

FORM 8-A
(Amendment No. 1)

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

**FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES
PURSUANT TO SECTION 12(b) OR (g) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Pain Therapeutics, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State of incorporation
or organization)

91-1911336
(IRS Employer
I.D. No.)

416 Browning Way, South San Francisco, CA 94080
(Address of principal executive offices)

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

Title of each class
to be so registered

None

Name of each exchange on which
each class is to be registered

None

If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), check the following box.

If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), check the following box.

Securities Act registration statement file number to which this form relates (if applicable): Not applicable.

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

Preferred Stock Purchase Rights

This Amendment No. 1 to the Form 8-A of Pain Therapeutics, Inc. (the "Company"), amends Items 1 and 2 to the Form 8-A filed with the Securities and Exchange Commission on May 3, 2005 (the "Form 8-A") to reflect an amendment to that certain Preferred Stock Rights Agreement dated April 28, 2005 (the "Rights Agreement") between the Company and Mellon Investor Services LLC, as rights agent (the "Rights Agent") to amend the definition of Acquiring Person as set forth in the Rights Agreement, as amended, and as described below. The amendment to the Rights Agreement, is attached hereto as Exhibit 4.2.

The following information amends Items 1 and 2 of the registration statement on Form 8-A and sets forth, in its entirety, the information as amended.

Item 1. Description of Securities to be Registered

On April 28, 2005, pursuant to a Preferred Stock Rights Agreement (the "**Rights Agreement**") between Pain Therapeutics, Inc. (the "**Company**") and Mellon Investor Services LLC as Rights Agent (the "**Rights Agent**"), the Company's Board of Directors declared a dividend of one right (a "**Right**") to purchase one one-thousandth share of the Company's Series A Participating Preferred Stock ("**Series A Preferred**") for each outstanding share of Common Stock, par value \$0.001 per share ("**Common Shares**"), of the Company. The dividend is payable on May 12, 2005 (the "**Record Date**") to stockholders of record as of the close of business on that date. Each Right entitles the registered holder to purchase from the Company one one-thousandth of a share of Series A Preferred at an exercise price of \$40.00 (the "**Purchase Price**"), subject to adjustment.

The following summary of the principal terms of the Rights Agreement is a general description only and is subject to the detailed terms and conditions of the Rights Agreement, which is incorporated herein by reference.

Rights Evidenced by Common Share Certificates

The Rights will not be exercisable until the Distribution Date (defined below). Certificates for the Rights ("**Rights Certificates**") will not be sent to shareholders and the Rights will attach to and trade only together with the Common Shares. Accordingly, Common Share certificates outstanding on the Record Date will evidence the Rights related thereto, and Common Share certificates issued after the Record Date will contain a notation incorporating the Rights Agreement by reference. Until the Distribution Date (or earlier redemption or expiration of the Rights), the surrender or transfer of any certificates for Common Shares, outstanding as of the Record Date, even without notation or a copy of the Summary of Rights being attached thereto, also will constitute the transfer of the Rights associated with the Common Shares represented by such certificate.

Distribution Date

The Rights will be separate from the Common Shares, Rights Certificates will be issued and the Rights will become exercisable upon the earlier of (a) the tenth day (or such later date as may be determined by the Company's Board of Directors) after a person or group of affiliated or associated persons ("**Acquiring Person**") has acquired, or obtained the right to acquire, beneficial ownership of 15% or more of the Common Shares then outstanding, (or with respect to Eastbourne Capital Management, LLC, ("**Eastbourne**") and its affiliates, or any of them, become the Beneficial Owner of 25% or more of the Company's then outstanding Common Shares) or (b) the tenth business day (or such later date as may be determined by the Company's Board of Directors) after a person or group announces a tender or exchange offer, the consummation of which would result in ownership by a person or group of 15% or more of the Company's then outstanding Common Shares. The earlier of such dates is referred to as the "**Distribution Date**."

Issuance of Rights Certificates; Expiration of Rights

As soon as practicable following the Distribution Date, a Rights Certificate will be mailed to holders of record of the Common Shares as of the close of business on the Distribution Date and such separate Rights Certificate alone will evidence the Rights from and after the Distribution Date. The Rights will expire on the earliest of (i) May 12, 2015 (the "**Final Expiration Date**"), or (ii) redemption or exchange of the Rights as described below.

