
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO/A

(Rule 14d-100)

**TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) or 13(e)(1)
OF THE SECURITIES EXCHANGE ACT OF 1934
(Amendment No. 2)**

LA JOLLA PHARMACEUTICAL COMPANY

(Name of Subject Company (Issuer))

INNOVIVA ACQUISITION SUB, INC.

(Name of Filing Persons (Offeror)) a wholly-owned subsidiary of

INNOVIVA, INC.

(Name of Filing Persons (Parent of Offeror))

Common Stock, par value \$0.0001 Per Share
(Title of Class of Securities)

50345960

(CUSIP Number of Class of Securities)

Innoviva Acquisition Sub, Inc.

Innoviva, Inc.

1350 Old Bayshore Highway Suite 400

Burlingame, CA 94010

(650) 238-9600

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

Copy to:

Russell Leaf

Jared Fertman

Willkie Farr & Gallagher LLP

787 Seventh Avenue

New York, NY 10019

(212) 728-8000

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- 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.

Amount Previously Paid: \$20,093.46

Filing party: Innoviva, Inc. and Innoviva Acquisition Sub, Inc.

Form or Registration No.: Schedule TO

Date filed: July 25, 2022

- 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.

INTRODUCTION

This Amendment No. 2 to Schedule TO (this “Amendment”) is filed by Innoviva, Inc. (“Parent”), a Delaware corporation, and Innoviva Acquisition Sub, Inc. (the “Purchaser”), a Delaware corporation and wholly-owned subsidiary of Parent, and amends and supplements the Tender Offer Statement on Schedule TO filed with Securities and Exchange Commission on July 25, 2022, (together with any amendments and supplements thereto, the “Schedule TO”) by Parent and Purchaser and relates to the offer by Purchaser to purchase all of the outstanding shares of common stock, par value \$0.0001 per share (the “Shares”) of La Jolla Pharmaceutical Company, a Delaware corporation (“La Jolla”), at a price of \$6.23 per share, net to the seller in cash, without interest thereon and less any applicable withholding taxes, upon the terms and conditions set forth in the offer to purchase dated July 25, 2022 (together with any amendments and supplements thereto, the “Offer to Purchase”), and in the related letter of transmittal (together with any amendments and supplements thereto, the “Letter of Transmittal”), which, together with any other related materials, as each may be amended or supplemented from time to time, collectively constitute the “Offer.” This Amendment is being filed on behalf of Parent and Purchaser.

Except as otherwise set forth in this Amendment, the information set forth in the Schedule TO and the Offer to Purchase, including Schedules I and II, remains unchanged and is incorporated herein by reference to the extent relevant to the matters set forth in this Amendment. Capitalized terms used but not defined in this Amendment have the meanings given to them in the Offer to Purchase. This Amendment should be read together with the Schedule TO.

Items 1 through 9 and Item 11

The information set forth in the Offer to Purchase and in items 1 through 9 and Item 11 of the Schedule TO is hereby amended and supplemented to include the following:

“The Offer expired one minute after 11:59 P.M., New York City time, on August 19, 2022 (such time and date, the “Expiration Time”). The Depository has advised Parent that, as of the Expiration Time, 21,703,224 Shares were validly tendered and not withdrawn pursuant to the Offer, which Shares represent approximately 87.03% of the outstanding Shares. Accordingly, the Minimum Condition has been satisfied and all other conditions to the Offer were satisfied or waived. Promptly after the expiration of the Offer, Purchaser irrevocably accepted for payment, and expects to promptly pay for, all Shares that were validly tendered and not withdrawn pursuant to the Offer.

On August 22, 2022, Parent issued a press release announcing the expiration and results of the Offer and the completion of the Merger (as defined below). The full text of the press release is attached as Exhibit (a)(5)(B) hereto and is incorporated herein by reference.

