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DELCATH SYSTEMS INC
Form SB-2/A
March 18, 2003

As filed with the Securities and Exchange Commission on March 18, 2003.

Registration No. 333-101661

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

Amendment No. 2
to
Form SB-2
Registration Statement
under
the Securities Act of 1933

DELCATH SYSTEMS, INC.

(Exact name of Registrant as specified in its charter)

Delaware -----	3841 ----	06-1245881 -----
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I. R. S. Employer Identification No.)

1100 Summer Street
Stamford, Connecticut 06905
(203) 323-8668
(Address, including zip code, and telephone number, including area code,
of registrant's executive offices)

M. S. KOLY
President and Chief Executive Officer
Delcath Systems, Inc.
1100 Summer Street
Stamford, Connecticut 06905
(203) 323-8668
(Name, address, including zip code, and telephone number, including area code,
of agent for service)

Copies of all communications, including communications sent to the agent
for service of process, should be sent to:

Paul G. Hughes
Cummings & Lockwood LLC
Four Stamford Plaza
107 Elm Street
Stamford, CT 06902
203-351-4207

Brian C. Daughney
Goldstein & DiGioia, LLP
45 Broadway, 11th Floor
New York, NY 10006
212-599-3322

APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: as soon as
practicable after the registration statement becomes effective.

If any of the securities being registered on this Form are to be offered on a

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delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box /X/

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement for the same offering. / /

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. / /

If this Form is a post-effective amendment file pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act Registration Statement number of the earlier registration statement for the same offering. / /

If delivery of the prospectus is expected to be made pursuant to Rule 434 under the Securities Act, please check the following box. / /

Title of each class of securities to be registered	Proposed maximum aggregate offering price (1)	Amount of registration fee
Units, consisting of 5 shares of common stock, par value \$.01 per share, and 5 warrants each to purchase 1 share of common stock (2)	\$3,450,000	\$318 (8)
Common Stock, \$0.01 par value (3)		
Warrants to purchase shares of common stock (4)		
Shares of common stock underlying the warrants included in the units (5) (6)		
Underwriters warrants to purchase units (7) Units, consisting of 5 shares of common stock and 5 warrants each to purchase 1 share of common stock (5)		
Common stock, \$0.01 par value (3)		
Warrants to purchase shares of common stock (4) Units issuable upon exercise of the underwriters warrants (7)		
Shares of common stock underlying the warrants issuable upon exercise of the warrants underlying the underwriters		

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warrants (5)

- (1) Estimated solely for purposes of determining the registration fee pursuant to Rule 457 under the Securities Act.
- (2) Includes units issuable upon exercise of underwriters' over-allotment option.
- (3) Consists of shares of common stock included in the units registered hereby.
- (4) Consists of warrants included in the units registered hereby. The warrants are offered as a component of the units for no additional consideration.
- (5) Pursuant to Rule 416 under the Securities Act, this Registration Statement also registers (i) any additional shares of common stock that become issuable upon exercise of the warrants and (ii) any additional units that become exercisable upon the exercise of the underwriters warrants to purchase units, in each by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration which results in an increase in the number of the outstanding shares of common stock.
- (6) Includes shares issuable pursuant to the exercise of the underwriters over-allotment option.
- (7) No registration fee required pursuant to Rule 457(g) under the Securities Act.
- (8) The registration fee was previously paid when the Registration Statement was originally filed.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE SECURITIES AND EXCHANGE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

EXPLANATORY NOTE

This Amendment No. 2 to the Registration Statement on Form SB-2 (Registration No. 333-101661) (the "Registration Statement") of Delcath Systems, Inc. (the "Company") is being filed solely for the purpose of filing Exhibit 23.1 to the Registration Statement which was inadvertently not included with Amendment No. 1 to the Registration Statement that was filed on March 17, 2003.

