
**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)
January 2, 2020

Pacific Biosciences of California, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-34899
(Commission
File Number)

16-1590339
(IRS Employer
Identification No.)

1305 O'Brien Drive
Menlo Park, California 94025
(Address of principal executive offices) (Zip Code)

(650) 521-8000
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

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 (see General Instruction A.2. below):

- 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 Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	PACB	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 (17 CFR §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 1.01. ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

The disclosure under Item 1.02 is incorporated by reference.

ITEM 1.02. TERMINATION OF A MATERIAL DEFINITIVE AGREEMENT.

As previously disclosed, on November 1, 2018, Pacific Biosciences of California, Inc. (the “Company”) entered into an Agreement and Plan of Merger (as amended, the “Merger Agreement”) with Illumina, Inc. (“Illumina”) and FC Ops Corp., a wholly owned subsidiary of Illumina (“Merger Subsidiary”). On September 25, 2019, the Company, Illumina and Merger Subsidiary entered into Amendment No. 1 to the Merger Agreement to, among other things, extend the End Time (as defined in the Merger Agreement) to December 31, 2019, subject to Illumina’s unilateral right to extend the End Time to March 31, 2020. On December 18, 2019, Illumina elected to extend the End Time.

On January 2, 2020, the Company, Illumina and Merger Subsidiary entered into an agreement to terminate the Merger Agreement (such agreement, the “Termination Agreement”). Pursuant to the Termination Agreement, (1) the Merger Agreement was terminated; (2) no later than January 6, 2020, Illumina will make a cash payment to the Company of \$98 million (which amount constitutes the Reverse Termination Fee (as defined in the Merger Agreement)); and (3) Illumina will make, which it would have been obligated to make under the Merger Agreement, cash payments to the Company of \$6 million on or before each of January 2, 2020, and March 2, 2020, and a cash payment to the Company of \$22 million on or before February 3, 2020 (the payments contemplated by this clause (3), the “Continuation Advances”).

However, pursuant to the Termination Agreement, in the event that, on prior to September 30, 2020, the Company enters into a definitive agreement providing for, or consummates, a Change of Control Transaction (as defined in the Termination Agreement), then the Company will repay the Reverse Termination Fee (without interest) to Illumina in connection with the consummation of such Change of Control Transaction. If such Change of Control Transaction is not consummated by the two-year anniversary of the execution of the definitive agreement for such Change of Control Transaction, then the Company will not be required to repay the Reverse Termination Fee.

In addition, up to the full amount of the Continuation Advances actually paid to the Company are repayable without interest to Illumina if, within two years of March 31, 2020, the Company enters into a Change of Control Transaction or raises at least \$100 million in equity or debt financing in a single transaction (with the amount repayable dependent on the amount raised by the Company).

The Company and Illumina mutually agreed to terminate the Merger Agreement as a result of the lengthy regulatory approval process both in the United States and United Kingdom, and uncertainties regarding the ultimate outcome of the regulatory process.

The foregoing summary of the Termination Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Termination Agreement, which is attached as Exhibit 10.1 and incorporated by reference.

ITEM 7.01. REGULATION FD DISCLOSURE.

On January 2, 2020, the Company and Illumina issued a joint press release (the “Press Release”) announcing entry into the Termination Agreement. A copy of the Press Release is attached as Exhibit 99.1 and incorporated by reference.

In accordance with General Instruction B.2 of Form 8-K, the information set forth in this Item 7.01, including Exhibit 99.1, is furnished pursuant to Item 7.01 and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities under that section, nor shall such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

ITEM 9.01. FINANCIAL STATEMENTS AND EXHIBITS.

(d) Exhibits.

10.1 [Agreement by and among Pacific Biosciences of California, Inc., Illumina, Inc. and FC Ops Corp., dated January 2, 2020](#)

99.1 [Press Release, dated January 2, 2020](#)

AGREEMENT

This AGREEMENT, dated as of January 2, 2020 (the “**Effective Date**”), is entered into by and among Pacific Biosciences of California, Inc., a Delaware corporation (the “**Company**”), Illumina, Inc., a Delaware corporation (“**Parent**”), and FC Ops Corp., a Delaware corporation and a wholly owned Subsidiary of Parent (“**Merger Subsidiary**”). Each of the Company, Parent and Merger Subsidiary are sometimes referred to as a “**Party**.” Capitalized terms used in this Agreement and not otherwise defined have the meaning given to them in the Merger Agreement (as defined below).