As a result of Purchaser’s acceptance for payment of the Shares tendered pursuant to the Offer (together with the Shares beneficially owned by Parent prior to the commencement of the Offer), Purchaser acquired sufficient Shares to complete the merger of Purchaser into La Jolla in accordance with Section 251(h) of the DGCL without a vote of La Jolla’s stockholders, with La Jolla surviving as the Surviving Corporation and a wholly-owned subsidiary of Parent (the “Merger”). Parent and La Jolla effected the Merger on August 22, 2022, pursuant to that certain Agreement and Plan of Merger, dated as of July 10, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the “Merger Agreement”), by and among Innoviva, La Jolla, and Purchaser. At the Effective Time, each Share outstanding immediately prior to the Effective Time (other than Dissenting Shares, Shares owned by Parent or Purchaser or Shares held in the treasury of La Jolla or owned by any wholly owned subsidiary of La Jolla) were, without any further action on the part of the holder of such Share, converted into the right to receive the Offer Price, payable to the holder thereof upon surrender of the certificate formerly representing, or book-entry transfer of, such Share. Additionally, at the Effective Time, each Preferred Share outstanding immediately prior to the Effective Time (other than dissenting Preferred Shares, Preferred Shares owned by Parent or Purchaser or Preferred Shares held in the treasury of La Jolla or owned by any wholly owned subsidiary of La Jolla) were, without any further action on the part of the holder of such Preferred Share, converted into the right to receive the Preferred Share Price, payable to the holder thereof upon surrender of the certificate formerly representing, or book-entry transfer of, such Preferred Share.

Following the consummation of the Merger, the Shares were delisted and ceased to trade on Nasdaq. Parent and La Jolla intend to take steps to cause the termination of the registration of the Shares under the Exchange Act and the suspension of all of La Jolla’s reporting obligations under the Exchange Act as promptly as practicable.”

Item 12

Item 12 is hereby amended and supplemented by adding the following exhibit:

<u>Exhibit No.</u>	<u>Description</u>
(a)(5)(B)	Press Release issued by Parent on August 22, 2022 announcing the expiration and results of the Offer and the completion of the Merger

SIGNATURES

After due inquiry and to the best of their knowledge and belief, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: August 22, 2022

INNOVIVA, INC.

By: /s/ Pavel Raifeld

Name: Pavel Raifeld

Title: Chief Executive Officer

INNOVIVA ACQUISITION SUB, INC.

By: /s/ Pavel Raifeld

Name: Pavel Raifeld

Title: President



Innoviva Completes Acquisition of La Jolla Pharmaceutical

BURLINGAME, Calif.—(BUSINESS WIRE)—Aug. 22, 2022— Innoviva, Inc. (Nasdaq: INVA) (“Innoviva”), a diversified holding company with a portfolio of royalties and a growing portfolio of innovative healthcare assets, today announced that its tender offer to purchase any and all issued and outstanding shares of common stock of La Jolla Pharmaceutical Company (Nasdaq: LJPC) (“La Jolla”) at a price of \$6.23 per share (the “Offer Price”), net to the seller in cash, without interest and less required withholding taxes, expired one minute after 11:59 p.m. New York City time on Friday, August 19, 2022. Today, following the consummation of the tender offer, Innoviva successfully completed its acquisition of La Jolla, which is dedicated to the commercialization of innovative therapies that improve outcomes in patients suffering from life-threatening diseases.

La Jolla brings to Innoviva an established product portfolio, including GIAPREZA® (angiotensin II), approved to increase blood pressure in adults with septic or other distributive shock and XERAVA® (eravacycline) for the treatment of complicated intra-abdominal infections (cIAIs).

“The acquisition of La Jolla strengthens our footprint in the hospital and infectious disease spaces by adding a robust portfolio of marketed products and an excellent team,” said Pavel Raifield, Chief Executive Officer of Innoviva. “It is also highly complementary to Entasis, providing an established platform to bring SUL-DUR, a differentiated anti-infective, to patients if approved. We look forward to working together as a stronger, combined company serving the needs of patients, physicians, and hospitals.”

