

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): August 15, 2022

**EMBARK TECHNOLOGY, INC.**  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction  
of incorporation)

001-39881  
(Commission  
File Number)

86-3343695  
(I.R.S. Employer  
Identification No.)

424 Townsend Street  
San Francisco, CA 94107  
(Address of principal executive offices, including zip code)

(415) 671-9628  
(Registrant's telephone number, including area code)

Not Applicable  
(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))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, par value \$0.0001 per share	EMBK	The Nasdaq Global Market
Warrants to purchase one share of Class A common stock, each at an exercise price of \$11.50 per share	EMBKW	The Nasdaq Global Market

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 3.03. Material Modification to Rights of Security Holders.**

To the extent required by Item 3.03 of Form 8-K, the information contained in Item 5.03 of this Current Report on Form 8-K is incorporated herein by reference.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

At a special meeting of stockholders held on August 15, 2022 (the “Special Meeting”), the stockholders of Embark Technology, Inc. (the “Company”), with 89.7% voting, approved an amendment to the Company’s second amended and restated certificate of incorporation (the “Certificate of Incorporation”) to effect a reverse stock split (the “Reverse Stock Split”) of the Company’s outstanding common stock, par value \$0.0001 per share (the “Common Stock”), with the final ratio to be determined by the Company’s board of directors from within a range of between 1-for-15 and 1-for-30. The vote was also recommended to be approved by stockholders by major proxy advisory firms. Following the Special Meeting, on August 15, 2022, the Company’s board of directors approved the Reverse Stock Split at the ratio of 1-for-20.

Following the close of trading on the Nasdaq Global Market, on August 16, 2022 (the “Effective Time”), the Company filed a certificate of amendment to the Certificate of Incorporation (the “Amendment”) with the Secretary of State of the State of Delaware to effect the Reverse Stock Split. At the Effective Time, each twenty (20) shares of Class A common stock and Class B common stock outstanding and held of record by each stockholder of the Company were automatically reclassified and combined into one (1) validly issued, fully paid and non-assessable share of Class A common stock or Class B common stock, as applicable, subject to the treatment of fractional shares as described below. Proportional adjustments were made to the number of shares of Class A common stock reserved for issuance under the Company’s equity incentive plans and the number of shares of Class A common stock subject to outstanding equity awards and warrants, as well as the applicable exercise price.

No fractional shares will be issued in connection with the Reverse Stock Split. Stockholders who would otherwise be entitled to receive fractional shares as a result of the Reverse Stock Split will be entitled to a cash payment in lieu thereof at a price equal to the fraction to which the stockholder would otherwise be entitled to multiplied by the closing trading price per share of the Class A common stock (on a split-adjusted basis) on the Nasdaq Global Market on August 16, 2022.

Following the Effective Time, the Common Stock will continue to be traded under the symbol “EMBK” and will begin trading on a split-adjusted basis when The Nasdaq Global Market opened on Wednesday, August 17, 2022, under a new CUSIP number, 29079J 202. The Company’s warrants will continue to be traded under the symbol “EMBKW” and the CUSIP number for the Company’s warrants will remain unchanged; however, they will be impacted by the same Reverse Stock Split ratio upon exercise.

The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the Amendment, which is filed as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

#### **Item 5.07. Submission of Matters to a Vote of Security Holders.**

As reported in Item 5.03 above, at the Special Meeting on August 15, 2022, the Company’s stockholders voted to approve the Reverse Stock Split. Holders of the Company’s Class A common stock were entitled to one vote for each share held as of the close of business on July 1, 2022 (the “Record Date”), and holders of the

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Company's Class B common stock were entitled to ten votes for each share held as of the close of business on the Record Date. The Class A common stock and Class B common stock voted as a single class on the Reverse Stock Split. Present at the Special Meeting in person or by proxy were holders representing 244,868,600 shares of Class A common stock and holders representing 87,078,981 shares of Class B common stock (with each share of Class B common stock representing ten votes), together representing a total of 1,115,658,410 votes, representing approximately 89.7% percent of the Company's outstanding votes as of the Record Date. The following are the final voting results for the Reverse Stock Split proposal considered and voted upon at the Special Meeting.

