the affirmative vote of the holders of a majority of the voting power of the shares present and entitled to vote:

RESOLVED:

The Shareholders of this corporation do hereby amend Article IV of the corporation's Amended and Restated Articles of Incorporation to read as follows:

**ARTICLE IV
CAPITAL**

The aggregate number of shares of all classes of stock which this corporation shall have the authority to issue is Four Hundred Million Four Hundred Thousand (400,400,000) shares consisting of:

- (1) 400,000,000 shares of Common Stock, par value of \$.10 per share; and
- (2) 400,000 shares of Preferred Stock, par value of \$1.00 per share.

The holders of shares of Common Stock shall have one vote for each share of Common Stock held of record on each matter submitted to the holders of shares of Common Stock.

**RESOLVED
FURTHER:**

The Chairman and Chief Executive Officer and the Secretary of this corporation shall be, and they each hereby are, authorized, empowered and directed to make, execute and acknowledge such document(s) as may be required by Minnesota Statutes, Chapter 302A, to reflect this amendment to the Amended and Restated Articles of Incorporation and to cause such document to be filed for record in the manner required by law.

/s/ Richard M. Schulze

Richard M. Schulze
Chairman and Chief Executive Officer

/s/ Elliot S. Kaplan

Elliot S. Kaplan
Secretary

BEST BUY CO., INC.

**SECOND AMENDED AND RESTATED
1997
EMPLOYEE NON-QUALIFIED
STOCK OPTION PLAN**

A. PURPOSE.

The purpose of this Employee Non-Qualified Stock Option Plan ("Plan") is to further the growth and general prosperity of Best Buy Co., Inc. (the "Company"), and its directly and indirectly wholly-owned subsidiaries (collectively, the "Companies") by enabling current key employees of the Companies, who have been or will be given responsibility for the administration of the affairs of the Companies and upon whose judgment, initiative and effort the Companies were or are largely dependent for the successful conduct of their business, to acquire shares of the common stock of the Company under the terms and conditions and in the manner contemplated by this Plan, thereby increasing their personal involvement in the Companies and enabling the Companies to obtain and retain the services of such employees. Options granted under the Plan are intended to be options which do not meet the requirements of Section 422A of the Internal Revenue Code of 1986, as amended (the "Code").

B. ADMINISTRATION.

This Plan shall be administered by the Compensation and Human Resources Committee (the "Committee") of the Company's Board of Directors (the "Board"). Options may not be granted to any person while serving on the Committee unless approved by a majority of the disinterested members of the Board. Subject to such orders and resolutions not inconsistent with the provisions of this Plan as may from time to time be issued or adopted by the Board, the Committee shall have full power and authority to interpret the Plan and, to the extent contemplated herein, shall exercise the discretion granted to it regarding participation in the Plan and the number of shares to be optioned and sold to each participant.

All decisions, determinations and selections made by the Committee pursuant to the provisions of the Plan and applicable orders and resolutions of the Board shall be final. Each option granted shall be evidenced by a written agreement containing such terms and conditions as may be approved by the Committee and which shall not be inconsistent with the Plan and the orders and resolutions of the Board with respect thereto.

C. ELIGIBILITY AND PARTICIPATION.

Options may be granted under the Plan to (i) key executive personnel, including officers, senior management employees and members of the Board who are employees of any of the Companies; (ii) staff management employees, including managers, supervisors, and their functional equivalents for: warehousing, service, merchandising, leaseholds, installation, and finance and administration; (iii) line management employees, including retail store and field managers, supervisors and their functional equivalents; and (iv) any employee having served the Companies continuously

for a period of not less than ten (10) years. The Committee shall grant to such participants options to purchase shares in such amounts as the Committee shall from time to time determine.

D. SHARES SUBJECT TO THE PLAN.

Subject to adjustment as provided in Section E. herein, an aggregate of 20,000,000 shares of \$0.10 par value common stock of the Company shall be subject to this Plan from authorized but unissued shares of the Company. Such number and kind of shares shall be appropriately adjusted in the event of any one or more stock splits, reverse stock splits or stock dividends hereafter paid or declared with respect to such stock. If, prior to the termination of the Plan, shares issued pursuant hereto shall have been repurchased by the Company pursuant to this Plan, such repurchased shares shall again become available for issuance under the Plan.

Any shares which, after the effective date of this Plan, shall become subject to valid outstanding options under this Plan may, to the extent of the release of any such shares from option by termination or expiration of option(s) without valid exercise, be made the subject of additional options under this Plan.

E. ADJUSTMENTS UPON CHANGES IN CAPITALIZATION.

In the event of a merger, consolidation, reorganization, stock dividend, stock split, or other change in corporate structure or capitalization affecting the common stock of the Company, an appropriate adjustment may be made in the number and kind of shares subject to and the exercise prices of options granted under the Plan as determined by the Committee.

F. TERMS AND CONDITIONS OF OPTIONS.

The Committee shall have the power, subject to the limitations contained in this Plan, to prescribe any terms and conditions in respect of the granting or exercise of any option under this Plan and, in particular, shall prescribe the following terms and conditions:

(1) Each option shall state the number of shares to which it pertains.

