CELL THERAPEUTICS INC
Form 10-Q/A
February 06, 2007
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q/A

(Amendment No. 1)

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended: March 31, 2006

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 Number 001-12465

CELL THERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Washington	**91-1533912**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
501 Elliott Avenue West, Suite 400	
Seattle, Washington	**98119**
(Address of principal executive offices)	**(Zip Code)**

(206) 282-7100

(Registrant s telephone number, including area code)

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 x No ¨

Indicate by check mark whether the 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 x Non-accelerated filer ¨

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

Indicate the number of shares outstanding of each of the issuer s classes of common stock, as of the latest practicable date:

Class	**Outstanding at April 30, 2006**
Common Stock, no par value	102,887,164

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Explanatory Note:

Cell Therapeutics, Inc., or CTI, is filing this Amendment No. 1 on Form 10-Q/A to its Form 10-Q for the quarter ended March 31, 2006, to reflect the restatement of its previously issued financial statements to correct inadvertent errors in accounting for accounts payable in our Italian subsidiary, Cell Therapeutics Europe, S.r.l., or CTI (Europe).

The information contained in this Amendment, including the financial statements and the notes hereto, amends only Items 1, 2 and 4 of Part I and Item 1 and 1A of Part II of our originally filed Quarterly Report on Form 10-Q for the quarter ended March 31, 2006 and no other items in our originally filed Form 10-Q are amended hereby. In accordance with Rule 12b-15 of the Securities and Exchange Act of 1934, the complete text of those items in which amended language appears is set forth herein, including those portions of the text that have not been amended from that set forth in the original Form 10-Q. Except for the aforementioned adjustments, this Form 10-Q/A does not materially modify or update other disclosures in the original Form 10-Q, including the nature and character of such disclosure to reflect events occurring after May 10, 2006, the filing date of the original Form 10-Q. Accordingly this Form 10-Q/A should be read in conjunction with our filings made with the Securities and Exchange Commission. Currently dated certifications from our Chief Executive Officer and Chief Financial Officer have been included as exhibits to this amendment.

Impact on Management s Assessment of Internal Control over Financial Reporting: In connection with the restatement, we reevaluated our disclosure controls and procedures in CTI (Europe). We concluded that our failure to correctly account for accounts payable constituted a material weakness in our internal control over financial reporting. As a result of this material weakness, we concluded that our disclosure controls and procedures in relation thereto were not effective as of March 31, 2006.

Remediation of Material Weakness: In an effort to remediate the material weakness described above, we are currently implementing enhanced procedures that are designed to ensure that we will properly record accounts payable in CTI (Europe). These enhanced procedures will provide for additional managerial oversight of payable balances.

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CELL THERAPEUTICS, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands, except share amounts)

	March 31, 2006 (unaudited) (restated)	December 31, 2005
ASSETS		
Current assets:		
Cash and cash equivalents	$ 24,301	$ 50,022
Restricted cash	5,943	25,596
Securities available-for-sale	19,621	18,858
Interest receivable	474	187
Accounts receivable, net	418	2,306
Prepaid expenses and other current assets	9,658	10,107
Total current assets	60,415	107,076
Property and equipment, net	11,123	12,278
Goodwill	17,064	17,064
Other intangibles, net	2,104	2,239
Other assets	12,610	16,783
Total assets	$ 103,316	$ 155,440
LIABILITIES AND SHAREHOLDERS DEFICIT		
Current liabilities:		
Accounts payable	$ 1,495	$ 3,370
Accrued expenses	18,592	17,558
Current portion of deferred revenue	80	80
Current portion of long-term obligations	2,806	2,880
Current portion of convertible senior notes	5,655	6,900
Total current liabilities	28,628	30,788
Deferred revenue, less current portion	538	558
Other long-term obligations, less current portion	6,556	7,326
Convertible senior notes	13,533	72,146
Convertible senior subordinated notes	122,075	122,079
Convertible subordinated notes	29,640	29,640
Commitments and contingencies		
Shareholders deficit:		
Preferred stock, no par value:		
Authorized shares - 10,000,000 Series C, 100,000 shares designated, none issued or outstanding		
Common stock, no par value:		
Authorized shares - 200,000,000 Issued and outstanding shares - 102,735,349 and 73,421,721 at March 31, 2006 and December 31, 2005, respectively	780,926	721,544
Deferred stock-based compensation		(1,669)
Accumulated other comprehensive loss	(1,375)	(1,683)
Accumulated deficit	(877,205)	(825,289)
Total shareholders deficit	(97,654)	(107,097)

Total liabilities and shareholders deficit	$ 103,316	$ 155,440

See accompanying notes.

