

ARENA PHARMACEUTICALS INC

Form 8-K

January 23, 2015

**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 20, 2015**

**Arena Pharmaceuticals, Inc.**

**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction**

**000-31161**  
**(Commission**

**23-2908305**  
**(IRS Employer**

**of incorporation)**

**File Number)**

**Identification No.)**

**6154 Nancy Ridge Drive, San Diego, California 92121**

**(Address of principal executive offices) (Zip Code)**

**858.453.7200**

**(Registrant's telephone number, including area code)**

**N/A**

**(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:

- .. 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))

In this report, Arena Pharmaceuticals, Arena, we, us and our refer to Arena Pharmaceuticals, Inc., unless the context otherwise provides. Arena Pharmaceuticals® and Arena® are registered service marks of Arena Pharmaceuticals, Inc. BELVIQ® is a registered trademark of our wholly owned subsidiary, Arena Pharmaceuticals GmbH.

### **Item 8.01 Other Events.**

On January 20, 2015, we entered into an underwriting agreement (the "Underwriting Agreement") with Jefferies LLC and Piper Jaffray & Co. (collectively, the "Underwriters"), relating to the issuance and sale of 21,000,000 shares of our common stock, par value \$0.0001 per share, at a price to the Underwriters of \$4.8139 per share. We expect to receive approximately \$100.8 million in net proceeds from this offering, based on the amount we will receive from the Underwriters and after deducting estimated offering expenses payable by us. The closing of the offering is expected to occur on or about January 26, 2015, subject to customary closing conditions. In addition, pursuant to the terms of the Underwriting Agreement, we have granted the Underwriters an option, exercisable for 30 days, to purchase up to an additional 3,000,000 shares of our common stock.

The Underwriting Agreement contains customary representations, warranties and agreements by us, customary conditions to closing, indemnification obligations of Arena and the Underwriters, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions. The representations, warranties and covenants contained in the Underwriting Agreement were made only for purposes of such agreement and as of specific dates, were solely for the benefit of the parties to such agreement, and may be subject to limitations agreed upon by such parties.

The offering is being made pursuant to our effective registration statement on Form S-3ASR (Registration Statement No. 333-201604) previously filed with the Securities and Exchange Commission and a prospectus supplement thereunder. A copy of the Underwriting Agreement is filed as Exhibit 1.1 to this report, and the foregoing description of the Underwriting Agreement does not purport to be complete and is qualified in its entirety by reference to such exhibit. A copy of the opinion of Cooley LLP relating to the legality of the issuance and sale of the shares in the offering is attached as Exhibit 5.1 hereto.

On January 20, 2015, we issued a press release announcing the offering, and on January 21, 2015 we issued a press release announcing that we had sold 21,000,000 shares to the Underwriters. Copies of the press releases are attached as Exhibits 99.1 and 99.2 hereto, respectively.

### **Forward-Looking Statements**

Certain statements in this Form 8-K are forward-looking statements that involve a number of risks and uncertainties. Such forward-looking statements include statements about our expectations with respect to the public offering, including the closing of the offering and our receipt of the proceeds; and our anticipated use of proceeds from the public offering. For such statements, we claim the protection of the Private Securities Litigation Reform Act of 1995. Actual events or results may differ materially from our expectations. Factors that could cause actual results to differ materially from the forward-looking statements include, but are not limited to, the following: risks and uncertainties related to the public offering, including those associated with the satisfaction of customary closing conditions; risks related to commercializing drugs, including regulatory, manufacturing, supply and marketing issues and the availability and use of BELVIQ; cash and revenues generated from BELVIQ, including the impact of competition; our revenues will be based in part on estimates, judgment and accounting policies, and incorrect estimates or disagreement regarding estimates or accounting policies may result in changes to our guidance or previously reported results; the timing and outcome of regulatory review is uncertain, and BELVIQ may not be approved for marketing when expected or ever in combination with another drug, for another indication or using a different formulation or in any other territory for any indication; regulatory decisions in one territory may impact other regulatory decisions and our business prospects; government and commercial reimbursement and pricing decisions; risks related to relying on

collaborative arrangements; the timing and receipt of payments and fees, if any, from collaborators; the entry into or modification or termination of collaborative arrangements; unexpected or unfavorable new data; nonclinical and clinical data is voluminous and detailed, and regulatory agencies may interpret or weigh the importance of data differently and reach different conclusions than us or others, request additional information, have additional recommendations or change their guidance or requirements before or after

approval; data and other information related to any of our research and development may not meet regulatory requirements or otherwise be sufficient for (or we or a collaborator may not pursue) further research and development, regulatory review or approval or continued marketing; our and third parties' intellectual property rights; the timing, success and cost of our research and development; results of clinical trials and other studies are subject to different interpretations and may not be predictive of future results; clinical trials and other studies may not proceed at the time or in the manner expected or at all; having adequate funds; and satisfactory resolution of litigation or other disagreements with others. Additional factors that could cause actual results to differ materially from those stated or implied by our forward-looking statements are disclosed in our filings with the Securities and Exchange Commission. These forward-looking statements represent our judgment as of the time of the filing of this Form 8-K. We disclaim any intent or obligation to update these forward-looking statements, other than as may be required under applicable law.

## **Item 9.01 Financial Statements and Exhibits.**

### **(d) Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
1.1	Underwriting Agreement, dated January 20, 2015, by and among Arena, Jefferies LLC and Piper Jaffray & Co., as representatives of the several underwriters named therein
5.1	Opinion of Cooley LLP
23.1	Consent of Cooley LLP (included in Exhibit 5.1)
99.1	Press Release, dated January 20, 2015, titled Arena Pharmaceuticals Announces Public Offering of Common Stock
99.2	Press Release, dated January 21, 2015, titled Arena Pharmaceuticals Announces Agreement to Sell Common Stock

**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.

**ARENA PHARMACEUTICALS, INC.**

Dated: January 23, 2015

By: /s/ Steven W. Spector  
Steven W. Spector

Executive Vice President, General Counsel and  
Secretary

**Exhibit Index**

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