

THERAVANCE INC  
Form 10-K/A  
May 24, 2012

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-K/A**

(Amendment No. 1)

(Mark One)

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**For the fiscal year ended December 31, 2011**

or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from        to**

**Commission File No. 0-30319**

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**THERAVANCE, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**94-3265960**

(I.R.S. Employer Identification No.)

**901 Gateway Boulevard,  
South San Francisco, California**

**94080**

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(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: **650-808-6000**

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SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

Title of Each Class	Name of Each Exchange On Which Registered
Common Stock \$0.01 Par Value	Nasdaq Global Market

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT: **NONE**

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 205 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act (Check One):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant based upon the closing price of the Common Stock on the Nasdaq Global Market on June 30, 2011 was \$961,098,794.

On February 17, 2012, there were 86,149,162 shares of the registrant's Common Stock outstanding.

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**EXPLANATORY NOTE**

Theravance, Inc. (the Company) filed its Annual Report on Form 10-K for the year ended December 31, 2011 with the Securities and Exchange Commission on February 27, 2012 (the Form 10-K). This Form 10-K/A Amendment No. 1 (Amendment No. 1) is being filed to amend the Form 10-K as an exhibit-only filing in response to comments received from the staff of the Securities and Exchange Commission regarding a request for confidential treatment of certain portions of Exhibit 10.34 originally filed with the Form 10-K. In addition to re-filing Exhibit 10.34, as required by Rule 12b-15 under the Securities Exchange Act of 1934, as amended, new certifications by our principal executive officer and principal financial officer are filed herewith as Exhibits 31.1 and 31.2 to this Amendment No. 1.

Except as described above, no other amendments or updates have been made to the Form 10-K as originally filed. This Amendment No. 1 does not reflect events after the original filing of the Form 10-K and does not modify or update any disclosures in the Form 10-K that may have been affected by subsequent events.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

THERAVANCE, INC.

Date: May 24, 2012

By:

/s/ RICK E WINNINGHAM  
Rick E Winningham  
*Chief Executive Officer*

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ RICK E WINNINGHAM Rick E Winningham	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	May 24, 2012
/s/ MICHAEL W. AGUIAR Michael W. Aguiar	Senior Vice President, Finance and Chief Financial Officer (Principal Financial and Accounting Officer)	May 24, 2012
* Henrietta Holsman Fore	Director	May 24, 2012
* Robert V. Gunderson, Jr.	Director	May 24, 2012
* Arnold J. Levine, Ph.D	Director	May 24, 2012
* Burton G. Malkiel, Ph.D	Director	May 24, 2012
* Peter S. Ringrose, Ph.D	Director	May 24, 2012
* William H. Waltrip	Director	May 24, 2012

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\*  
George M. Whitesides, Ph.D

Director

May 24, 2012

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Signature	Title	Date
* William D. Young	Director	May 24, 2012

\*By: /s/ RICK E WINNINGHAM  
Rick E Winningham  
*Attorney in Fact*

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**Exhibits**

Exhibit Number	Description	Form	Incorporated by Reference	Filing Date/Period End Date
3.3	Amended and Restated Certificate of Incorporation	S-1		7/26/04
3.4	Certificate of Amendment of Restated Certificate of Incorporation	10-Q		3/31/07
3.5	Amended and Restated Bylaws (as amended by the board of directors April 25, 2007)	10-Q		9/30/08
4.1	Specimen certificate representing the common stock of the registrant	10-K		12/31/06
4.2	Amended and Restated Rights Agreement between the registrant and The Bank of New York, as Rights Agent, dated as of June 22, 2007	10-Q		6/30/07
4.3	Indenture dated as of January 23, 2008 by and between Theravance, Inc. and The Bank of New York Trust Company, N.A., as trustee	8-K		1/23/08
4.4	Form of 3.0% Convertible Subordinated Note Due 2015 (included in Exhibit 4.3)			
4.5	Amendment to Amended and Restated Rights Agreement between the registrant and The Bank of New York Mellon Corporation, as Rights Agent, dated November 21, 2008	8-K		11/25/08
10.1+	1997 Stock Plan	S-1		6/10/04
10.2+	Long-Term Stock Option Plan	S-1		6/10/04
10.3+	2004 Equity Incentive Plan, as amended by the board of directors February 10, 2010 and approved by stockholders April 27, 2010 and forms of equity award	10-K		2/27/12
10.4	Employee Stock Purchase Plan, as amended April 27, 2010	10-Q		6/30/10
10.5+	Change in Control Severance Plan, as amended and restated on July 27, 2007	10-Q		6/30/08
10.6	Amended and Restated Lease Agreement, 951 Gateway Boulevard, between the registrant and HMS Gateway Office L.P., dated January 1, 2001	S-1		6/10/04
10.7	Lease Agreement, 901 Gateway Boulevard, between the registrant and HMS Gateway Office L.P., dated January 1, 2001	S-1		6/10/04
10.8*	Collaboration Agreement between the registrant and Glaxo Group Limited, dated as of November 14, 2002	S-1		9/29/04
10.9+	Form of Indemnification Agreement for directors and officers of the registrant	S-1		6/10/04
10.10	Class A Common Stock Purchase Agreement between the registrant and SmithKline Beecham Corporation, dated as of March 30, 2004	S-1		6/10/04
10.11	Amended and Restated Investors Rights Agreement by and among the registrant and the parties listed therein, dated as of May 11, 2004	S-1		6/10/04
10.12	Amended and Restated Governance Agreement by and among the registrant, SmithKline Beecham Corporation and GlaxoSmithKline dated as of June 4, 2004	S-1		7/26/04