Initial Exercise of the Rights

Following the Distribution Date, and until one of the further events described below, holders of the Rights will be entitled to receive, upon exercise and the payment of the Purchase Price, one one-thousandth share of the Series A Preferred. In the event that the Company does not have sufficient Series A Preferred available for all Rights to be exercised, or the Board decides that such action is necessary and not contrary to the interests of Rights holders, the Company may instead substitute cash, assets or other securities for the Series A Preferred for which the Rights would have been exercisable under this provision or as described below.

Right to Buy Company Common Shares

Unless the Rights are earlier redeemed, in the event that an Acquiring Person obtains 15% or more of the Company's then outstanding Common Shares (or with respect to Eastbourne, and its affiliates, or any of them, become the Beneficial Owner of 25% or more of the Company's then outstanding Common Shares), then each holder of a Right which has not theretofore been exercised (other than Rights beneficially owned by the Acquiring Person, which will thereafter be void) will thereafter have the right to receive, upon exercise, Common Shares having a value equal to two times the Purchase Price. Rights are not exercisable following the occurrence of an event as described above until such time as the Rights are no longer redeemable by the Company as set forth below.

Right to Buy Acquiring Company Shares

Similarly, unless the Rights are earlier redeemed, in the event that, after an Acquiring Person obtains 15% or more of the Company's then outstanding Common Shares (or with respect to Eastbourne and its affiliates, or any of them, become the Beneficial Owner of 25% or more of the Company's then outstanding Common Shares), (i) the Company merges into another entity, (ii) an acquiring entity merges into the Company or (iii) 50% or more of the Company's consolidated assets or earning power are sold (other than in transactions in the ordinary course of business), proper provision must be made so that each holder of a Right which has not theretofore been exercised (other than Rights beneficially owned by the Acquiring Person, which will thereafter be void) will thereafter have the right to receive, upon exercise, shares of common stock of the acquiring company having a value equal to two times the Purchase Price.

Exchange Provision

At any time after an Acquiring Person obtains 15% or more of the Company's then outstanding Common Shares (or with respect to Eastbourne and its affiliates, or any of them, become the Beneficial Owner of 25% or more of the Company's then outstanding Common Shares) and prior to the acquisition by such Acquiring Person of 50% or more of the Company's outstanding Common Shares, the Board of Directors of the Company may exchange the Rights (other than Rights owned by the Acquiring Person), in whole or in part, at an exchange ratio of one Common Share per Right.

Redemption

At any time on or prior to the Close of Business on the earlier of (i) the fifth day following the attainment of 15% or more of the Company's then outstanding Common Shares (or with respect to Eastbourne and its affiliates, or any of them, become the Beneficial Owner of 25% or more of the Company's then outstanding Common Shares) by an Acquiring Person (or such later date as may be determined by action of the Company's Board of Directors and publicly announced by the Company), or (ii) the Final Expiration Date, the Company may redeem the Rights in whole, but not in part, at a price of \$0.001 per Right.

Adjustments to Prevent Dilution

The Purchase Price payable, the number of Rights, and the number of Series A Preferred or Common Shares or other securities or property issuable upon exercise of the Rights are subject to adjustment from time to time

in connection with the dilutive issuances by the Company as set forth in the Rights Agreement. With certain exceptions, no adjustment in the Purchase Price will be required until cumulative adjustments require an adjustment of at least 1% in such Purchase Price.

Cash Paid Instead of Issuing Fractional Shares

No fractional Common Shares will be issued upon exercise of a Right and, in lieu thereof, an adjustment in cash will be made based on the market price of the Common Shares on the last trading date prior to the date of exercise.

No Shareholders' Rights Prior to Exercise

Until a Right is exercised, the holder thereof, as such, will have no rights as a shareholder of the Company (other than any rights resulting from such holder's ownership of Common Shares), including, without limitation, the right to vote or to receive dividends.