<b>For</b>	<b>Against</b>	<b>Abstain</b>	<b>Broker Non-Votes</b>
1,113,417,957	1,972,616	267,837	0

**Item 7.01 Regulation FD Disclosure**

On August 16, 2022, the Company issued a press release announcing the Reverse Stock Split. A copy of the press release is attached hereto as Exhibit 99.1.

Exhibit 99.1 is furnished pursuant to Item 7.01 of this Current Report on Form 8-K and shall not be deemed to be "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the Exchange Act"), or otherwise subject to the liabilities of that section, nor shall it be deemed to be incorporated by reference in any filing made by the Company under the Securities Act of 1933, as amended, or the Exchange Act, except as may be expressly set forth by specific reference in such a filing.

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

(d) Exhibits.

<b>Exhibit No.</b>	<b>Description</b>
3.1	<a href="#">Certificate of Amendment to Second Amended and Restated Certificate of Incorporation of Embark Technology, Inc.</a>
99.1	<a href="#">Press Release dated August 16, 2022</a>
104	Cover Page Interactive File (the cover page tags are 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.

Embark Technology, Inc.

Date: August 16, 2022

By: /s/ Richard Hawwa  
Name: Richard Hawwa  
Title: Chief Financial Officer

**EXHIBIT 3.1**

**CERTIFICATE OF AMENDMENT  
OF  
SECOND AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
EMBARK TECHNOLOGY, INC.**

Embark Technology, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify as follows:

**FIRST:** That Article IV of the Second Amended and Restated Certificate of Incorporation of the Corporation, as amended and/or restated to date, be, and hereby is, amended and restated in its entirety to read as follows:

"The total number of shares of capital stock that the Corporation shall have authority to issue is 4,110,000,000, consisting of (i) 4,000,000,000 shares of Class A common stock, having a par value of \$0.0001 per share (the "Class A Common Stock"); (ii) 100,000,000 shares of Class B common stock, having a par value of \$0.0001 per share (the "Class B Common Stock") and together with the Class A Common Stock, the "Common Stock"), and (ii) 10,000,000 shares of preferred stock, having a par value of \$0.0001 per share (the "Preferred Stock").

Effective as of the effectiveness of this Certificate of Amendment of the Second Amended and Restated Certificate of Incorporation with the Office of the Secretary of State of the State of Delaware (the "Reverse Stock Split Effective Time"), a one-for-twenty reverse stock split of the Corporation's Common Stock (as defined above) shall become effective, pursuant to which (i) each twenty shares of Class A Common Stock outstanding and held of record by each stockholder of the Corporation (including treasury shares) immediately prior to the Reverse Stock Split Effective Time and each twenty shares of Class B Common Stock outstanding and held of record by each stockholder of the Corporation (including treasury shares) immediately prior to the Reverse Stock Split Effective Time shall be automatically reclassified and combined into one validly issued, fully-paid and non-assessable share of Class A Common Stock or Class B Common Stock, respectively, authorized by this Article IV without any action by the holder thereof upon the Reverse Stock Split Effective Time and shall represent one share of Class A Common Stock or one share of Class B Common Stock, respectively, from and after the Reverse Stock Split Effective Time, and (such reclassification and combination of shares, the "Reverse Stock Split"). No fractional shares of Common Stock shall be issued as a result of the Reverse Stock Split. In lieu thereof, (i) with respect to holders of one or more certificates which formerly represented shares of Class A Common Stock or Class B Common Stock that were issued and outstanding immediately prior to the Reverse Stock Split Effective Time, upon surrender after the Reverse Stock Split Effective Time of such certificate or certificates, any holder who would otherwise be entitled to a fractional share of Class A Common Stock or Class B Common Stock, as the case may be, as a result of the Reverse Stock Split, following the Reverse Stock Split Effective Time, shall be entitled to receive a cash payment (the "Fractional Share Payment") equal to the fair value of such fraction as determined by the Board of Directors; provided that, whether or not fractional shares would be issuable as a result of the Reverse Stock Split shall be determined on the basis of (a) the total number of shares of Class A Common Stock or Class B Common Stock that were issued and outstanding immediately prior to the Reverse Stock Split Effective Time formerly represented by certificates that the holder is at the time surrendering and (b) the aggregate number of shares of Class A Common Stock or Class B Common Stock after the Reverse Stock Split Effective Time into which the shares of Class A Common Stock or Class B Common Stock formerly represented by such certificates shall have been reclassified; and (ii) with respect to holders of shares of Class A Common Stock or Class B Common Stock in book-entry form in the records of the Company's transfer agent that were issued and outstanding immediately prior to the Reverse Stock Split Effective Time, any holder who would otherwise be entitled to a fractional share of Class A Common Stock or Class B Common Stock, as the case may be, as a result of the Reverse Stock Split, following the Reverse Stock Split Effective Time, shall be entitled to receive the Fractional Share Payment automatically and without any action by the holder."

