

Altus Pharmaceuticals Inc.
Form 10-K/A
March 19, 2007

Table of Contents

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

**Form 10-K/A
Amendment No. 1**

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

For the fiscal year ended December 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 No. 000-51711
ALTUS PHARMACEUTICALS INC.**

(Exact Name of Registrant as Specified in its Charter)

Delaware

*(State or Other Jurisdiction of Incorporation or
Organization)*

04-3573277

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

125 Sidney Street, Cambridge, Massachusetts

(Address of Principal Executive Offices)

02139

(Zip Code)

Registrant's telephone number, including area code: (617) 299-2900

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

Title of Each Class

Name of Each Exchange on Which Registered

Common Stock, \$.01 par value

The Nasdaq Global Market, LLC

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

NONE

(Title of Class)

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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K 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.

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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 Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). YES NO

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold on The Nasdaq Global Market on June 30, 2006 was \$410,446,726.

The number of shares outstanding of the registrant's common stock as of February 28, 2007 was 23,995,477.

DOCUMENTS INCORPORATED BY REFERENCE

None.

TABLE OF CONTENTS

EXPLANATORY NOTE

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER
MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

SIGNATURES

EX-31.3 SECTION 302 CERTIFICATION OF CEO

EX-31.4 SECTION 302 CERTIFICATION OF CFO

Table of Contents

EXPLANATORY NOTE

This Amendment No. 1 on Form 10-K/A (this Amendment) amends the Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2006, originally filed on March 12, 2007 (the Original Filing). The Registrant is filing the Amendment to correct the number of the Registrant's beneficial stockholders cited in Item 5 of Part II of the Original Filing under the caption Market Information. Part IV is also being amended to update the Exhibit Index and to add new certifications in accordance with Rule 13a-14 under the Securities Exchange Act of 1934, as amended.

The Original Filing as amended hereby continues to speak as of the date of the Original Filing and the disclosures have not been updated to speak as of any later date. Any items in the Original Filing that are not expressly changed hereby shall be as set forth in the Original Filing. Accordingly, the Amendment should be read together with the Original Filing and the Registrant's other filings made with the Securities and Exchange Commission. All information contained in the Amendment and the Original Filing is subject to updating and supplementing as provided in our subsequent periodic reports filed with the Securities and Exchange Commission.

Item 5 of Part II and Part IV, as amended, appear below.

Table of Contents**PART II****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES
OF EQUITY SECURITIES****Market Information**

Our common stock is traded on The Nasdaq Global Market under the symbol **ALTU**.

The following table sets forth, for the periods indicated, the range of high and low sales prices for our common stock since our initial public offering on January 26, 2006 through December 31, 2006:

| 2006 | High | Low |
|---------------------------------------|-------------|------------|
| First Quarter (from January 26, 2006) | \$ 25.70 | \$ 15.00 |
| Second Quarter | 23.11 | 16.65 |
| Third Quarter | 19.23 | 10.75 |
| Fourth Quarter | 20.50 | 15.36 |

As of February 28, 2007, there were approximately 80 holders of record and approximately 1,950 beneficial stockholders of our common stock.

Dividends

We have never paid or declared any cash dividends on our common stock and we do not anticipate paying any cash dividends on our common stock in the foreseeable future. In addition, the terms of our redeemable preferred stock prohibit us from declaring and paying dividends on our common stock until we have paid all accrued but unpaid dividends on our redeemable preferred stock. We intend to retain all available funds and any future earnings, if any, to fund the development and expansion of our business.

Use of Proceeds from Registered Securities

We registered shares of our common stock in connection with our initial public offering under the Securities Act of 1933, as amended, or the Securities Act. Our Registration Statement on Form S-1 (No. 333-129037) in connection with our initial public offering was declared effective by the SEC on January 25, 2006. The offering commenced as of January 26, 2006 and did not terminate before all securities were sold. The offering was co-managed by Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley & Co. Incorporated and Cowen and Company, LLC. A total of 8,050,000 shares of common stock was registered and sold in the initial public offering, including 1,050,000 shares of common stock sold upon exercise of the underwriters' over-allotment option. No payments for expenses related to the initial public offering were made directly or indirectly to (i) any of our directors, officers, or their associates, (ii) any person owning 10% or more of any class of our equity securities, or (iii) any of our affiliates. The net proceeds of the initial public offering, approximately \$110.2 million, were invested in investment grade securities. The dollar weighted average effective maturity of the portfolio is less than 9 months, and no security has an effective maturity in excess of 12 months. As of February 28, 2007, we have used approximately \$60 million of the net proceeds of the initial public offering to fund our operations including preparatory activities for the Phase III trial for the capsule form of ALTU-135, activities related to the Phase II trial of ALTU-238 and preparation for Phase III trials, activities related to the development of our preclinical product candidates and general corporate purposes. There has been no material change in the planned use of proceeds from our initial public offering as described in our final prospectus filed with the SEC pursuant to Rule 424(b).

