

INTERCEPT PHARMACEUTICALS, INC.

Form 8-K

April 27, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the

Securities Exchange Act of 1934

Date of report (Date of earliest event reported): April 24, 2018

Intercept Pharmaceuticals, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware **001-35668** **22-3868459**

(State or Other Jurisdiction (Commission (IRS Employer
of Incorporation) File Number) Identification No.)

10 Hudson Yards, 37th Floor

New York, NY 10001

(Address of Principal Executive Offices and Zip Code)

Registrant's telephone number, including area code: **(646) 747-1000**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the

Exchange Act. "

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Effective April 24, 2018, the Board of Directors (the “Board”) of Intercept Pharmaceuticals, Inc. (the “Company”) increased the size of the Board from nine directors to ten directors and appointed Nancy Miller-Rich to fill the newly created directorship.

There were no arrangements or understandings between Ms. Miller-Rich and any other persons pursuant to which she was selected as a director, and there are no related person transactions within the meaning of Item 404(a) of Regulation S-K promulgated by the Securities and Exchange Commission (the “SEC”) between Ms. Miller-Rich and the Company required to be disclosed herein.

Pursuant to the Company’s Non-Employee Director Compensation Policy, Ms. Miller-Rich will be eligible to receive an annual cash retainer and a new director equity grant, in each case as described under “Executive Officer and Director Compensation—Director Compensation” in the Company’s Definitive Proxy Statement on Schedule 14A filed with the SEC on May 1, 2017.

On April 24, 2018, the Company issued a press release announcing the appointment of Ms. Miller-Rich. A copy of such press release is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits.*

| Exhibit Number | Description |
|---------------------------|--|
| <u>99.1</u> | <u>Press Release issued April 24, 2018</u> |

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

INTERCEPT
PHARMACEUTICALS,
INC.

By: /s/ Ryan T. Sullivan
Name: Ryan T. Sullivan
Title: General Counsel

Date: April 27, 2018

EXHIBIT INDEX

Exhibit

Description

Number

99.1 Press Release issued April 24, 2018

style="DISPLAY: inline; FONT-FAMILY: times new roman; FONT-SIZE: 10pt">AGGREGATE AMOUNT
BENEFICIALLY OWNED BY EACH REPORTING PERSON

423,440 shares of Common Stock

Warrants to purchase 1,241,250 shares of Common Stock (see Item 4)*

10

CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES CERTAIN SHARES

..

11

PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9)

4.99% (see Item 4)

12

TYPE OF REPORTING PERSON

PN

* As more fully described in Item 4, these reported securities are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8) and (9).

1 NAMES OF REPORTING PERSONS
 Ryan M. Lane

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a)
 (b)

3 SEC USE ONLY

4 CITIZENSHIP OR PLACE OF ORGANIZATION
 United States

5 SOLE VOTING POWER
 0

6 NUMBER OF SHARED VOTING POWER
 423,440 shares of Common Stock
 Warrants to purchase 1,241,250 shares of Common Stock (see Item 4)*

7 BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH SOLE DISPOSITIVE POWER
 0

8 SHARED DISPOSITIVE POWER
 423,440 shares of Common Stock
 Warrants to purchase 1,241,250 shares of Common Stock (see Item 4)*

9 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON
 423,440 shares of Common Stock
 Warrants to purchase 1,241,250 shares of Common Stock (see Item 4)*

10 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES CERTAIN SHARES

11 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9)
 4.99% (see Item 4)

12 TYPE OF REPORTING PERSON
 IN

* As more fully described in Item 4, these reported securities are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8) and (9).

CUSIP No. 72919P202

13G/A

Page 4 of 7 Pages

| | | |
|--------------|---|--------|
| 1 | NAMES OF REPORTING PERSONS | |
| | Martin D. Hoe | |
| 2 | CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP | (a) x |
| | | (b) .. |
| 3 | SEC USE ONLY | |
| 4 | CITIZENSHIP OR PLACE OF ORGANIZATION | |
| | United States | |
| 5 | SOLE VOTING POWER | |
| | 0 | |
| 6 | SHARED VOTING POWER | |
| NUMBER OF | 423,440 shares of Common Stock | |
| SHARES | Warrants to purchase 1,241,250 shares of Common Stock (see Item 4)* | |
| BENEFICIALLY | | |
| OWNED BY | SOLE DISPOSITIVE POWER | |
| EACH | 0 | |
| 7 | SHARED DISPOSITIVE POWER | |
| REPORTING | 423,440 shares of Common Stock | |
| PERSON WITH | Warrants to purchase 1,241,250 shares of Common Stock (see Item 4)* | |
| 8 | | |
| 9 | AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON | |
| | 423,440 shares of Common Stock | |
| | Warrants to purchase 1,241,250 shares of Common Stock (see Item 4)* | |
| 10 | CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES | .. |
| | CERTAIN SHARES | |
| 11 | PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9) | |
| | 4.99% (see Item 4) | |
| 12 | TYPE OF REPORTING PERSON | |
| | IN | |