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CELL THERAPEUTICS, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share amounts)

(unaudited)

	Three Months Ended March 31,	
	2006 (restated)	**2005**
Revenues:		
Product sales	$	$ 6,037
License and contract revenue	20	103
Total revenues	20	6,140
Operating expenses:		
Cost of product sold		246
Research and development	15,764	22,063
Selling, general and administrative	10,103	19,326
Amortization of purchased intangibles	189	253
Restructuring charges and related asset impairments	460	
Total operating expenses	26,516	41,888
Loss from operations	(26,496)	(35,748)
Other income (expense):		
Investment and other income	542	480
Interest expense	(8,628)	(3,893)
Foreign exchange gain	291	29
Make-whole interest expense	(20,166)	
Gain on derivative liability	3,424	
Settlement expense	(883)	
Other expense, net	(25,420)	(3,384)
Net loss	$ (51,916)	$ (39,132)
Basic and diluted net loss per share	$ (0.58)	$ (0.62)
Shares used in calculation of basic and diluted net loss per share	90,000	63,303

See accompanying notes.

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CELL THERAPEUTICS, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)

(unaudited)

	Three Months Ended March 31,	
	2006 (restated)	2005
Operating activities		
Net loss	$ (51,916)	$ (39,132)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	1,608	2,351
Equity-based compensation expense	1,297	749
Loss on disposition of property and equipment	52	75
Amortization of investment premium	90	120
Non-cash other income	(3,424)	
Non-cash interest expense	7,018	1,451
Non-cash rent (benefit) expense	(4)	45
Changes in operating assets and liabilities:		
Restricted cash	844	
Interest receivable	(287)	(266)
Accounts receivable, net	1,406	(841)
Inventory		(87)
Prepaid expenses and other current assets	508	(1,016)
Other assets	682	76
Accounts payable	(1,949)	(1,188)
Accrued expenses	940	(2,605)
Deferred revenue	(20)	(115)
Excess facilities obligations	(493)	
Other long-term obligations	(357)	26
Total adjustments	7,911	(1,225)
Net cash used in operating activities	(44,005)	(40,357)
Investing activities		
Purchases of securities available-for-sale	(3,366)	(26,139)
Proceeds from maturities of securities available-for-sale	2,512	1,200
Purchases of property and equipment	(122)	(1,513)
Proceeds from sale of property and equipment	511	
Net cash used in investing activities	(465)	(26,452)
Financing activities		
Release of restricted cash related to senior convertible notes	18,825	
Proceeds from common stock options exercised		148
Repayment of long-term obligations	(38)	(381)
Net cash provided by (used) in financing activities	18,787	(233)

Effect of exchange rate changes on cash and cash equivalents	(38)	(644)
Net decrease in cash and cash equivalents	(25,721)	(67,686)
Cash and cash equivalents at beginning of period	50,022	105,033
Cash and cash equivalents at end of period	$ 24,301	$ 37,347
Supplemental disclosure of cash flow information		
Cash paid during the period for interest	$ 21,346	$ 29
Cash paid for taxes	$	$
Supplemental disclosure of noncash financing and investing activities		
Conversion of convertible senior notes to common stock	$ 59,750	$
Conversion of convertible senior subordinated notes to common stock	$ 4	$

See accompanying notes.

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CELL THERAPEUTICS, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(unaudited)

1. Description of Business and Summary of Significant Accounting Policies

Description of Business

Cell Therapeutics, Inc., or CTI or the Company, focuses on the development, acquisition and commercialization of drugs for the treatment of cancer. Our principal business strategy is focused on cancer therapeutics, an area with significant market opportunity that we believe is not adequately served by existing therapies. Our operations are primarily conducted in the United States and Italy. Our Italian operations commenced on January 1, 2004, the effective date of our merger with Novuspharma S.p.A., or Novuspharma, an Italian biopharmaceutical company focused on cancer therapeutics.

Basis of Presentation

The accompanying unaudited financial information of CTI as of March 31, 2006 and for the three months ended March 31, 2006 and 2005 has been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. In the opinion of management, such financial information includes all adjustments (consisting only of normal recurring adjustments) considered necessary for a fair presentation of the Company s financial position at such date and the operating results and cash flows for such periods. Operating results for the three month period ended March 31, 2006 are not necessarily indicative of the results that may be expected for the entire year. These financial statements and the related notes should be read in conjunction with our audited annual financial statements for the year ended December 31, 2005 included in our Form 10-K/A.

The balance sheet at December 31, 2005 has been derived from the audited financial statements at that date, but does not include all of the information and footnotes required by generally accepted accounting principles in the United States for complete financial statements.