PART II

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Item 27. Exhibits

Exhibit No.	Description
1	Form of Underwriting Agreement (incorporated by reference to Exhibit 1 to Amendment No. 1 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-101661)).
3.1	Amended and Restated Certificate of Incorporation of Delcath Systems, Inc. (incorporated by reference to Exhibit 3.1 to Registrant's Annual Report on Form 10-KSB for the year ended December 31, 2002 (File No. 001-16133)).
3.2	Amended and Restated By-Laws of Delcath Systems, Inc. (incorporated by reference to Exhibit 3.2 to Amendment No. 1 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
4.1	Form of Underwriter's Unit Warrant Agreement (incorporated by reference to Exhibit 4.1 to Amendment No. 1 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-101661)).
4.2	Specimen 2003 Warrant (incorporated by reference to Exhibit 4.2 to Amendment No. 1 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-101661)).
4.3	Warrant Agreement, dated January 5, 2001, by and between Delcath Systems, Inc. and Euroland Marketing Solutions, Ltd. (incorporated by reference to Exhibit 4.5 to the Registrant's Annual Report on Form 10-KSB for the year ended December 31, 2000 (Commission File No. 001-16133)).
4.4	Warrant No. W-2 to purchase up to 150,000 units granted to Euroland Marketing Services, Ltd. (incorporated by reference to Exhibit 4.6 to the Registrant's Annual Report on Form 10-KSB for the year ended December 31, 2000 (Commission File No. 001-16133)).
4.5	Rights Agreement, dated October 30, 2001, by and between Delcath Systems, Inc. and American Stock Transfer & Trust Company, as Rights Agent (incorporated by reference to Exhibit 4.7 to Registrant's Form 8-A dated November 12, 2001 (Commission File No. 001-16133)).
4.6	Form of Warrant Agreement by and between Delcath Systems, Inc. and Whale Securities Co., L.P. (incorporated by reference to Exhibit 4.2 to Amendment No. 5 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
4.7	Form of Warrant Agreement by and between American Stock Transfer & Trust Company, as warrant agent, Whale Securities Co., L.P. and Delcath Systems, Inc. (incorporated by reference to Exhibit 4.3 to Amendment No. 5 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
4.8	Form of Warrant Agent Agreement by and between Delcath Systems, Inc. and American Stock Transfer & Trust Company,

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as warrant agent with respect to the 2003 Warrants (incorporated by reference to Exhibit 4.8 to Amendment No. 1 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-101661)).

- 5 Opinion of Cummings & Lockwood LLC (to be filed by amendment)
- 10.1 1992 Incentive Stock Option Plan (incorporated by reference to Exhibit 10.1 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).

II-1

- 10.2 1992 Non-Incentive Stock Option Plan (incorporated by reference to Exhibit 10.2 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
- 10.3 2000 Stock Option Plan (incorporated by reference to Exhibit 10.3 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
- 10.4 2001 Stock Option Plan (incorporated by reference to Exhibit 10.12 to Amendment No. 1 to Registrant's Annual Report on Form 10-KSB for the year ended December 31, 2001 (Commission File No. 001-16133)).
- 10.5 Employment Agreement, dated April 30, 1996, between Delcath Systems, Inc. and M.S. Koly, as amended on April 30, 1999 (incorporated by reference to Exhibit 10.4 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
- 10.6 Employment Agreement, dated April 30, 1996, between Delcath Systems, Inc. and Samuel Herschkowitz, M.D., as amended on April 30, 2000 (incorporated by reference to Exhibit 10.4 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
- 10.7 Distributorship Agreement, dated as of December 27, 1996, by and between Delcath Systems, Inc. and Nissho Corporation (incorporated by reference to Exhibit 10.6 to Registrant's Registration Statement on Form SB-2 (Registration No. 333-39470)).
- 10.8 Consulting Services Agreement, between Delcath Systems, Inc. and Euroland Marketing Solutions, Ltd. (incorporated by reference to Exhibit 10.9 to the Registrant's Annual Report on Form 10-KSB for the year ended December 31, 2000 (Commission File No. 001-16133)).
- 10.9 Amendment to Key Employment Agreement, dated October 30, 2001, by and between Delcath Systems, Inc. and M. S. Koly (incorporated by reference to Exhibit 10.10 to Registrant's

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Quarterly Report on Form 10-Q for the period ended September 30, 2001 (Commission File No. 001-16133)).

- 10.10 Amendment to Key Employment Agreement, dated October 30, 2001, by and between Delcath Systems, Inc. and Samuel Herschkowitz (incorporated by reference to Exhibit 10.11 to Registrant's Quarterly Report on Form 10-Q for the period ended September 30, 2001 (Commission File No. 001-16133)).
- 23.1 Consent of Eisner LLP.
- 23.2 Consent of Cummings & Lockwood LLC (to be contained in Exhibit 5 hereto).
- 24 Powers of Attorney (incorporated by reference to Exhibit 24 to the Registrant's Registration Statement on Form SB-2 (Registration No. 333-101661)).

II-2

SIGNATURES

In accordance with the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements of filing on Form SB-2 and authorized this amendment to its registration statement to be signed on its behalf by the undersigned, in City of Stamford, State of Connecticut on March 18, 2003.

DELCATH SYSTEMS, INC.

By: /s/ M. S. Koly

M.S. Koly, President

Pursuant to the requirements of the Securities Act of 1933, this amendment to the registration statement has been signed below by the following persons in the capacities and on the date indicated.

Signature	Title)
-----	-----)
M.S. KOLY	Chief Executive Officer)
	(Principal Executive)
	Officer and Director)
)
THOMAS S. GROGAN	Chief Financial Officer)
	(Principal Financial)
	and Accounting Officer)
)
SAMUEL HERSCHOWITZ, M.D.	Chairman and Director)
)
)
MARK A. CORIGLIANO	Director)

By /s/ M. S. Koly

M. S. Koly

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DANIEL ISDANER	Director)	Attorney-in-fact
)	
VICTOR NEVINS	Director)	Date: March 18, 2003
)	

II-3

EXHIBIT INDEX

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