Recent Sales of Unregistered Securities

During the year ended December 31, 2006, we sold 8,669 shares of common stock to employees or former employees through the exercise of options that were not registered under the Securities Act. These shares were issued pursuant to written compensatory plans or arrangements with our employees, directors and consultants, in reliance on the exemption from registration provided by Rule 701 under the Securities Act. In addition, common stock warrants were exercised on a net issuance exercise basis, resulting in 344,087 shares of common stock that were not registered under the Securities Act and additional warrants were exercised by the payment of cash resulting in 25,346 shares of common stock that were not registered under the Securities Act. These shares were issued pursuant to the exemption from registration provided by Section 4(2) of the Securities Act. No underwriters were involved in the foregoing sales

of securities.

Repurchase of Equity Securities

None.

Table of Contents**PART IV****ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**(a) 1. *Consolidated Financial Statements*

The Consolidated Financial Statements were filed as part of our original Annual Report on Form 10-K for the fiscal year ended December 31, 2006.

2. *Consolidated Financial Statement Schedules*

All schedules are omitted because they are not required or because the required information is included in the Consolidated Financial Statements or notes thereto.

3. *Exhibits*

| Exhibit No. | Filed Exhibit Description | Incorporated by Reference to SEC Filing | | | Filed with this Form 10-K/A |
|-------------|--|---|-----------|-------------|-----------------------------|
| | | Form | Date | Exhibit No. | |
| | <i>Articles of Incorporation and By-Laws</i> | | | | |
| 3.1 | Restated Certificate of Incorporation of the Registrant. | 10-K | 3/12/2007 | 3.1 | |
| 3.2 | Restated By-laws of the Registrant. | S-1/A (333-129037) | 1/11/06 | 3.4 | |
| | <i>Instruments Defining the Rights of Security Holders</i> | | | | |
| 4.1 | Form of Common Stock Certificate. | S-1/A (333-129037) | 1/11/06 | 4.1 | |
| 4.2 | Amended and Restated Investor Rights Agreement, dated as of May 21, 2004. | S-1 (333-129037) | 10/17/05 | 4.3 | |
| 4.3 | Form of Common Stock Warrant originally issued to Vertex Pharmaceuticals Incorporated. | S-1 (333-129037) | 10/17/05 | 4.6 | |
| 4.4 | Form of Common Stock Warrant to General Electric Capital Corporation. | S-1 (333-129037) | 10/17/05 | 4.7 | |
| 4.5 | Form of Common Stock Warrant to Oxford Finance Corporation. | S-1 (333-129037) | 10/17/05 | 4.8 | |
| 4.6 | Form of Common Stock Warrant to Cystic Fibrosis Foundation Therapeutics, Inc. | S-1 (333-129037) | 10/17/05 | 4.9 | |
| 4.7 | Form of Common Stock Warrant to Transamerica Business Credit Corporation. | S-1 (333-129037) | 10/17/05 | 4.10 | |
| 4.8 | Form of Common Stock Warrant to Cowen and Company, LLC | S-1 (333-129037) | 10/17/05 | 4.11 | |
| 4.9 | Form of Series B Preferred Stock Warrant, as amended, together with a schedule of warrant holders. | S-1 (333-129037) | 10/17/05 | 4.12 | |
| 4.10 | Form of Series C Preferred Stock Warrant, together with a schedule of warrant holders. | S-1 (333-129037) | 10/17/05 | 4.13 | |

***Material Contracts Management
Contracts and Compensatory
Plans***

| | | | | |
|------|--|------------------|-----------|------|
| 10.1 | 1993 Stock Option Plan, as amended. | S-1 (333-129037) | 10/17/05 | 10.1 |
| 10.2 | Form of Incentive Stock Option Agreement under the 1993 Stock Option Plan. | S-1 (333-129037) | 10/17/05 | 10.2 |
| 10.3 | Form of Non-Qualified Stock Option Agreement under the 1993 Stock Option Plan, as amended. | S-1 (333-129037) | 10/17/05 | 10.3 |
| 10.4 | Amended and Restated 2002 Employee, Director and Consultant Stock Plan, as amended. | 10-K | 3/12/2007 | 10.4 |