Liquidity

Cash and cash equivalents, restricted cash, securities available for sale and interest receivable are approximately $50.3 million as of March 31, 2006. In April 2006, we completed a convertible senior note offering which raised approximately $33.2 million in gross proceeds. Although we have recurring losses, we believe that our current cash balance, including the proceeds obtained from this offering and our ability to control or reduce expenditures, if necessary, will be sufficient to fund our anticipated net losses, debt service obligations, and capital expenditures for up to the next twelve months. Accordingly, the financial statements have been prepared on the basis of going concern which contemplates realization of assets and satisfaction of liabilities in the normal course of business.

We expect to continue to explore alternatives to raise additional capital through public or private equity financings, partnerships, debt financings, bank borrowings or other sources. Additional funding may not be available on favorable terms or at all. If we are unable to raise additional capital, we will further curtail operations significantly, by delaying, modifying, or canceling our research and development programs.

Product Sales

We recognized revenue from product sales when there was persuasive evidence that an arrangement existed, title had passed and delivery had occurred, the price was fixed and determinable, and collectability was reasonably assured. As we sold our only commercial product, TRISENOX, to Cephalon on July 18, 2005, there are no product sales subsequent to this date. Product sales were generally recorded upon shipment net of an allowance for returns

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and discounts. Customers were able to return damaged or expired inventory for up to one year after the expiration date. Estimated returns were based on historical returns and sales patterns. If we were unable to reasonably estimate returns related to a particular customer or market, we deferred revenue recognition until such rights had expired. There was no allowance for returns, discount and bad debts at March 31, 2006 or December 31, 2005 as all trade receivables were sold in connection with the divestiture of TRISENOX to Cephalon.

License and Contract Revenue

We may generate revenue from technology licenses, collaborative research and development arrangements, cost reimbursement contracts and research grants. Revenue under technology licenses and collaborative agreements typically consists of nonrefundable and/or guaranteed technology license fees, collaborative research funding, and various milestone and future product royalty or profit-sharing payments.

Revenue associated with up-front license fees and research and development funding payments under collaborative agreements is recognized ratably over the relevant periods specified in the agreement, generally the research and development period. If the time period is not defined in the agreement, we calculate the revenue recognition period based on our current estimate of the research and development period considering experience with similar projects, level of effort and the stage of development. Should there be a change in our estimate of the research and development period, we will revise the term over which the initial payment is recognized. Revenue from substantive at-risk milestones and future product royalties is recognized as earned based on the completion of the milestones and product sales, as defined in the respective agreements. Revenue under cost reimbursement contracts and research grants is recognized as the related costs are incurred. Payments received in advance of recognition as revenue are recorded as deferred revenue.

We evaluate multiple element arrangements pursuant to Emerging Issues Task Force, or EITF, 00-21, *Revenue Arrangements with Multiple Deliverables.* For multiple element arrangements that have continuing performance obligations, we recognize contract, milestone or license fees together with any up-front payments over the term of the arrangement as we complete our performance obligation, unless the delivered technology has stand alone value to the customer and there is objective, reliable evidence of fair value of the undelivered element in the arrangement. Additionally, pursuant to the guidance of Securities and Exchange Commission Staff Accounting Bulletin 104, or SAB 104, unless evidence suggests otherwise, revenue from consideration received is recognized on a straight-line basis over the expected term of the arrangement.

Research and Development Expenses

Research and development expenses include related salaries and benefits, clinical trial and related manufacturing costs, contract and other outside service fees, and facilities and overhead costs related to our research and development efforts. Research and development expenses also consist of costs incurred for proprietary and collaboration research and development and include activities such as product registries and investigator-sponsored trials. Research and development costs are expensed as incurred. Generally, in instances where we enter into agreements with third parties for research and development activities, costs are expensed upon the earlier of when non-refundable amounts are due or as services are performed unless there is an alternative future use of the funds in other research and development projects. Amounts due under such arrangements may be either fixed fee or fee for service, and may include upfront payments, monthly payments, and payments upon the completion of milestones or receipt of deliverables.

Impairment of Long-lived Assets

We review our long-lived assets for impairment whenever events or changes in business circumstances indicate that the carrying amount of assets may not be fully recoverable or that the useful lives of these assets are no longer appropriate. Each impairment test is based on a comparison of the undiscounted future cash flows to the recorded value of the asset. If an impairment is indicated, the asset is written down to its estimated fair value based on quoted fair market values.

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Value Added Tax Receivable

Our European subsidiary is subject to Value Added Tax, or VAT, which is usually applied to all goods and services purchased and sold throughout Europe. The VAT receivable is approximately $8.9 million as of March 31, 2006 and December 31, 2005, respectively, of which $8.3 million is included in *other assets* and $0.6 million is included in *prepaid exp*