
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

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

Tempest Therapeutics, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
Incorporation or organization)

45-1472564
(I.R.S. Employer
Identification No.)

**7000 Shoreline Court, Suite 275,
South San Francisco, California 94080
(415) 798-8589**
(Address of principal executive offices) (Zip code)

**Tempest Therapeutics, Inc. Amended and Restated 2019 Equity Incentive Plan
Tempest Therapeutics, Inc. Amended and Restated 2019 Employee Stock Purchase Plan**
(Full titles of the plans)

Stephen Brady
Chief Executive Officer
Tempest Therapeutics, Inc.
**7000 Shoreline Court, Suite 275,
South San Francisco, California 94080
(415) 798-8589**
(Name, address and telephone number, including area code, of agent for service)

Copies to:

**Laura Berezin
Jaime Chase
Cooley LLP
3175 Hanover Street
Palo Alto, California 94304
(650) 843-5000**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
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 7(a)(2)(B) of the Securities Act.

EXPLANATORY NOTE

Tempest Therapeutics, Inc. (the “Registrant”) is filing this Registration Statement on Form S-8 for the purpose of registering an additional (a) 1,132,252 shares of its common stock, par value \$0.001 per share (the “Common Stock”), issuable to eligible persons under the Registrant’s Amended and Restated 2019 Equity Incentive Plan, and (b) 107,596 shares of Common Stock issuable to eligible persons under the Registrant’s Amended and Restated 2019 Employee Stock Purchase Plan.

PART II

Item 3. Incorporation of Certain Documents By Reference

The following documents filed by the Registrant with the Securities and Exchange Commission (the “SEC”) are incorporated by reference into this Registration Statement:

(a) the contents of the Registrant’s Registration Statements on Form S-8, previously filed with the Commission on [December 16, 2019](#) (File No. 333-235515), [November 10, 2020](#) (File No. 333-249993), [April 15, 2021](#) (File No. 333-255261) and [May 13, 2022](#) (File No. 333-264943);

(b) the Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the SEC on [March 29, 2022](#) (File No. 001-35890) as amended on Form 10-K/A filed on [April 1, 2022](#);

(c) the information specifically incorporated by reference into our Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2021 from our definitive proxy statement on Schedule 14A (other than information furnished rather than filed), which was filed with the SEC on [May 2, 2022](#), as supplemented on [May 26, 2022](#).

(d) the Registrant’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2022, filed with the SEC on [May 13, 2022](#) (File No. 001-35890);

(e) the Registrant’s Current Reports on Form 8-K filed with the SEC on [May 2, 2022](#) (excluding Exhibit 99.1 thereto), [May 26, 2022](#), [June 9, 2022](#) and [June 21, 2022](#) (File No. 001-35890); and

(f) the description of the Common Stock set forth in the Registrant’s registration statement on [Form 8-A](#) (File No. 001-35890), filed with the Commission on April 25, 2013, including any amendments thereto or reports filed for the purposes of updating this description, including [Exhibit 4.1](#) to the Registrant’s Annual Report on [Form 10-K/A](#) for the fiscal year ended December 31, 2021 filed with the SEC on April 1, 2022.

All reports and documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than Current Reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items) on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part of this Registration Statement from the date of the filing of such reports and documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document that also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 8. Exhibits

Exhibit Number	Description	Incorporated by Reference			
		Schedule Form	File Number	Exhibit	Filing Date
4.1	Restated Certificate of Incorporation of the Registrant, as amended	10-Q	001-35890	3.1	5/15/2019
4.2	Certificate of Amendment to the Restated Certificate of Incorporation of the Company, as filed with the Secretary of State of the State of Delaware on June 24, 2021	8-K	001-35890	3.1	6/28/2021
4.3	Certificate of Amendment to the Restated Certificate of Incorporation of the Company, as filed with the Secretary of State of the State of Delaware on June 25, 2021	8-K	001-35890	3.2	6/28/2021
4.4	Amended and Restated Bylaws of the Registrant	8-K	001-35890	3.1	9/4/2021
5.1*	Opinion of Cooley LLP				
23.1*	Consent of Cooley LLP (included in Exhibit 5.1)				
23.2*	Consent of Ernst & Young LLP, independent registered public accounting firm				
23.3*	Consent of Deloitte & Touche LLP, independent registered public accounting firm				
24.1*	Power of Attorney (included on the signature page of this Form S-8)				
99.1	Tempest Therapeutics, Inc. Amended and Restated 2019 Equity Incentive Plan	8-K	001-35890	10.1	6/21/22
99.2	Form of Option Grant Package under 2019 Equity Incentive Plan	10-Q	001-35890	10.7	8/12/2019
99.3	Form of RSU Grant Package under 2019 Equity Incentive Plan	10-Q	001-35890	10.8	8/12/2019
99.4	Form of Stock Option Agreement under the Sub Plan for French Residents under 2019 Equity Incentive Plan	10-K	001-35890	10.16	3/11/2020
99.5	Form of Inducement Nonqualified Stock Option Agreement subject to the terms of the 2019 Equity Incentive Plan	10-K	001-35890	10.17	3/11/2020
99.6	Tempest Therapeutics, Inc. Amended and Restated 2019 Employee Stock Purchase Plan	8-K	001-35890	10.2	6/21/22
107*	Filing Fee Table				

* Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 South San Francisco, State of California, on June 21, 2022.

Tempest Therapeutics, Inc.