Amendment of Rights Agreement

The terms of the Rights and the Rights Agreement may be amended in any respect without the consent of the Rights holders on or prior to the Distribution Date; thereafter, the terms of the Rights and the Rights Agreement may be amended without the consent of the Rights holders in order to cure any ambiguities or to make changes which do not adversely affect the interests of Rights holders (other than the Acquiring Person).

Rights and Preferences of the Series A Preferred

Each one one-thousandth (0.001) of a share of Series A Preferred has rights and preferences substantially equivalent to those of one (1) Common Share.

No Voting Rights

Rights will not have any voting rights.

Certain Anti-Takeover Effects

The Rights approved by the Board of Directors are designed to protect and maximize the value of the outstanding equity interests in the Company in the event of an unsolicited attempt by an acquirer to take over the Company in a manner or on terms not approved by the Board of Directors. Takeover attempts frequently include coercive tactics to deprive the Company's Board of Directors and its shareholders of any real opportunity to determine the destiny of the Company. The Rights have been declared by the Board in order to deter such tactics, including a gradual accumulation of shares in the open market of 15% or greater position (or 25% with respect to Eastbourne and its affiliates), to be followed by a merger or a partial or two-tier tender offer that does not treat all shareholders equally. These tactics unfairly pressure shareholders, squeeze them out of their investment without giving them any real choice and deprive them of the full value of their shares.

The Rights are not intended to prevent a takeover of the Company and will not do so. Subject to the restrictions described above, the Rights may be redeemed by the Company at \$0.001 per Right at any time prior to the Distribution Date. Accordingly, the Rights should not interfere with any merger or business combination approved by the Board of Directors.

However, the Rights may have the effect of rendering more difficult or discouraging an acquisition of the Company deemed undesirable by the Board of Directors. The Rights may cause substantial dilution to a person or group that attempts to acquire the Company on terms or in a manner not approved by the Company's Board of Directors, except pursuant to an offer conditioned upon the negation, purchase or redemption of the Rights.

Issuance of the Rights does not in any way weaken the financial strength of the Company or interfere with its business plans. The issuance of the Rights themselves has no dilutive effect, will not affect reported earnings per share, should not be taxable to the Company or to its shareholders, and will not change the way in which the Company's shares are presently traded. The Company's Board of Directors believes that the Rights represent a sound and reasonable means of addressing the complex issues of corporate policy created by the current takeover environment.

Item 2. Exhibits

Exhibit Number

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|--------------------|---|
| 3.1 ⁽¹⁾ | Restated Certificate of Incorporation of the Registrant filed with the Secretary of State of Delaware on July 20, 2000, including Certificate of Designation of Rights, Preferences and Privileges of Series A Participating Preferred Stock of Pain Therapeutics, Inc. |
| 3.2 ⁽²⁾ | Amended and Restated Bylaws of the Registrant. |
| 4.1 ⁽³⁾ | Preferred Stock Rights Agreement, dated as of April 28, 2005, between the Company and Mellon Investor Services LLC, including the Certificate of Designation, the form of Rights Certificate and the Summary of Rights attached thereto as Exhibits A, B and C, respectively. |
| 4.2 | Amendment to Preferred Stock Rights Agreement, dated as of September 27, 2006, between the Company and Mellon Investor Services LLC. |

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- (1) Incorporated by reference from our registration statement on Form S-1, registration number 333-32370, declared effective by the Securities and Exchange Commission on July 13, 2000.
- (2) Incorporated by reference from our quarterly report on Form 10-Q, filed with the Securities and Exchange Commission on May 2, 2005.
- (3) Incorporated by reference from our Form 8-K, filed with the Securities and Exchange Commission on May 3, 2005.

SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereto duly authorized.

Date: September 27, 2006

Pain Therapeutics, Inc.