WHEREAS, the Company, Parent and Merger Subsidiary previously entered into the Agreement and Plan of Merger, dated as of November 1, 2018, as amended by that certain Amendment No. 1, dated September 24, 2019 (the “**Merger Agreement**”); and

WHEREAS, the Parties desire to terminate, effective as of the Effective Date, the Merger Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Termination. As of the Effective Date, the Merger Agreement shall be terminated and be of no further force or effect, and no party thereto shall have any continuing liabilities, damages or obligations to the other party thereunder, except as expressly provided in this Agreement and pursuant to the Confidentiality Agreement.
2. Reverse Termination Fee. Notwithstanding anything to the contrary in the Merger Agreement, no later than January 6, 2020, the Reverse Termination Fee shall be paid by Parent to the Company by wire transfer of immediately available funds to an account or accounts designated by the Company. The Reverse Termination Fee will be repayable to Parent without interest by the Company solely in the event that, on or prior to September 30, 2020, the Company enters into a definitive agreement providing for, or consummates, a transaction described under clause (ii) or (iii) of the definition of Acquisition Proposal (with all percentages in the definition of Acquisition Proposal deemed to refer to 50%) had the Merger Agreement still been in effect (a “**Change of Control Transaction**”), but only if such Change of Control Transaction is consummated by the two-year anniversary of the execution of the definitive agreement for such Change of Control Transaction. Any repayment of the Reverse Termination Fee by the Company, if required, will occur in connection with, and be conditioned on, the consummation of such Change of Control Transaction. Other than as provided in this Section 2, the Parent Related Parties will have no right to recover the Reverse Termination Fee. For the avoidance of doubt, the Reverse Termination Fee will not be repayable, if required, on more than one occasion.
3. Continuation Advances. As previously contemplated by the Merger Agreement, Parent shall make a cash payment to the Company of \$6 million on or before each of January 2, 2020, and March 2, 2020, and a cash payment to the Company of \$22 million on or before February 3, 2020. Each payment made by Parent pursuant to this Section 3 as well as any amounts previously made by Parent pursuant to Section 10.03 of the Merger

Agreement is referred to as a “**Continuation Advance**” (collectively, “**Continuation Advances**”) and will be made by wire transfer of immediately available funds to an account or accounts designated by the Company. The Company will use the Continuation Advances for general working capital purposes, including the repayment of debt. The Continuation Advances (including, without limitation, any Continuation Advances paid by Parent prior to the date hereof) will be repayable to Parent without interest by the Company solely in the event that, within two years following March 31, 2020, the Company enters into a definitive agreement providing for, or consummates, (x) a Change of Control Transaction or (y) a single equity or debt financing (that may have multiple closings) with proceeds received by the Company of no less than \$100 million (a “**Qualifying Financing**” and, together with a Change of Control Transaction, a “**Repayment Transaction**”). Any repayment of the Continuation Advances by the Company will occur in connection with, and be conditioned on, the consummation of the applicable Repayment Transaction. The amount repayable in connection with a Qualifying Financing will be calculated based on an increasing sliding scale (from 50% to 100%) of the Continuation Advances actually paid to the Company relative to the proceeds received by the Company in a Qualifying Financing between \$100 million and \$200 million, inclusive, with (A) 50% of the aggregate amount of Continuation Advances actually paid to the Company being repayable where the proceeds received by the Company in a Qualifying Financing are equal to \$100 million and (B) 100% of the aggregate amount of Continuation Advances actually paid to the Company being repayable where the proceeds received by the Company in a Qualifying Financing are equal to or exceed \$200 million. For illustrative purposes only, if the proceeds received by the Company in a Qualifying Financing are equal to \$150 million, then 75% of the aggregate amount of Continuation Advances actually paid to the Company shall be repayable. In a Change of Control Transaction, 100% of the aggregate amount of Continuation Advances actually paid to the Company shall be repayable. Other than as provided in this Section 3, the Parent Related Parties will have no right to recover any Continuation Advance, including by offset of any Continuation Advance against the Reverse Termination Fee.

4. Public Announcements. Parent and the Company shall consult with each other before issuing any press release, making any other public statement or scheduling any press conference, conference call or meeting with investors or analysts with respect to this Agreement (except as may be required by applicable law or any listing agreement with, or rule of, any national securities exchange or association) and shall not (except as may be required by applicable law or any listing agreement with, or rule of, any national securities exchange or association) issue any such press release, make any such other public statement or schedule any such press conference, conference call or meeting before such consultation.
5. Further Assurances. Each Party, at its own expense, shall execute and deliver, or shall cause to be executed and delivered from time to time, such further certificates, agreements or instruments and shall take such other action as the other party hereto may reasonably request to document and effect the termination of the Merger Agreement and the transactions contemplated thereby.

6. Binding Nature of Agreement; No Third-Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors and permitted assigns, executors, or other such beneficiaries. This Agreement is not intended to create, and shall not create, any rights in any person who is not a party to this Agreement.
7. Miscellaneous. The provisions of Section 11.01, Section 11.03, Section 11.04(a), Section 11.04(c), and Sections 11.06 through Section 11.13 of the Merger Agreement are hereby incorporated by reference in this Agreement with the same effect as if such provisions were set forth herein with the appropriate changes made.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

PACIFIC BIOSCIENCES OF CALIFORNIA, INC.