* As more fully described in Item 4, these reported securities are subject to a 4.99% blocker and the percentage set forth in row (11) gives effect to such blocker. However, as more fully described in Item 4, the securities reported in rows (6), (8) and (9) show the number of shares of Common Stock that would be issuable upon full exercise of such reported securities and do not give effect to such blocker. Therefore, the actual number of shares of Common Stock beneficially owned by such Reporting Person, after giving effect to such blocker, is less than the number of securities reported in rows (6), (8) and (9).

CUSIP No. 72919P202

13G/A

Page 5 of 7 Pages

This Amendment No. 1 (this "Amendment") amends the statement on Schedule 13G filed on May 27, 2011 (the "Original Schedule 13G" and the Original Schedule 13G as amended, the "Schedule 13G"), with respect to shares of common stock, par value \$0.01 (the "Common Stock"), of Plug Power Inc., a Delaware corporation (the "Company"). Capitalized terms used herein and not otherwise defined in this Amendment have the meanings set forth in the Schedule 13G. This Amendment amends and restates Items 2(b), 2(e), 4 and 5 in their entirety as set forth below.

Item 2(b). ADDRESS OF PRINCIPAL BUSINESS OFFICE OR, IF NONE,
RESIDENCE

The address of the business office of each of the Reporting Persons is:

1 Rockefeller Plaza, Suite 1205
New York, NY 10020

Item 2(e). CUSIP NUMBER

72919P202

Item 4. OWNERSHIP.

The information as of the filing date required by Items 4(a) – (c) is set forth in Rows 5 – 11 of the cover page for each Reporting Person hereto and is incorporated herein by reference for each such Reporting Person.

The percentage set forth in Row (11) of the cover page for each Reporting Person is based on 22,736,504 shares of Common Stock issued and outstanding as of November 7, 2011, as represented in the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2011, filed with the Securities and Exchange Commission on November 9, 2011 and assumes the exercise of the reported warrants (the "Reported Warrants") subject to the Blocker (as defined below).

Pursuant to the terms of the Reported Warrants, the Reporting Persons cannot exercise any of the Reported Warrants until such time as the Reporting Persons would not beneficially own, after any such exercise, more than 4.99% of the outstanding shares of Common Stock (the "Blocker"), and the percentage set forth in Row (11) of the cover page for each Reporting Person gives effect to the Blocker. Consequently, at this time, the Reporting Persons are not able to exercise all of the Reported Warrants due to the Blocker.

Therefore, as of the date hereof, each of the Reporting Persons may be deemed to beneficially own 4.99% of the outstanding shares of Common Stock of the Company. The foregoing should not be construed in and of itself as an admission by any Reporting Person as to beneficial ownership of shares of Common Stock owned by another Reporting Person.

CUSIP No. 72919P202

13G/A

Page 6 of 7 Pages

The Investment Manager, which serves as the investment manager to the Empery Funds, may be deemed to be the beneficial owner of all shares of Common Stock held by the Empery Funds. Each of the Reporting Individuals, as Managing Members of the General Partner of the Investment Manager with the power to exercise investment discretion, may be deemed to be the beneficial owner of all shares of Common Stock held by the Empery Funds. Each of the Reporting Individuals hereby disclaims any beneficial ownership of any such shares of Common Stock.

Item 5. OWNERSHIP OF FIVE PERCENT OR LESS OF A CLASS.

If this statement is being filed to report the fact that as of the date hereof the reporting person has ceased to be the beneficial owner of more than five percent of the class of securities, check the following: [X]

CUSIP No. 72919P202

13G/A

Page 7 of 7 Pages

SIGNATURES

After reasonable inquiry and to the best of its knowledge and belief, each of the undersigned certifies that the information with respect to it set forth in this statement is true, complete, and correct.

DATED: January 25, 2012

EMPERY ASSET MANAGEMENT, LP

By: EMPERY AM GP, LLC, its General Partner

/s/ Ryan M. Lane
RYAN M. LANE

By: /s/ Ryan M. Lane
Name: Ryan M. Lane
Title: Managing Member

/s/ Martin D. Hoe
MARTIN D. HOE