

ADVANCED ENERGY INDUSTRIES INC

Form 8-K

October 07, 2005

**Table of Contents**

**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): October 3, 2005**

**Advanced Energy Industries, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction  
of incorporation)

**000-26966**

(Commission  
File Number)

**84-0846841**

(IRS Employer  
Identification No.)

**1625 Sharp Point Drive, Fort Collins, Colorado**

(Address of principal executive offices)

**80525**

(Zip Code)

Registrant's telephone number, including area code: **(970) 221-4670**

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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**TABLE OF CONTENTS**

Item 1.01 Entry into a Material Definitive Agreement

Item 9.01 Financial Statements and Exhibits

SIGNATURES

EXHIBIT INDEX

Settlement Agreement

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**Table of Contents**

**Item 1.01 Entry into a Material Definitive Agreement**

On October 3, 2005, Advanced Energy Industries, Inc. (the *Company*) and MKS Instruments, Inc. and its subsidiary, Applied Science and Technology, Inc. (together, *MKS*) executed a Settlement Agreement in connection with patent infringement litigation pending between the Company and MKS relating to the Company's Xstream and Rapid plasma generator products. Pursuant to the Settlement Agreement, the Company has paid MKS \$3 million in cash. Additionally, the Company and MKS have stipulated to a final judgment of infringement and an injunction prohibiting the Company from making, using, selling, offering to sell, or importing into the United States its Rapid, Rapid FE, Rapid OE and Xstream products, except as provided in the Settlement Agreement. Sales of these products have accounted for less than 5% of the Company's total sales each year since the introduction of such products.

The foregoing is a summary of the material terms of the Settlement Agreement. A copy of such agreement is filed as an exhibit to this Current Report on Form 8-K, and the terms of such agreement are incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits**

**(c) Exhibits**

Exhibit No.	Description
10.1	Settlement Agreement dated October 3, 2005, by and between Advanced Energy Industries, Inc. and MKS Instruments, Inc. and its subsidiary, Applied Science and Technology, Inc.

**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.

Advanced Energy Industries, Inc.

Date: October 7, 2005

/s/ Michael El-Hillow

Michael El-Hillow, Executive Vice  
President and Chief Financial Officer

**Table of Contents**

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