By: /s/ Stephen M. Moore
Name: Stephen M. Moore
Title: Vice President, General Counsel and Corporate Secretary

ILLUMINA, INC.

By: /s/ Joydeep Goswami
Name: Joydeep Goswami
Title: SVP, Corporate Development and Strategic Planning

FC OPS CORP.

By: /s/ Joydeep Goswami
Name: Joydeep Goswami
Title: SVP, Corporate Development and Strategic Planning

[Signature Page to Agreement]

ILLUMINA AND PACIFIC BIOSCIENCES ANNOUNCE TERMINATION OF MERGER AGREEMENT

SAN DIEGO & MENLO PARK, Calif.– January 2, 2020 – Illumina, Inc. (NASDAQ: ILMN) and Pacific Biosciences of California, Inc. (NASDAQ:PACB) today announced that they have mutually agreed to terminate their merger agreement, previously announced on November 1, 2018, under which Illumina would acquire Pacific Biosciences at a fully diluted enterprise value of approximately \$1.2 billion in an all-cash transaction.

Considering the lengthy regulatory approval process the transaction has already been subject to and continued uncertainty of the ultimate outcome, the parties decided that terminating the agreement is in the best interest of their respective shareholders and employees. In accordance with the merger agreement, Illumina will pay Pacific Biosciences a termination fee of \$98 million.

“We believe this proposed combination would have broadened access to Pacific Biosciences sequencing technology, significantly expanded and accelerated innovation, and ultimately increased the clinical utility and impact of sequencing,” said Francis deSouza, President and Chief Executive Officer of Illumina. “I’d like to thank our employees, as well as the Pacific Biosciences team, for their unwavering dedication and commitment throughout this process. Moving forward, we will continue to look for ways to increase the impact and benefit of sequencing technologies for researchers, clinicians, and most importantly, patients.”

“We are disappointed that our customers and other stakeholders will not realize the powerful advantages of integrating the sequencing capabilities of our two companies,” said Michael Hunkapiller, Ph.D., Chief Executive Officer of Pacific Biosciences. “With that said, we are confident in the future of Pacific Biosciences as we continue to pursue improved sequencing accuracy and throughput that can be utilized in an ever-expanding number of applications.”

About Pacific Biosciences

Pacific Biosciences of California, Inc. (NASDAQ:PACB) offers sequencing systems to help scientists resolve genetically complex problems. Based on its novel Single Molecule, Real-Time (SMRT®) technology, Pacific Biosciences’ products enable: de novo genome assembly to finish genomes in order to more fully identify, annotate and decipher genomic structures; full-length transcript analysis to improve annotations in reference genomes, characterize alternatively spliced isoforms in important gene families, and find novel genes; targeted sequencing to more comprehensively characterize genetic variations; and real-time kinetic information for epigenome characterization. Pacific Biosciences’ technology provides high accuracy, ultra-long reads, uniform coverage, and the ability to simultaneously detect epigenetic changes. PacBio® sequencing systems, including consumables and software, provide a simple, fast, end-to-end workflow for SMRT Sequencing. More information is available at www.pacb.com.

About Illumina

Illumina is improving human health by unlocking the power of the genome. Our focus on innovation has established us as the global leader in DNA sequencing and array-based technologies, serving customers in the research, clinical, and applied markets. Our products are used for applications in the life sciences, oncology, reproductive health, agriculture, and other emerging segments. To learn more, visit www.illumina.com and follow @illumina.

Forward-Looking Statements

All statements in this press release that are not historical are forward-looking statements, including, among other things, statements relating to future improvements in the technology of each of Illumina and Pacific Biosciences, the growth of each company, the expansion of the applications for each company's products and technology, and other future events. You should not place undue reliance on forward-looking statements because they involve known and unknown risks, uncertainties, changes in circumstances and other factors that are, in some cases, beyond each of Illumina's and Pacific Biosciences' control and could cause actual results to differ materially from the information expressed or implied by forward-looking statements made in this press release. Factors that could materially affect actual results can be found in Illumina's and Pacific Biosciences' most recent filings with the Securities and Exchange Commission, including Illumina's and Pacific Biosciences' most recent reports on Forms 8-K, 10-K and 10-Q, and include those listed under the caption "Risk Factors." Each of Illumina and Pacific Biosciences undertakes no obligation to revise or update information in this press release to reflect events or circumstances in the future, even if new information becomes available.

Illumina Contacts

Media:

Jen Carroll
(858) 449-8082
pr@illumina.com
OR

Investors:

Jacquie Ross, CFA
(858) 882-2172
ir@illumina.com

Pacific Biosciences Contact

Ben Gong
(650) 521-8203
ir@pacificbiosciences.com