By: /s/ Peter S. Roddy

Name: Peter S. Roddy

Title: Chief Financial Officer

EXHIBIT INDEX

**Exhibit
Number**

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- 3.2⁽²⁾ Amended and Restated Bylaws of the Registrant.
- 4.1⁽³⁾ Preferred Stock Rights Agreement, dated as of April 28, 2005, between the Company and Mellon Investor Services LLC, including the Certificate of Designation, the form of Rights Certificate and the Summary of Rights attached thereto as Exhibits A, B and C, respectively.
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- (1) Incorporated by reference from our registration statement on Form S-1, registration number 333-32370, declared effective by the Securities and Exchange Commission on July 13, 2000.
- (2) Incorporated by reference from our quarterly report on Form 10-Q, filed with the Securities and Exchange Commission on May 2, 2005.
- (3) Incorporated by reference from our Form 8-K, filed with the Securities and Exchange Commission on May 3, 2005.

**AMENDMENT TO PREFERRED STOCK RIGHTS AGREEMENT
BETWEEN PAIN THERAPEUTICS, INC. AND
MELLON INVESTOR SERVICES LLC**

THIS AMENDMENT TO PREFERRED STOCK RIGHTS AGREEMENT (the “Amendment”) is made this 27th day of September 2006, by and between **PAIN THERAPEUTICS, INC.**, a Delaware corporation (the “Company”), and **MELLON INVESTOR SERVICES LLC** (the “Rights Agent”) to amend the Preferred Stock Rights Agreement, dated April 28, 2005, by and between the Company and the Rights Agent (the “Rights Agreement”).

WHEREAS, pursuant to the Rights Agreement, certain rights to purchase shares of the Company’s Series A Participating Preferred Stock, par value \$0.001 per share, become exercisable, subject to the terms and conditions set forth in the Rights Agreement, if there is a public announcement that a person, entity or group of affiliated or associated persons have acquired beneficial ownership of 15% (or 20% with respect to Eastbourne Capital Management and its affiliates) or more of the outstanding Common Shares of the Company (an “Acquiring Person”) or 10 business days following the commencement of, or announcement of an intention to commence, a tender offer or exchange offer, the consummation of which would result in any person or entity becoming an Acquiring Person;

WHEREAS, Eastbourne Capital Management, L.L.C. (“ECM”), Black Bear Offshore Master Fund, L.P., a Cayman Islands limited partnership (“BBOM”), Black Bear Fund I, L.P., a California limited partnership (“BB I”) and Black Bear Fund II, L.L.C., a California limited liability company (“BB II,” and together with ECM, BBOM and BB I, the “Eastbourne Entities”) have reported that they beneficially owned in the aggregate 19.5% of the Common Shares of the Company;

WHEREAS, pursuant to Section 27 of the Rights Agreement, the Board of Directors of the Company has determined that it is in the best interest of the Company and its stockholders to amend the Rights Agreement to exclude from the definition of an “Acquiring Person” the Eastbourne Entities, but only so long as none of the Eastbourne Entities, together with any of their respective affiliates or associates, either individually or collectively, is the beneficial owner of 25% or more of the Common Shares then outstanding; and

WHEREAS, the Board of Directors of the Company has approved this Amendment and authorized its appropriate officers to execute and deliver the same to the Rights Agent.

NOW, THEREFORE, in accordance with the procedures for amendment of the Rights Agreement set forth in Section 27 thereof, and in consideration of the foregoing and the mutual agreements herein set forth, the parties hereby agree as follows:

1. Capitalized terms that are not otherwise defined herein shall have the meanings ascribed to them in the Rights Agreement.

2. The definition of “Acquiring Person” set forth in Section 1(a) of the Rights Agreement is amended in its entirety to read as follows:

“**Acquiring Person**” shall mean any Person, who or which, together with all Affiliates and Associates of such Person, shall be the Beneficial Owner of 15% or more of the Common Shares then outstanding, but shall not include the Company, any Subsidiary of the Company or any employee benefit plan of the Company or of any Subsidiary of the Company, or any entity holding Common Shares for or pursuant to the terms of any such plan; provided, however, that Eastbourne Capital Management, LLC, and its affiliates (“**Eastbourne**”) shall not be deemed an “Acquiring Person” until such time as it together with its respective affiliates shall be the Beneficial Owner of 25% or more of the Company’s Common