**SECOND:** That, the aforesaid amendments were duly adopted in accordance with the applicable provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its Chief Executive Officer, Founder and Director on this 16<sup>th</sup> day of August, 2022.

**EMBARK TECHNOLOGY, INC.**

By: /s/ Alex Rodrigues

Alex Rodrigues  
Chief Executive Officer, Founder, and Director



## Embarc Technology Announces Completion of Reverse Stock Split

*EMBK Class A common stock will begin trading on a split-adjusted basis on August 17, 2022*

**SAN FRANCISCO, Calif., August 16, 2022** – Embarc Technology, Inc. (Nasdaq: EMBK, “Embarc” or the “Company”), a leading developer of autonomous technology for the trucking industry, today announced that a reverse split of its common stock at a ratio of 1 post-split share for every 20 pre-split shares became effective following close of trading on Nasdaq today. EMBK’s Class A common stock will begin trading on a split-adjusted basis when the market opens on August 17, 2022 under the existing trading symbol, “EMBK.” Based on the closing price as of August 16, 2022, the implied post-split share price is approximately \$16.56.

The reverse stock split was approved by the Company’s stockholders with 89.5% voting to approve at a special meeting of stockholders held on August 15, 2022 with the final ratio to be determined by the Company’s board of directors from within a range. The vote was also recommended to be approved by stockholders by major proxy advisory firms. On August 15, 2022, the Company’s board of directors approved the reverse stock split at the ratio of 1-for-20.

The reverse split will treat all stockholders, including all employees, equally (including both Class A common stock and Class B common stock) and the economic interest (including rights and preferences) and ownership percentage of each stockholder will be unchanged following the reverse split (subject to the treatment of fractional shares described below). Proportional adjustments were made to the number of shares subject to outstanding equity awards and warrants, as well as the applicable exercise price, this includes our founders’ performance-based equity incentives, which will have post-split price targets of approximately \$400 per share or more.

The reverse stock split is primarily intended to bring the Company into compliance with the minimum bid price requirement for maintaining its listing on the Nasdaq Global Market. The new CUSIP number for Embarc’s Class A common stock following the reverse stock split will be 29079J 202. Embarc’s warrants will continue to be traded under the symbol “EMBKW” and the CUSIP number for Embarc’s warrants will remain unchanged; however, they will be impacted by the same ratio upon exercise.

As a result of the reverse split, each 20 shares of Embarc’s Class A common stock and Class B common stock outstanding and held of record by each stockholder of the Company were automatically reclassified and combined into one validly issued, fully paid and non-assessable share of Class A common stock or Class B common stock, as applicable, subject to the treatment of fractional shares as described below. Proportional adjustments were made to the number of shares of Class A common stock reserved for issuance under the Company’s equity incentive plans. The reverse stock split will not affect the number of authorized shares of Embarc’s common stock or the par value of the common stock.