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10.13\* Strategic Alliance Agreement between the registrant and Glaxo Group Limited, dated as of March 30, 2004

S-1

9/30/04

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Exhibit Number	Description	Form	Incorporated by Reference	Filing Date/Period End Date
10.14*	License Agreement between the registrant and Janssen Pharmaceutica, dated as of May 14, 2002	S-1		9/29/04
10.15+	Offer Letter with Rick E Winningham dated August 23, 2001	S-1		6/10/04
10.16	Form of Class A Common Stock Purchase Agreement between the registrant and GSK	S-1		9/29/04
10.17+	Offer Letter with Michael W. Aguiar dated as of January 31, 2005	10-K		12/31/04
10.18+	Form of Notice of Grant and Stock Option Agreement under 2004 Equity Incentive Plan	10-K		12/31/04
10.19+	Form of Notice of Restricted Stock Award and Restricted Stock Agreement under 2004 Equity Incentive Plan (form in effect through 2010)	10-Q		6/30/07
10.20+	Description of Cash Bonus Program, as amended	10-K		12/31/09
10.21*	License, Development and Commercialization Agreement between the registrant and Astellas Pharma Inc. dated November 7, 2005	S-3		1/30/06
10.22*	Amendment to License, Development and Commercialization Agreement between the registrant and Astellas Pharma Inc. dated as of July 18, 2006	10-Q		9/30/06
10.23+	Offer letter with Leonard Blum dated July 27, 2007	10-Q		9/30/07
10.24+	Amended and Restated 2008 New Employee Equity Incentive Plan and forms of equity award	10-K		2/27/12
10.25+	Amendment to Offer Letter between the registrant and Leonard Blum dated July 23, 2008	10-K		12/31/08
10.26+	Amendment to Offer Letter between the registrant and Rick E Winningham dated December 23, 2008	10-K		12/31/08
10.27+	Amendment to Change in Control Severance Plan effective December 16, 2009	10-K		12/31/09
10.28+	2010 Change in Control Severance Plan adopted December 16, 2009	10-K		12/31/09
10.29	First Amendment to Lease for 901 Gateway Boulevard effective as of June 1, 2010 between ARE-901/951 Gateway Boulevard, LLC and the registrant	10-Q		6/30/10
10.30	First Amendment to Lease for 951 Gateway Boulevard effective as of June 1, 2010 between ARE-901/951 Gateway Boulevard, LLC and the registrant	10-Q		6/30/10
10.31	Common Stock Purchase Agreement among the registrant, Glaxo Group Limited and GlaxoSmithKline LLC, dated as of November 29, 2010	8-K		11/29/10
10.32	Second Amendment to Amended and Restated Governance Agreement among the registrant, Glaxo Group Limited, GlaxoSmithKline plc and GlaxoSmithKline LLC, dated as of November 29, 2010	8-K		11/29/10
10.33+	Form of Amendment to Restricted Stock Unit Agreements between the registrant and each current member of the Board of Directors outstanding as of December 31, 2010	10-K		12/31/2010
10.34(1)	Amendment to Strategic Alliance Agreement dated October 3, 2011			



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Exhibit Number	Description	Incorporated by Reference	
		Form	Filing Date/Period End Date
23.1	Consent of Independent Registered Public Accounting Firm	10-K	2/27/12
24.1	Power of Attorney	10-K	2/27/12
31.1	Certification of Chief Executive Officer Pursuant to Rule 13a-14 under the Securities Exchange Act of 1934		
31.2	Certification of Chief Financial Officer Pursuant to Rule 13a-14 under the Securities Exchange Act of 1934		
32	Certifications Pursuant to 18 U.S.C. Section 1350	10-K	2/27/12
101 <sup>^</sup>	The following materials from Registrant's Annual Report on Form 10-K for the year ended December 31, 2011, formatted in Extensible Business Reporting Language (XBRL) includes: (i) Consolidated Balance Sheets at December 31, 2011 and 2010, (ii) Consolidated Statements of Income for the years ended December 31, 2011, 2010 and 2009, (iii) Consolidated Statements of Stockholders' Equity for the years ended December 31, 2011, 2010 and 2009, (iv) Consolidated Statements of Cash Flows for years ended December 31, 2011, 2010 and 2009 and (v) Notes to Consolidated Financial Statements.	10-K	2/27/12

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+ Management contract or compensatory plan or arrangement required to be filed pursuant to Item 15(b) of Form 10-K.

\* Confidential treatment has been granted for certain portions which are omitted in the copy of the exhibit electronically filed with the Securities and Exchange Commission. The omitted information has been filed separately with the Securities and Exchange Commission pursuant to Theravance Inc.'s application for confidential treatment.

(1) Application has been made to the Securities and Exchange Commission to seek confidential treatment of certain provisions. Omitted material for which confidential treatment has been requested has been filed separately with the Securities and Exchange Commission.

<sup>^</sup> XBRL information is furnished and not filed or a part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Exchange Act of 1933, as amended, is deemed not filed for purposes of section 18 of the Securities Exchange Act of 1934, as amended, and otherwise is not subject to liability under these sections.