

BENTLEY PHARMACEUTICALS INC
Form 8-K
June 13, 2008

**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) **June 13, 2008 (June 12, 2008)**

Bentley Pharmaceuticals, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

1-10581
(Commission File No.)

59-1513162
(I.R.S. Employer
Identification Number)

Bentley Park
2 Holland Way
Exeter, New Hampshire
(Address of principal
executive office)

03833
(Zip Code)

Registrant's telephone number, including area code **(603) 658-6100**

No change since last report

(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:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Securities 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))
-

Item 1.01 Entry into a Material Definitive Agreement.

In connection with the plan of Bentley Pharmaceutical, Inc. (Bentley) to spin off its drug delivery business conducted through its wholly owned subsidiary, CPEX Pharmaceuticals, Inc. (CPEX), on June 13, 2008 (see Item 8.01), Bentley entered into definitive agreements with CPEX that, among other things, set forth the terms and conditions of the separation of CPEX from Bentley and provide a framework for the relationship between Bentley and CPEX following the separation. In addition to the Separation and Distribution Agreement, which contains many of the key provisions related to the spin-off of CPEX and the distribution of CPEX s common shares to Bentley s shareholders, the parties also entered into, on June 13, 2008, a Tax Sharing Agreement, a Transition Services Agreement, and an Employee Matters Agreement. A summary of certain important features of the material agreements, which are referenced below, can be found in the section entitled Certain Relationships and Related Party Transactions in CPEX s Information Statement, which was attached as Exhibit 99.1 to CPEX s amended Registration Statement on Form 10 filed with the Securities and Exchange Commission on June 12, 2008 (the Information Statement), and is incorporated herein by reference.

Separation and Distribution Agreement

On June 13, 2008, Bentley entered into a Separation and Distribution Agreement with CPEX that sets forth Bentley s agreements with CPEX regarding principal transactions necessary to separate CPEX from Bentley. This agreement also sets forth the other provisions that govern certain aspects of Bentley s relationship with CPEX after the completion of the separation from Bentley and provides for the allocation of assets, liabilities and obligations between CPEX and Bentley in connection with the separation. The description of the Separation and Distribution Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Separation and Distribution Agreement filed as Exhibit 2.1 hereto.

Tax Sharing Agreement

On June 13, 2008, Bentley entered into a Tax Sharing Agreement with CPEX that governs the parties respective rights, responsibilities and obligations after the distribution with respect to taxes. The description of the Tax Sharing Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Tax Sharing Agreement filed as Exhibit 10.1 hereto.

Transition Services Agreement

On June 13, 2008, Bentley entered into a Transition Services Agreement with CPEX that governs the orderly transition of both CPEX and Bentley following CPEX becoming an independent company. Under the Transition Services Agreement, CPEX has agreed to provide Bentley with various services, including services relating to accounting, SEC reporting, payroll, financial systems management, telecommunications services, occupancy and information technology services, and Bentley has agreed to provide CPEX with certain clinical trial and intellectual property related services. Bentley will, prior to the separation, pay CPEX in advance for the services which CPEX will provide to Bentley. CPEX will pay Bentley a monthly fee for its transition services, which fee will be based on the costs incurred by Bentley in providing such services. The description of the Transition Services Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Transition Services Agreement filed as Exhibit 10.2 hereto.

Employee Matters Agreement

On June 13, 2008, Bentley entered into an Employee Matters Agreement with CPEX that allocates liabilities and responsibilities relating to employee compensation and benefit plans and programs and other related matters in connection with the separation, including the treatment of outstanding incentive awards and certain retirement and welfare benefit obligations, both in and outside of the United States. The description of the Employee Matters Agreement set forth under this Item 1.01 is qualified in its entirety by reference to the complete terms and conditions of the Employee Matters Agreement filed as Exhibit 10.3 hereto.

Item 8.01 Other Events.

On June 12, 2008, the Board of Directors of CPEX approved an issuance to Bentley of that number of shares of CPEX common stock such that following such issuance the total number of shares of CPEX common stock outstanding shall equal one share and one right for every ten shares of Bentley common stock outstanding as of the close of business on June 20, 2008 (the Spin-off Record Date).

On June 12, 2008, Bentley's Board of Directors approved, and Bentley issued a press release announcing such approval of, the distribution to Bentley's shareholders of all of the common shares of CPEX, Bentley's wholly owned subsidiary. To effect the distribution, Bentley will distribute one CPEX common share for every ten Bentley common shares outstanding as of the close of business on the Spin-off Record Date. Fractional shares of CPEX will not be distributed and any Bentley shareholder entitled to receive a fractional share will instead receive a cash payment. The distribution is expected to occur after the close of business on June 30, 2008 to Bentley shareholders of record as of the close of business on the Spin-off Record Date. The press release, which is attached as Exhibit 99.2, is incorporated herein by reference.

The Information Statement describes for shareholders the details of the distribution and provides information as to the business and management of CPEX, and is incorporated by reference into this item. Shortly after the Spin-off Record Date, the Information Statement will be mailed to Bentley shareholders of record as of the Spin-off Record Date.

On June 12, 2008, Bentley announced that it will hold a special meeting of shareholders on July 22, 2008, to vote on the proposed merger contemplated by the Agreement and Plan of Merger, dated March 31, 2008, by and among Bentley, Teva Pharmaceutical Industries Ltd. and Beryllium Merger Corporation.

Bentley previously set the close of business on June 2, 2008, as the record date for determining shareholders who will be entitled to vote on the merger. Bentley plans to begin mailing the proxy statement on or about June 16, 2008 to all Bentley shareholders of record as of the close of business June 2, 2008.

Item 9.01 Financial Statements and Exhibits

(c) Exhibits

| Exhibit No. | Description |
|--------------------|---|
| 2.1 | Separation and Distribution Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 10.1 | Tax Sharing Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 10.2 | Transition Services Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 10.3 | Employee Matters Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 99.1 | Preliminary Information Statement of CPEX Pharmaceuticals, Inc., dated June 12, 2008 (incorporated by reference to Exhibit 99.1 of CPEX Pharmaceuticals, Inc. s Registration Statement on Form 10, filed June 12, 2008) |
| 99.2 | Press Release, dated June 12, 2008. |

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.

BENTLEY PHARMACEUTICALS, INC.

By: /s/ Richard P. Lindsay
Richard P. Lindsay
Vice President and Chief Financial
Officer

Date: June 13, 2008.

BENTLEY PHARMACEUTICALS, INC
CURRENT REPORT ON FORM 8-K
Report Dated June 13, 2008.
EXHIBIT INDEX

| Exhibit No. | Description |
|--------------------|---|
| 2.1 | Separation and Distribution Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 10.1 | Tax Sharing Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 10.2 | Transition Services Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 10.3 | Employee Matters Agreement, dated June 13, 2008, by and between CPEX Pharmaceuticals, Inc. and Bentley Pharmaceuticals, Inc. |
| 99.1 | Preliminary Information Statement of CPEX Pharmaceuticals, Inc., dated June 12, 2008 (incorporated by reference to Exhibit 99.1 of CPEX Pharmaceuticals, Inc.'s Registration Statement on Form 10, filed June 12, 2008) |
| 99.2 | Press Release, dated June 12, 2008. |