No fractional shares will be issued in connection with the reverse stock split. Stockholders who would otherwise be entitled to receive fractional shares as a result of the reverse stock split will be entitled to a cash payment in lieu thereof at a price equal to the fraction to which the



## Exhibit 99.1

stockholder would otherwise be entitled to multiplied by the closing trading price per share of Embark's Class A common stock (as on a split-adjusted basis) on the Nasdaq Global Market on August 16, 2022.

Continental Stock Transfer & Trust Company ("Continental"), Embark's transfer agent, will act as the exchange agent for the reverse stock split. Stockholders of record holding certificates representing pre-split shares of Embark's common stock will receive a letter of transmittal from Continental with instructions on how to surrender certificates representing pre-split shares. Stockholders should not send in their pre-split certificates until they receive a letter of transmittal from Continental. Stockholders with book-entry shares or who hold their shares through a bank, broker or other nominee will not need to take any action. All stockholders of record who held pre-split shares will receive their post-split shares in book-entry form (unless specifically requested to be issued physical stock certificates) and will be receiving a statement from Continental regarding their post-reverse stock split ownership interest.

Additional information about the reverse stock split can be found in Embark's definitive proxy statement on Form DEF 14A (the "Proxy Statement") filed with the Securities and Exchange Commission (the "SEC") on July 15, 2022, which is available free of charge at the SEC's website, [www.sec.gov](http://www.sec.gov), and on Embark's website at [investorrelations@embarktrucks.com](mailto:investorrelations@embarktrucks.com).

All stockholders of record may direct questions to the Company's transfer agent, Continental Stock Transfer & Trust Company, at [CSTMail@continentalstock.com](mailto:CSTMail@continentalstock.com) or at 1-800-509-5586.

### **About Embark**

Embark Technology, Inc. (Nasdaq: EMBK) is an autonomous vehicle company building the software powering autonomous trucks, focused on improving the safety, efficiency, and sustainability of the nearly \$730 billion a year trucking market. Headquartered in San Francisco, CA since its founding in 2016, Embark is America's longest-running self-driving truck program and partners with some of the largest shippers and carriers in the nation.

Embark's mission is to realize a world where consumers pay less for the things they need, drivers stay close to the homes they cherish, and roads are safer for the people we love. To learn more about Embark, visit [embarktrucks.com](http://embarktrucks.com).

**Investor Relations Contact:** Bill Ong, [investorrelations@embarktrucks.com](mailto:investorrelations@embarktrucks.com)

**Media Relations Contact:** Misha Rindisbacher, [press@embarktrucks.com](mailto:press@embarktrucks.com)

### **Forward-Looking Statements**

This press release includes "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 and the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995. Embark's actual performance may differ from their expectations and consequently, you should not rely on these forward-looking statements as predictions of future events. You should not rely on these forward-looking statements as predictions of future events. Words such as "expect," "estimate,"





### Exhibit 99.1

“project,” “budget,” “forecast,” “anticipate,” “intend,” “plan,” “may,” “will,” “could,” “should,” “believes,” “predicts,” “potential,” “continue,” and similar expressions are intended to identify such forward-looking statements. These forward-looking statements include, without limitation, Embark’s expectations with respect to compliance with the minimum bid price requirements for maintaining its listing on the Nasdaq Global Market. Factors that may cause such differences include, but are not limited to: market conditions and their impact on Embark’s trading price on the Nasdaq Global Market; other factors discussed in the Proxy Statement; and other risks and uncertainties separately provided to you and indicated from time to time described in filings and potential filings by Embark with the SEC, including those discussed in the Annual Report on Form 10-K for the year ended December 31, 2021, filed on March 21, 2022, the Registration Statement on Form S-1 filed on June 1, 2022, the Quarterly Report on Form 10-Q, filed on August 12, 2022 and other documents filed with the SEC from time to time. These filings identify and address other important risks and uncertainties that could cause actual events and results to differ materially from those contained in the forward-looking statements. Embark cautions that the foregoing list of factors is not exhaustive and not to place undue reliance upon any forward-looking statements, which speak only as of the date made. Embark undertakes no obligation to and accepts no obligation to release publicly any updates or revisions to any forward-looking statements to reflect any change in its expectations or any change in events, conditions or circumstances on which any such statement is based.