

DEPOMED INC  
Form 8-K  
December 03, 2009

**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): **November 25, 2009**

**DEPOMED, INC.**

(Exact name of registrant as specified in its charter)

**001-13111**

(Commission File Number)

**California**  
(State or other jurisdiction of  
incorporation)

**94-3229046**  
(I.R.S. Employer Identification No.)

**1360 O Brien Drive, Menlo Park, California 94025**

(Address of principal executive offices, with zip code)

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(650) 462-5900

(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 (*see* General Instruction A.2. below):

- 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))
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**Item 8.01 Other Events**

On November 25, 2009, Depomed, Inc. (the Company) filed a lawsuit in the United States District Court for the Northern District of California against Lupin Limited and its wholly-owned subsidiary, Lupin Pharmaceuticals, Inc. (Lupin), for infringement of the patents listed in the Orange Book for the Company's GLUMETZA® product (metformin hydrochloride extended release tablets).

The lawsuit is in response to an Abbreviated New Drug Application (ANDA) filed by Lupin with the U.S. Food and Drug Administration (FDA) regarding Lupin's intent to market generic versions of 500mg and 1000mg dosage strengths of GLUMETZA prior to the expiration of the four listed patents (U.S. Patent Nos. 6,340,475; 6,488,962; 6,635,280; and 6,723,340).

The Company has commenced the lawsuit within the 45 days required to automatically stay, or bar, the FDA from approving Lupin's ANDA for 30 months or until a district court decision that is adverse to the patents, whichever may occur earlier.

**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.

**DEPOMED, INC.**

Date: December 3, 2009

By:

Matthew M. Gosling  
Matthew M. Gosling  
Vice President and General Counsel