Table of Contents

| Exhibit No. | Filed Exhibit Description | Incorporated by Reference to SEC Filing Form | Date | Exhibit No. | Filed with this Form 10-K/A |
|--------------------|---|---|-------------|--------------------|------------------------------------|
| 10.5 | Pre-IPO Form of Incentive Stock Option Agreement under the Amended and Restated 2002 Employee, Director and Consultant Stock Plan applicable to Executive Officers. | S-1 (333-129037) | 10/17/05 | 10.5 | |
| 10.6 | Post-IPO Form of Incentive Stock Option Agreement under the Amended and Restated 2002 Employee, Director and Consultant Stock Plan applicable to Executive Officers. | S-1/A (333-129037) | 1/11/06 | 10.5.1 | |
| 10.7 | Post-IPO Form of Director Non-Qualified Stock Option Agreement under the Amended and Restated 2002 Employee, Director and Consultant Stock Plan. | S-1/A (333-129037) | 1/11/06 | 10.6.1 | |
| 10.8 | Pre-IPO Form of Non-Qualified Stock Option Agreement under the Amended and Restated 2002 Employee, Director and Consultant Stock Plan applicable to Executive Officers. | S-1 (333-129037) | 10/17/05 | 10.6 | |
| 10.9 | Amended and Restated Director Compensation Policy dated February 2, 2007. | 10-K | 3/12/2007 | 10.9 | |
| 10.10 | Consulting Agreement between the Registrant and Manuel A. Navia, dated as of March 1, 2003. | S-1 (333-129037) | 10/17/05 | 10.19 | |
| 10.11 | Description of Arrangement between the Registrant and John P. Richard, effective as of October 28, 2004. | S-1 (333-129037) | 10/17/05 | 10.20 | |
| 10.12 | Letter Agreement between the Registrant and Sheldon Berkle, dated as of May 6, 2005, as amended. | S-1/A (333-129037) | 12/27/05 | 10.17 | |
| 10.13 | Letter Agreement between the Registrant and Lauren Sabella, dated as of April 4, 2006. | 10-K | 3/12/2007 | 10.13 | |
| 10.14 | Letter Agreement between the Registrant and Burkhard Blank, dated as of June 2, 2006. | 10-K | 3/12/2007 | 10.14 | |
| 10.15 | Letter Agreement between the Registrant and John Sorvillo, | 10-K | 3/12/2007 | 10.15 | |

| | | | | |
|-------|--|--------------------|-----------|-------|
| | dated as of July 31, 2006. | | | |
| 10.16 | Letter Agreement between the Registrant and Renato Fuchs, dated as of August 14, 2006. | 10-K | 3/12/2007 | 10.16 |
| 10.17 | Letter Agreement between the Registrant and Bruce Leicher, dated as of October 31, 2006. | 10-K | 3/12/2007 | 10.17 |
| 10.18 | Form of Indemnification Agreement. | S-1/A (333-129037) | 11/30/05 | 10.7 |
| | Material Contracts Leases | | | |
| 10.19 | Lease Agreement between the Registrant and Rizika Realty Trust for 125 Sidney Street, Cambridge, MA, dated as of April 4, 2002, as amended. | S-1 (333-129037) | 10/17/05 | 10.21 |
| 10.20 | Lease Agreement between the Registrant and Fort Washington Realty Trust for 625 Putnam Ave, Cambridge, MA, dated as of March 1, 1993, as amended. | S-1 (333-129037) | 10/17/05 | 10.22 |
| 10.21 | Sublease Agreement between the Registrant and Transkaryotic Therapies, Inc., dated as of July 23, 2004. | S-1 (333-129037) | 10/17/05 | 10.25 |
| 10.22 | Third Amendment to Lease Agreement between the Registrant and Rizika Realty Trust for 125 Sidney Street, Cambridge, MA, dated as of February 13, 2006. | 8-K | 2/15/06 | 99.1 |
| | Material Contracts Financing Agreements | | | |
| 10.23 | Master Lease Agreement between the Registrant and General Electric Capital Corporation, dated as of May 21, 2002, as amended. | S-1 (333-129037) | 10/17/05 | 10.8 |

