

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

IMMUNITYBIO, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

43-1979754
(I.R.S. Employer
Identification No.)

**3530 John Hopkins Court
San Diego, California 92121
(858) 633-0300**

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

**Richard Adcock
President and Chief Executive Officer
ImmunityBio, Inc.
3530 John Hopkins Court
San Diego, California 92121
(858) 633-0300**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

**Jason Liljestrom
General Counsel
ImmunityBio, Inc.
3530 John Hopkins Court
San Diego, California 92121
(858) 633-0300**

**Martin J. Waters
Wilson Sonsini Goodrich & Rosati
Professional Corporation
12235 El Camino Real
San Diego, California 92130
(858) 350-2300**

From time to time after the effective date of the Registration Statement
(Approximate date of commencement of proposed sale to the public)

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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 7(a)(2)(B) of the Securities Act.

**EXPLANATORY NOTE AND INCORPORATION OF
CERTAIN INFORMATION BY REFERENCE**

Pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and General Instruction IV(A) of Form S-3, the Registrant is filing this Registration Statement on Form S-3 to register the offer and sale of an additional \$18,400,000 of its securities. This Registration Statement relates to the Registrant's Registration Statement on Form S-3 (File No. 333-255699) (the "Prior Registration Statement"), initially filed on April 30, 2021, as amended and declared effective by the Securities and Exchange Commission on May 18, 2022. The required opinion and consents are filed herewith. The additional amount of securities that is being registered for offer and sale represents no more than 20% of the maximum aggregate offering price of the remaining securities available to be sold under the Prior Registration Statement. Pursuant to Rule 462(b), the contents of the Prior Registration Statement, including the exhibits thereto, are incorporated by reference into this Registration Statement.

EXHIBIT INDEX

Exhibit Number	Description of Exhibit
5.1*	Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation.
23.1*	Consent of Independent Registered Public Accounting Firm.
23.2*	Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (included in Exhibit 5.1).
107*	Filing Fee Table.

* Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Diego, State of California, on December 12, 2022.

IMMUNITYBIO, INC.

By: /s/ Richard Adcock

Richard Adcock

Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following individuals in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Richard Adcock</u> Richard Adcock	Chief Executive Officer, President and Director <i>(Principal Executive Officer)</i>	December 12, 2022
<u>/s/ David C. Sachs</u> David C. Sachs	Chief Financial Officer <i>(Principal Financial Officer)</i>	December 12, 2022
<u>/s/ Regan J. Lauer</u> Regan J. Lauer	Chief Accounting Officer <i>(Principal Accounting Officer)</i>	December 12, 2022
<u>/s/ Patrick Soon-Shiong</u> Patrick Soon-Shiong	Global Chief Scientific and Medical Officer and Executive Chairman of the Board of Directors	December 12, 2022
<u>/s/ Barry J. Simon</u> Barry J. Simon	Chief Corporate Affairs Officer and Director	December 12, 2022
<u>Michael D. Blaszyk</u> Michael D. Blaszyk	Director	December 12, 2022
<u>/s/ John Owen Brennan</u> John Owen Brennan	Director	December 12, 2022
<u>/s/ Wesley Clark</u> Wesley Clark	Director	December 12, 2022
<u>/s/ Cheryl L. Cohen</u> Cheryl L. Cohen	Director	December 12, 2022
<u>Linda Maxwell</u>	Director	
<u>/s/ Christobel Selecky</u> Christobel Selecky	Director	December 12, 2022

Calculation of Filing Fee Tables

Form S-3
(Form Type)

ImmunityBio, Inc.
(Exact Name of Registrant as Specified in its Charter)

Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered	Proposed Maximum Offering Price Per Share	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock, par value \$0.0001 per share	Rule 457(o)	(1)	(1)	(1)		
Equity	Warrants	Rule 457(o)	(1)	(1)	(1)		
Unallocated (Universal) Shelf	Unallocated (Universal) Shelf	Rule 457(o)	(1)	(1)	\$ 18,400,000	\$110.20 per \$1,000,000	\$ 2,027.68
Total Offering Amounts					\$ 18,400,000		\$ 2,027.68
Total Fees Paid Previously							—
Total Fee Offsets							—
Net Fee Due							\$ 2,027.68

