

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): **July 15, 2022**

TRACON Pharmaceuticals, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

001-36818

(Commission File Number)

34-2037594

(IRS Employer Identification No.)

**4350 La Jolla Village Drive, Suite 800
San Diego, California**

(Address of principal executive offices)

92122

(Zip Code)

Registrant's telephone number, including area code: (858) 550-0780

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))

Securities registered pursuant to Section 12(b) of the Securities Act:

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	TCON	The Nasdaq Stock Market LLC

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 8.01 Other Events.

On June 21, 2022, TRACON Pharmaceuticals, Inc. (the “Company”) suspended, and, until July 15, 2022, was not offering any shares of its common stock, par value \$0.001 per share (“Common Stock”), pursuant to the prospectus dated March 28, 2022 relating to the Capital on Demand™ Sales Agreement, dated December 9, 2020, as amended on March 15, 2022 (the “Sales Agreement”), by and between the Company and JonesTrading Institutional Services LLC. In order for the Company to once again make sales of Common Stock pursuant to the Sales Agreement, the Company filed a new prospectus supplement with the Securities and Exchange Commission on July 15, 2022 registering the shares of Common Stock to be sold pursuant to the Sales Agreement.

Cooley LLP, counsel to the Company, delivered an opinion as to the validity of the shares of Common Stock to be issued pursuant to the Sales Agreement, a copy of which is attached hereto as Exhibit 5.1 and is incorporated herein by reference.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy any securities of the Company, which is being made only by means of a written prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended, nor shall there be any sale of the Company’s securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

Item 9.01 Financial Statements and Exhibits.**(d) Exhibits.**

Exhibit No.	Description
5.1	Opinion of Cooley LLP.
23.1	Consent of Cooley LLP (included in Exhibit 5.1).
104	Cover page Interactive Data File (embedded within the Inline XBRL document)

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.

TRACON Pharmaceuticals, Inc.

Dated: July 15, 2022

By: /s/ Charles P. Theuer, M.D., Ph.D.

Charles P. Theuer, M.D., Ph.D.

President and Chief Executive Officer



Matthew Browne
T: +1 858 550 6034
sclayton@cooley.com

July 15, 2022

TRACON Pharmaceuticals, Inc.
4350 La Jolla Village Drive, Suite 800
San Diego, California 92122

Ladies and Gentlemen:

We have acted as counsel to TRACON Pharmaceuticals, Inc., a Delaware corporation (the "**Company**"), in connection with the offering by the Company of shares of its common stock, par value \$0.001 per share (the "**Common Stock**"), having an aggregate offering price of up to \$8,207,228 (the "**Shares**") pursuant to the Registration Statement on Form S-3 (File No. 333-263590) (the "**Registration Statement**") filed by the Company with the Securities and Exchange Commission ("**SEC**") under the Securities Act of 1933, as amended (the "**Securities Act**"), and the prospectus included in the Registration Statement (the "**Base Prospectus**"), as supplemented by the prospectus supplement relating to the Shares, dated July 15, 2022, filed with the SEC pursuant to Rule 424(b) under the Securities Act (together with the Base Prospectus, the "**Prospectus**"). The Shares are to be sold by the Company in accordance with that certain Capital on Demand™ Sales Agreement, dated December 9, 2020, as amended March 15, 2022 (the "**Sales Agreement**"), between the Company and JonesTrading Institutional Services LLC.

In connection with this opinion, we have examined the Registration Statement and the Prospectus, the Sales Agreement, the Company's certificate of incorporation and bylaws, each as currently in effect, and originals, or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as 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.

We have assumed (i) that each specific sale of Shares will be duly authorized by the Board of Directors of the Company, a duly authorized committee thereof or a person or body pursuant to an authorization granted in accordance with Section 152 of the General Corporation Law of the State of Delaware (the "**DGCL**"), (ii) that no more than 5,471,485 Shares will be sold under the

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Sales Agreement pursuant to the Prospectus and (iii) that the price at which the Shares are sold will equal or exceed the par value of the Common Stock. We express no opinion to the extent that future issuances of securities of the Company and/or anti-dilution adjustments to outstanding securities of the Company cause the number of shares of Common Stock then outstanding or issuable upon conversion or exercise of outstanding securities of the Company to exceed the number of Shares then issuable under the Sales Agreement.

Our opinion herein is expressed solely with respect to the DGCL. Our opinion is based on these laws as in effect on the date hereof. 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, and subject to the qualifications herein stated, we are of the opinion that the Shares, when issued and paid for in accordance with the Sales Agreement, the Registration Statement and the Prospectus, will be validly issued, fully paid and nonassessable.

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We hereby consent to the reference to our firm under the caption "Legal Matters" in the Prospectus and to the filing of this opinion as an exhibit to the Company's Current Report on Form 8-K filed with the SEC on the date hereof and incorporated by reference into the Registration Statement.

Our opinion set forth above is limited to the matters expressly set forth in this letter, and no opinion is implied or may be inferred beyond the matters expressly stated. This opinion speaks only as to law and facts in effect or existing as of the date hereof, and we undertake no obligation or responsibility to update or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Sincerely,

Cooley LLP

By: /s/ Matthew Browne
Matthew Browne

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