Additional Transaction Details

The depository for the tender offer has advised that, as of the expiration of the tender offer, a total of 21,703,224 shares of La Jolla’s common stock were validly tendered and not withdrawn in the tender offer. Such shares of La Jolla’s common stock represent approximately 87.03% of the shares, which satisfied the minimum condition for the tender offer. All conditions of the offer were satisfied and Innoviva completed its acquisition of all issued and outstanding equity securities of La Jolla for the Offer Price. Additionally, as a consequence of the merger, each share of La Jolla’s Series C-1² Convertible Preferred Stock (other than those as to which holders properly exercise dissenters’ rights and those owned at the commencement of the tender offer by Innoviva or its affiliates) was automatically converted into the right to receive an amount in cash equal to 1,724.04 times the Offer Price. As a result of the acquisition, La Jolla became a wholly-owned subsidiary of Innoviva and the company’s common stock will be delisted from the Nasdaq Global Market.

For additional background on the acquisition, please read the announcement press release [here](#).

About Innoviva

Innoviva is a diversified holding company with a portfolio of royalties and other healthcare assets. Innoviva’s royalty portfolio includes respiratory assets partnered with Glaxo Group Limited (“GSK”), including RELVAR®/BREO® ELLIPTA® (fluticasone furoate/ vilanterol, “FF/VI”), ANORO® ELLIPTA® (umeclidinium bromide/ vilanterol, “UMEC/VI”) and, formerly, TRELEGY® ELLIPTA® (the combination FF/UMEC/VI). Under the Long-Acting Beta2 Agonist (“LABA”) Collaboration Agreement, Innoviva is entitled to receive royalties from GSK on sales of RELVAR®/BREO® ELLIPTA® and ANORO® ELLIPTA®.

Forward Looking Statements

This press release contains certain “forward-looking” statements as that term is defined in the Private Securities Litigation Reform Act of 1995 regarding, among other things, statements relating to goals, plans, objectives, and future events. Innoviva intends such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in Section 21E of the Securities Exchange Act of 1934 and the Private Securities Litigation Reform Act of 1995. The words “anticipate”, “expect”, “goal”, “intend”, “objective”, “opportunity”, “plan”, “potential”, “target” and similar expressions are intended to identify such forward-looking statements. Such forward-looking statements involve substantial risks, uncertainties, and assumptions. These statements are based on the current estimates and assumptions of the management of Innoviva as of the date of this press release and are subject to known and unknown risks, uncertainties, changes in circumstances, assumptions and other factors that may cause the actual results of Innoviva to be materially different from those reflected in the forward-looking statements. Important factors that could cause actual results to differ materially from those indicated by such forward-looking statements include, among others, risks related to: expected cost savings; lower than expected future royalty revenue from respiratory products partnered with GSK; the commercialization of RELVAR®/BREO® ELLIPTA®, ANORO® ELLIPTA® and, formerly, TRELEGY® ELLIPTA® in the jurisdictions in which these products have been approved; the strategies, plans and objectives of Innoviva (including Innoviva’s growth strategy and corporate development initiatives beyond the existing respiratory portfolio); the timing, manner, and amount of potential capital returns to shareholders; the status and timing of clinical studies, data analysis and communication of results; the potential benefits and mechanisms of action of product candidates; expectations for product candidates through development and commercialization; the timing of regulatory approval of product candidates; and projections of revenue, expenses and other financial items; the impact of the novel coronavirus (“COVID-19”). Other risks affecting Innoviva are described under the headings “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” contained in Innoviva’s Annual Report on Form 10-K for the year ended December 31, 2021 and Quarterly Reports on Form 10-Q, which are on file with the Securities and Exchange Commission (“SEC”) and available on the SEC’s website at www.sec.gov. Past performance is not necessarily indicative of future results. No forward-looking statements can be guaranteed, and actual results may differ materially from such statements. Given these uncertainties, you should not place undue reliance on these forward-looking statements. The information in this press release is provided only as of the date hereof, and Innoviva assumes no obligation to update its forward-looking statements on account of new information, future events or otherwise, except as required by law.

Investors & Media:

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