Table of Contents

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| | | Form | Date | Exhibit No. | |
| 10.24 | Master Loan and Security Agreement between Oxford Finance Corporation and the Registrant, dated as of December 17, 1999, as amended. | S-1 (333-129037) | 10/17/05 | 10.9 | |
| 10.25 | Form of Promissory Note issued to Oxford Finance Corporation. | S-1 (333-129037) | 10/17/05 | 10.10 | |
| 10.26 | Master Security Agreement between Oxford Finance Corporation and the Registrant, dated August 19, 2004. | S-1 (333-129037) | 10/17/05 | 10.11 | |
| 10.27 | Form of Promissory Note issued to Oxford Finance Corporation. | S-1 (333-129037) | 10/17/05 | 10.12 | |
| 10.28 | Form of Promissory Note Schedule No. 08 issued to Oxford Finance Corporation, dated December 29, 2006. | 8-K | 1/3/07 | 10.1 | |
| 10.29 | Form of Promissory Note Schedule No. 09 issued to Oxford Finance Corporation, dated December 29, 2006. | 8-K | 1/3/07 | 10.2 | |
| | <i>Material Contracts License and Collaboration Agreements</i> | | | | |
| 10.30+ | Technology License Agreement by and between the Registrant and Vertex Pharmaceuticals Incorporated, dated as of February 1, 1999, as amended. | S-1/A (333-129037) | 1/11/06 | 10.13 | |
| 10.31+ | Strategic Alliance Agreement between the Registrant and Cystic Fibrosis Foundation Therapeutics, Inc., dated as of February 22, 2001, as amended. | S-1/A (333-129037) | 1/11/06 | 10.15 | |
| 10.32+ | Development, Commercialization and Marketing Agreement between the Registrant and Dr. Falk Pharma GmbH, dated as of December 23, 2002. | S-1/A (333-129037) | 10/17/05 | 10.16 | |
| 10.33++ | Collaboration and License Agreement by and between the Registrant and Genentech, Inc., dated as of December 19, 2006. | 8-K | 2/1/07 | 10.1 | |
| 10.34 | Common Stock Purchase Agreement, dated as of December 19, 2006, between the | 8-K | 3/1/07 | 10.1 | |

| | | | | |
|---------|--|--------------------|-----------|-------|
| 10.35 | Registrant and Genentech, Inc. Registration Rights Agreement, dated as of February 27, 2007, between the Registrant and Genentech, Inc. Material Contracts Manufacturing and Supply Agreements | 8-K | 3/1/07 | 10.2 |
| 10.36+ | Cooperative Development Agreement between Amano Enzyme, Inc. and the Registrant, dated as of November 8, 2002, as amended. | S-1/A (333-129037) | 1/11/06 | 10.14 |
| 10.37++ | Drug Product Production and Clinical Supply Agreement by and between the Registrant and Althea Technologies, Inc., dated as of August 15, 2006. | 10-Q | 11/14/06 | 10.1 |
| 10.38++ | Manufacturing and Supply Agreement by and between the Registrant and Lonza Ltd., dated as of November 16, 2006. Other Exhibits | 8-K | 2/6/07 | 10.1 |
| 21.1 | Subsidiaries of the Registrant. | 10-K | 3/30/2006 | 21.1 |
| 23.1 | Consent of Independent Registered Public Accounting Firm. | 10-K | 3/12/2007 | 23.1 |

Table of Contents

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|--------------------|--|--|-------------|--------------------|------------------------------------|
| | | Form | Date | Exhibit No. | |
| 31.1 | Certification of Principal Executive Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934. | 10-K | 3/12/2007 | 31.1 | |
| 31.2 | Certification of Principal Financial Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934. | 10-K | 3/12/2007 | 31.2 | |
| 31.3 | Certification of Principal Executive Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934. | | | | X |
| 31.4 | Certification of Principal Financial Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934. | | | | X |
| 32.1 | Certificate of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350 and Section 906 of the Sarbanes-Oxley Act of 2002. | 10-K | 3/12/2007 | 32.1 | |
| + | Confidential treatment has been granted as to certain portions of the document, which portions have been omitted and filed separately with the Securities and Exchange Commission. | | | | |
| ++ | Confidential treatment has been requested as to certain portions of the document, which portions have been omitted and | | | | |

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Table of Contents

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Amendment No. 1 to Annual Report on Form 10-K/A to be signed on its behalf by the undersigned, thereunto duly authorized, on March 16, 2007.

ALTUS PHARMACEUTICALS INC.

/s/ SHELDON BERKLE

Sheldon Berkle

President and Chief Executive Officer