(2) The price at which shares shall be sold to participants hereunder (the "Exercise Price") shall be the Fair Market Value of the Company's common stock on the date of grant. Payment of the Exercise Price shall be made (a) if payment is made by check payable to the Company, at the time the shares are sold hereunder, or (b) if payment is made pursuant to an irrevocable election to surrender outstanding shares of common stock of the Company which have a Fair Market Value on the date of surrender equal to the Exercise Price of the shares as to which the option is being exercised, no later than the settlement date for the shares sold in the market to cover the Exercise Price, or (c) by a combination thereof, UNLESS an option is exercised in connection with a deferral election pursuant to the Deferred Compensation Plan, defined below, in which case payment of the Exercise Price shall be made as provided in Section N. herein.

(3) An option shall be exercisable in whole or in part (but not as to less than twenty-five percent of the original aggregate amount of shares of common stock made subject to the option UNLESS the optionee is precluded, pursuant to the Deferred Compensation Plan, defined below, from exercising the minimum portion of the option because the optionee is unable to deliver enough shares of common stock to cover the full Exercise Price therefor, in which case the optionee may exercise the option as to less than twenty-five percent of the original aggregate amount of shares of common stock made subject to the option) with respect to the shares included therein until the earlier of (a) the close of business on the tenth day prior to the proposed effective date of (i) any merger or consolidation of the Company with any other corporation or entity as a result of which the holders of the common stock of the Company will own less than a majority voting control of the surviving corporation; (ii) any sale of substantially all of the assets of the Companies or (iii) any sale of common stock of the Company to a person not a shareholder on the date of issuance of the option who thereby acquires majority voting control of the Company, subject to any such transaction actually being consummated, or (b) the close of business on the date ten (10) years after the date the option was granted. The Company shall give written notice to the optionee not less than 30 days prior to the proposed effective date of any of the transactions described in (a) above.

(4) Except in the event of disability, death or normal retirement, an option shall be exercisable with respect to the shares included therein not earlier than the date one (1) year following the date of grant of the option, nor later than the date ten (10) years following the date of grant of the option; provided, however, that during the second through fourth years following the date of grant, the optionee may exercise such optionee's right to acquire only twenty-five percent (25%) of the shares subject to such option together with any shares that the optionee had previously been able to acquire; and provided further, however, that in the event of a change in status of an employee from full-time to part-time or seasonal, such employee shall continue to have the right to exercise an option following such change in status but only to the extent of the shares available for acquisition on the date of such change in status (the "Change in Status Date").

(5) Except as in the event of disability, death or normal retirement, an option may be exercised only by the optionee while such optionee is, and has continually been, since the date of the grant of the option, an employee of any of the Companies; provided, however, that a former employee shall continue to have the right to exercise an option for a period of thirty (30) days following such termination to the extent of the shares available for acquisition on the date of such former employee's termination. If the continuous employment of an optionee terminates by reason of disability, death or normal retirement, an option granted hereunder held by the disabled, deceased or retired employee may be exercised to the extent of all shares subject to the option (or, with respect to a disabled, deceased or retired part-time or seasonal employee, to the extent of the shares available for acquisition on the Change in Status Date) within one (1) year following the date of disability or death or five (5) years following the date of normal retirement, but in no event later than ten (10) years after the date of grant of such option, by the disabled or retired employee or the person or persons to whom the

deceased employee's rights under such option shall have passed by will or by the applicable laws of descent and distribution. For purposes of this Plan only, (a) an employee shall be deemed "disabled" if the employee is unable to perform his or her usual duties for the Companies as a result of physical or mental disability, and such inability to perform continues or is expected to continue for at least twelve (12) consecutive months, and

(b) "normal retirement" shall mean retirement on or after age 60 so long as the employee has served the Companies continuously for at least the three

(3) years immediately preceding retirement. Notwithstanding the foregoing, the changes made in Sections F(4) and (5) pursuant to the amendments hereto adopted on April 24, 1998 (relating to the vesting of options in the event of normal retirement), shall be effective only for options granted hereunder on and after April 24, 1998.

(6) An option shall be exercised when written notice of such exercise has been given to the Company at its principal business office by the person entitled to exercise the option and full payment for the shares with respect to which the option is exercised has been received by the Company. Until the stock certificates are issued, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to optioned shares, notwithstanding the exercise of the option.

G. OPTIONS NOT TRANSFERRABLE.

Options under the Plan may not be sold, pledged, assigned or transferred in any manner, whether by operation of law or otherwise except by will or the laws of descent, and may be exercised during the lifetime of an optionee only by such optionee.

H. AMENDMENT OR TERMINATION OF THE PLAN.

The Board may amend this Plan from time to time as it may deem advisable and may at any time terminate the Plan, provided that any such termination of the Plan shall not adversely affect options already granted and such options shall remain in full force and effect as if the Plan had not been terminated.