By: /s/ Stephen Brady

Name: Stephen Brady

Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Stephen Brady and Nicholas Maestas, and each one of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in their name, place, and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, 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, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Stephen Brady</u> Stephen Brady	President, Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	June 21, 2022
<u>/s/ Nicholas Maestas</u> Nicholas Maestas	Vice President, Strategy and Finance <i>(Principal Financial Officer)</i>	June 21, 2022
<u>/s/ Michael Rabb</u> Michael Rabb	Chairman of the Board of Directors	June 21, 2022
<u>/s/ Thomas Dubensky</u> Thomas Dubensky, Ph.D.	President and Director	June 21, 2022
<u>/s/ Geoff Nichol</u> Geoff Nichol, M.B., Ch.B., M.B.A.	Director	June 21, 2022
<u>/s/ Christine Pellizzari</u> Christine Pellizzari	Director	June 21, 2022
<u>/s/ Ronit Simantov</u> Ronit Simantov	Director	June 21, 2022
<u>/s/ Thomas Woiwode</u> Thomas Woiwode, Ph.D.	Director	June 21, 2022



June 21, 2022

Laura Berezin
T: +1 650 843 5128
lberezin@cooley.com

Tempest Therapeutics, Inc.
7000 Shoreline Court, Suite 275
South San Francisco, CA 94080

Ladies and Gentlemen:

You have requested our opinion with respect to certain matters in connection with the filing by Tempest Therapeutics, Inc., a Delaware corporation (the "**Company**"), of a Registration Statement on Form S-8 (the "**Registration Statement**") with the Securities and Exchange Commission covering the offering of up to 1,239,848 shares (the "**Shares**") of the Company's Common Stock, \$0.001 par value, ("**Common Stock**") consisting of (a) 1,132,252 shares of Common Stock issuable pursuant to the Company's 2019 Equity Incentive Plan (the "**2019 EIP**") and (b) 107,596 shares of Common Stock issuable pursuant to the Company's 2019 Employee Stock Purchase Plan (together with the 2019 EIP, the "**Plans**").

In connection with this opinion, we have examined the Registration Statement and related prospectuses, the Plans, the Company's certificate of incorporation and bylaws, each as currently in effect, and such other documents, records, certificates, memoranda and other instruments as we in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies, the accuracy, completeness and authenticity of certificates of public officials, and the due authorization, execution and delivery of all documents by all persons other than the Company where authorization, execution and delivery are prerequisites to the effectiveness thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

Our opinion is expressed solely with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Plans, the Registration Statement and related prospectuses, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

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

Very truly yours,

COOLEY LLP

By: /s/ Laura Berezin
Laura Berezin

Cooley LLP 3175 Hanover Street Palo Alto, CA 94304-1130
t: (650) 843-5000 f: (650) 849-7400 cooley.com

Consent of Independent Registered Public Accounting Firm

We consent to incorporation by reference in this Registration Statement (Form S-8) pertaining to the Tempest Therapeutics, Inc. Amended and Restated 2019 Equity Incentive Plan and Tempest Therapeutics, Inc. Amended and Restated 2019 Employee Stock Purchase Plan of our report dated March 29, 2022, with respect to the consolidated financial statements of Tempest Therapeutics, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2021, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Grand Rapids, Michigan
June 21, 2022

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated May, 10, 2021 (March 29, 2022, as to the effects of the stock exchange as described in Note 1), relating to the consolidated financial statements of Tempest Therapeutics, Inc. and subsidiaries (the "Company"), appearing in the Annual Report on Form 10-K of Tempest Therapeutics, Inc. for the year ended December 31, 2020.

/s/ Deloitte & Touche LLP

San Francisco, California
June 21, 2022

Calculation of Filing Fee Table

Form S-8

Tempest Therapeutics, Inc.

Table 1 — Newly Registered Securities

	Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Fees to be Paid	Equity	Common stock, \$0.001 par value per share, Amended and Restated 2019 Equity Incentive Plan	Other ⁽²⁾	1,132,252 ⁽³⁾	2.05 ⁽²⁾	\$2,321,116.60	.0000927	\$215.17
Fees to be Paid	Equity	Common stock, \$0.001 par value per share, Amended and Restated 2019 Employee Stock Purchase Plan	Other ⁽⁴⁾	107,596 ⁽⁵⁾	1.75 ⁽⁴⁾	\$107,596	.0000927	\$17.46
Total Offering Amounts					—	\$2,509,409.60	—	\$232.63
Total Fees Previously Paid					—	—	—	—
Total Fee Offsets					—	—	—	—
Net Fee Due					—	—	—	\$232.63

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended, this Registration Statement shall also cover any additional shares of common stock of Tempest Therapeutics, Inc. (the “Registrant”) that become issuable under the Registrant’s Amended and Restated 2019 Equity Incentive Plan (the “2019 Plan”) and the Registrant’s Amended and Restated 2019 Employee Stock Purchase Plan (the “2019 ESPP”) by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of Registrant’s common stock, as applicable.
- (2) Estimated in accordance with Rule 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of \$2.05 per share of common stock, which represents the average of the high and low prices of the Registrant’s common stock as reported on The Nasdaq Capital Market on June 16, 2022.
- (3) Represents 1,132,252 additional shares of Registrant’s common stock that were added to the shares authorized for issuance under the 2019 Plan on June 17, 2022 pursuant to approval of the stockholders at the 2022 Annual Meeting of Stockholders.
- (4) Estimated in accordance with Rule 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of \$2.05 per share of common stock, which represents the average of the high and low prices of the Registrant’s common stock as reported on The Nasdaq Capital Market on June 16, 2022, multiplied by 85%, which is the percentage of the price per share applicable to shares issued under the 2019 ESPP.
- (5) Represents 107,596 additional shares of Registrant’s common stock that were added to the shares authorized for issuance under the 2019 ESPP on June 17, 2022 pursuant to approval of the stockholders at the 2022 Annual Meeting of Stockholders.