Shares then outstanding. Notwithstanding the foregoing, no Person shall be deemed to be an Acquiring Person as the result of an acquisition of Common Shares by the Company which, by reducing the number of shares outstanding, increases the proportionate number of shares beneficially owned by such Person to 15% or more of the Common Shares of the Company then outstanding (or with respect to Eastbourne and its affiliates, increases such number of shares to 25% or more of the Common Shares of the Company then outstanding); provided, however, that if a Person shall become the Beneficial Owner of 15% or more of the Common Shares of the Company then outstanding (or with respect to Eastbourne and its affiliates, shall become the Beneficial Owner of 25% or more of the Common Shares of the Company then outstanding) by reason of share purchases by the Company and shall, after such share purchases by the Company, become the Beneficial Owner of any additional Common Shares of the Company (other than pursuant to a dividend or distribution paid or made by the Company on the outstanding Common Shares in Common Shares or pursuant to a split or subdivision of the outstanding Common Shares), then such Person shall be deemed to be an Acquiring Person unless upon becoming the Beneficial Owner of such additional Common Shares of the Company such Person does not beneficially own 15% or more of the Common Shares of the Company then outstanding (or with respect to Eastbourne and its affiliates, does not beneficially own 25% or more of the Common Shares of the Company then outstanding). Notwithstanding the foregoing, (i) if the Company's Board of Directors determines in good faith that a Person who would otherwise be an "Acquiring Person," as defined pursuant to the foregoing provisions of this paragraph (a), has become such inadvertently (including, without limitation, because (A) such Person was unaware that it beneficially owned a percentage of the Common Shares that would otherwise cause such Person to be an "Acquiring Person," as defined pursuant to the foregoing provisions of this paragraph (a), or (B) such Person was aware of the extent of the Common Shares it beneficially owned but had no actual knowledge of the consequences of such beneficial ownership under this Agreement) and without any intention of changing or influencing control of the Company, and if such Person divested or divests as promptly as practicable a sufficient number of Common Shares so that such Person would no longer be an "Acquiring Person," as defined pursuant to the foregoing provisions of this paragraph (a), then such Person shall not be deemed to be or to have become an "Acquiring Person" for any purposes of this Agreement including, without limitation Section 1(gg) hereof; and (ii) if, as of the date hereof, any Person is the Beneficial Owner of 15% or more of the Common Shares outstanding, (or with respect to Eastbourne and its affiliates, is the Beneficial Owner of 25% or more of the Common Shares outstanding) such Person shall not be or become an "Acquiring Person," as defined pursuant to the foregoing provisions of this paragraph (a), unless and until such time as such Person shall become the Beneficial Owner of additional Common Shares (other than pursuant to a dividend or distribution paid or made by the Company on the outstanding Common Shares in Common Shares or pursuant to a split or subdivision of the outstanding Common Shares or upon the acquisition of additional Common Shares in a transaction specifically designated as exempt for purposes of this Section 1(a) by the Board of Directors of the Company), unless, upon becoming the Beneficial Owner of such additional Common Shares, such Person is not then the Beneficial Owner of 15% or more of the Common Shares then outstanding (or with respect to Eastbourne and its affiliates, is not the Beneficial Owner of 25% or more of the Common Shares outstanding)."

3. All references in the Rights Agreement to "15%" shall be followed by "(or 25% with respect to Eastbourne)", other than in the definition of "Acquiring Person" set forth in Section 1(a), which is amended as provided above.

4. Except as expressly set forth herein, this Amendment shall not alter, modify, amend or in any affect any of the terms, conditions, covenants, obligations or agreements contained in the Rights Agreement, all of which are ratified and affirmed in all respects and shall continue to be in full force and effect.

5. If any term, provision, covenant or restriction of this Amendment is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Amendment shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

6. This Amendment shall be deemed to be a contract made under the laws of the State of Delaware and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts to be made and performed entirely within such State.

7. This Amendment may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties herein have caused this Amendment to be duly executed and attested, all as of the date and year first above written.

PAIN THERAPEUTICS, INC.

By: /s/ Peter Roddy
Name: Peter Roddy
Title: Chief Financial Officer

MELLON INVESTOR SERVICES LLC

By: /s/ Kerri Jones
Name: Kerri Jones
Title: Assistant Vice President