I. AGREEMENT AND REPRESENTATIONS OF OPTIONEES.

As a condition precedent to the exercise of any option or portion thereof, the Company may require the person exercising such option to represent and warrant at the time of any such exercise that the shares are being purchased only for investment and without any present intention to sell or distribute such shares if, in the opinion of counsel for the Company, such a representation is required under the Securities Act of 1933 or any other applicable law, regulation or rule of any governmental agency.

In the event legal counsel to the Company renders an opinion to the Company that shares for options exercised pursuant to this Plan cannot be issued to the optionee because such action would violate any applicable federal or state securities laws, then in that event the optionee agrees that the Company shall not be required to issue said shares to the optionee and shall have no liability to the

optionee other than the return to optionee of amounts tendered to the Company upon exercise of the option.

J. EFFECTIVE DATE AND TERMINATION OF THE PLAN.

The Plan shall become effective as of April 18, 1997, if approved thereafter by the Company's shareholders. The Plan shall terminate on the earliest of:

- (1) The date when all the shares available under the Plan shall have been acquired through the exercise of options granted under the Plan; or
- (2) Ten (10) years after the date of approval of the Plan by the Company's shareholders; or
- (3) Such other earlier date as the Board may determine.

K. WITHHOLDING TAXES.

The Companies shall have the right to take any action that may be necessary in the opinion of the Companies to satisfy all obligations for the payment of any federal, state or local taxes of any kind, including FICA taxes, required by law to be withheld with respect to the exercise of an option granted hereunder. If stock is withheld or surrendered to satisfy tax withholding, such stock shall be the Fair Market Value of the Company's common stock on the date of exercise.

L. FAIR MARKET VALUE.

"Fair Market Value" shall mean the last reported sale price of the Company's common stock on the date of grant, as quoted on by the New York Stock Exchange. If the Company's common stock ceases to be listed for trading on the New York Stock Exchange, "Fair Market Value" shall mean the value determined in good faith by the Board.

M. COMPLIANCE WITH RULE 16b-3 AND SECTION 162(m).

With respect to employees subject to Section 16 of the Securities Exchange Act of 1934, as amended, or Section 162(m) of the Code, transactions under the Plan are intended to comply with all applicable conditions of such Rule 16b-3 and avoid loss of the deduction referred to in paragraph (1) of such Section 162(m). Anything in the Plan to the contrary notwithstanding, to the extent any provision of the Plan or action by the Committee fails to so comply or avoid the loss of such deduction, it shall be deemed null and void, to the extent permitted by law and deemed advisable by the Committee.

N. DEFERRAL OF OPTION GAIN.

Participants in the Company's Deferred Compensation Plan, effective as of April 1, 1998 (the "Deferred Compensation Plan"), may be able to defer the gain, if any, upon exercise of options

granted hereunder pursuant to and in accordance with the terms of the Deferred Compensation Plan. The Deferred Compensation Plan provides, among other things, that to defer any gain with respect to an option, the Exercise Price must be satisfied utilizing shares of the Company's common stock held at least six months prior to exercise. In the event any deferral election is made with respect to an option, if the optionee is unable to deliver the requisite number of shares of the Company's common stock to cover the full Exercise Price prior to the expiration of such option, the portion of the option that corresponds to the portion of the full Exercise Price not covered shall be forfeited.

O. FORM OF OPTION.

Options shall be issued in substantially the form as the Committee or the Board may approve.

August 19, 1998

Best Buy Co., Inc.
7075 Flying Cloud Drive
Eden Prairie, MN 55344

Ladies and Gentlemen:

In connection with the Registration Statement on Form S-8 (the "Registration Statement") of even date herewith of Best Buy Co., Inc., a Minnesota corporation (the "Company"), relating to a proposed public offering of an additional 11,400,000 shares of the Company's common stock, par value \$.10 per share (the "Common Stock"), pursuant to the Best Buy Co., Inc. 1997 Employee Non-Qualified Stock Option Plan, as amended, we, as counsel for the Company, have examined such corporate records and other documents, including the Registration Statement, and have reviewed such matters of law as we have deemed relevant hereto, and, based upon such examination and review, it is our opinion that all necessary corporate action on the part of the Company has been taken to authorize the issuance and sale of an additional 11,400,000 shares of Common Stock by the Company, and that when issued and sold as contemplated in the Registration Statement, such shares will be validly issued, fully paid and nonassessable.

We hereby consent to being named in the Registration Statement, and in the Prospectus related thereto, as counsel for the Company who have passed upon legal matters in connection with the issuance of the Common Stock. We further consent to the filing of this opinion as an exhibit to the Registration Statement.

Yours very truly,

/s/ Robins, Kaplan, Miller & Ciresi L.L.P.

Consent of Independent Auditors

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Best Buy Co., Inc. 1997 Employee Non-Qualified Stock Option Plan of our report dated March 31, 1998, with respect to the consolidated financial statements of Best Buy Co., Inc. incorporated by reference in its Annual Report (Form 10-K) for the year ended February 28, 1998, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

*Minneapolis, Minnesota
August 17, 1998*

End of Filing

Powered By **EDGAR**
Online

© 2005 | EDGAR Online, Inc.