- (1) The Registrant previously registered the offer and sale of certain securities, including its common stock, par value \$0.0001 per share, and warrants to purchase shares of common stock, having a proposed maximum aggregate offering price of \$500,000,000 pursuant to Registration Statement on Form S-3ASR (File No. 333-255699) which was filed on April 30, 2021 and became automatically effective (the “Original Registration Statement”). The Registrant also filed Post-Effective Amendment No. 3 to Registration Statement on Form S-3 (File No. 333-255699) (the “Prior Registration Statement”), which was filed on May 16, 2022 and declared effective by the Securities and Exchange Commission on May 18, 2022. As of the date hereof, a balance of \$92,000,000 of such securities remains unsold under the Prior Registration Statement. In accordance with Rule 462(b) under the Securities Act of 1933, as amended, and General Instruction IV(A) of Form S-3, the Registrant is hereby registering the offer and sale of an additional \$18,400,000 of its shares of common stock, warrants to purchase shares of common stock and the shares of common stock issuable upon the exercise of such warrants. The additional amount of securities that is being registered for offer and sale represents no more than 20% of the maximum aggregate offering price of the remaining securities available to be sold under the Prior Registration Statement.

WILSON SONSINI

WILSON SONSINI GOODRICH & ROSATI
PROFESSIONAL CORPORATION
12235 EL CAMINO REAL
SAN DIEGO, CA 92130-3002
O: 858-350-2300
F: 858-350-2399

December 12, 2022

ImmunityBio, Inc.
3530 John Hopkins Court
San Diego, California 92121

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

This opinion is furnished to you in connection with the Registration Statement on Form S-3 (the “**Registration Statement**”), filed by ImmunityBio, Inc. (the “**Company**”) with the Securities and Exchange Commission pursuant to Rule 462(b) of the Securities Act of 1933, as amended (the “**Securities Act**”), in connection with the registration under the Securities Act of additional (i) shares (the “**Shares**”) of the Company’s common stock, \$0.0001 par value per share (the “**Common Stock**”), (ii) warrants to purchase shares of Common Stock (the “**Warrants**”) and (iii) shares of Common Stock issuable upon exercise of the warrants (the “**Warrant Shares**”) and together with the Shares and Warrants, the “**Securities**”), with an aggregate offering price of \$18,400,000. The Registration Statement incorporates by reference the Registration Statement on Form S-3 (Registration No. 333-255699) (the “**Prior Registration Statement**”), which was declared effective on May 18, 2022, including the prospectus which forms part of the Registration Statement. We understand that the Securities are to be sold by the Company as set forth in the Registration Statement pursuant to a form of securities purchase agreement in substantially the form to be filed under a current report on Form 8-K (the “**Purchase Agreement**”).

We are acting as counsel for the Company in connection with the sale of the Securities by the Company. In such capacity, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments as we have deemed necessary for the purposes of rendering this opinion. In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity with the originals of all documents submitted to us as copies, the authenticity of the originals of such documents and the legal competence of all signatories to such documents.

We express no opinion herein as to the laws of any state or jurisdiction other than the General Corporation Law of the State of Delaware (including the statutory provisions and all applicable judicial decisions interpreting those laws) and the federal laws of the United States of America.

Based upon and subject to the foregoing qualifications, assumptions and limitations and the further limitations set out below, we are of the opinion that:

1. The Shares have been duly authorized by the Company and, when issued and delivered by the Company against payment therefor in accordance with the terms of and in the manner contemplated by the Securities Purchase Agreement, will be validly issued, fully paid and nonassessable.
2. The Warrants have been duly authorized by the Company and, when issued and delivered by the Company against payment therefor in accordance with the terms of the Securities Purchase Agreement, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms; and
3. The Warrant Shares have been duly authorized by the Company and, when issued and delivered by the Company against payment of the exercise price therefor in accordance with the terms of the Warrants, will have been validly issued, fully paid and nonassessable.

We consent to the use of this opinion as an exhibit to the Registration Statement, and we consent to the reference of our name under the caption "Legal Matters" in the prospectus forming part of the Prior Registration Statement, which is incorporated by reference into the Registration Statement. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Wilson Sonsini Goodrich & Rosati,
P.C.

WILSON SONSINI GOODRICH &
ROSATI

Professional Corporation

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption “Experts” in the Registration Statement (Form S-3) and related Prospectus of ImmunityBio, Inc. for the registration of up to \$18,400,000 of its common stock and to the incorporation by reference therein of our reports dated March 1, 2022, with respect to the consolidated financial statements of ImmunityBio, Inc., and the effectiveness of internal control over financial reporting of ImmunityBio, Inc., included in its Annual Report (Form 10-K) for the year ended December 31, 2021, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Los Angeles, California
December 12, 2022