

WATSON PHARMACEUTICALS INC  
Form DEFA14A  
July 10, 2006

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**July 6, 2006**

Date of Report (Date of earliest event reported)

**Watson Pharmaceuticals, Inc.**

(Exact name of registrant as specified in its charter)

**Nevada**  
(State of Incorporation)

**001-13305**  
(Commission File Number)

**95-3872914**  
(IRS Employer  
Identification Number)

**311 Bonnie Circle**  
**Corona, California, 92880**  
(Address of principal executive offices) (Zip Code)

**(951) 493-5300**

(Registrant's telephone number, including area code)

**N/A**

(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)

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x Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Amendment to Merger Agreement

On July 7, 2006, Watson Pharmaceuticals, Inc. ( Watson ), Andrx Corporation ( Andrx ) and Water Delaware, Inc., a wholly-owned subsidiary of Watson, entered into a letter agreement (the Amendment ) which amends the Agreement and Plan of Merger by and among the parties dated as of March 12, 2006 (the Merger Agreement ). Under the terms of the Merger Agreement, without giving effect to the Amendment, either Watson or Andrx could have terminated the Merger Agreement and abandoned the merger provided for thereunder (the Merger ) at any time on or after September 12, 2006 (the Outside Date ), subject to certain conditions. The Amendment extends the Outside Date to November 13, 2006, in the event that the Merger cannot be consummated solely because: (i) the waiting period applicable to the consummation of the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, has not expired or been terminated, (ii) a governmental entity has enjoined or prohibited the consummation of the Merger, or (iii) there is a pending antitrust proceeding that would prohibit the consummation of the Merger or that would otherwise have a material adverse effect for Watson and its subsidiaries, taken as a whole on a post-Merger basis.

The Amendment also provides that in the event that the representations and warranties made by Andrx in the Merger Agreement are true and correct on September 12, 2006, then such representations and warranties, with limited exceptions, will be deemed to be true on all dates subsequent to September 12, 2006. In addition, in the event that no material adverse effect has occurred with regard to Andrx or its ability to consummate the Merger on September 12, 2006, then no such material adverse effect will be deemed to exist on all dates subsequent to September 12, 2006. In the event the Outside Date is extended in accordance with the procedure above, Andrx shall deliver to Watson a certificate signed by an executive officer of Andrx certifying that certain representations and warranties made by Andrx in the Merger Agreement are true and correct as of September 12, 2006 and that no material adverse effect has occurred with regard to Andrx or its ability to consummate the Merger on September 12, 2006.

The foregoing description of the Merger, the Merger Agreement and the Amendment are qualified in their entirety by reference to the Merger Agreement (incorporated by reference to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission ( SEC ) on March 13, 2006) and the Amendment (attached as Exhibit 2.2 and incorporated herein by reference).

Amendment to Commitment Letter

As of July 6, 2006, Watson entered into a Senior Credit Facilities Amended and Restated Commitment Letter (the Letter ) with Canadian Imperial Bank of Commerce, acting through its New York Agency ( CIBC ), CIBC World Markets Corp. ( CIBC WM ), Wachovia Bank, National Association, and Wachovia Capital Markets, LLC (collectively, the Commitment Parties ). The Letter amends, restates and supersedes the Senior Credit Facilities Commitment Letter dated March 12, 2006, between Watson, CIBC and CIBC WM. Pursuant to the Letter, subject to the terms and conditions of the Letter, the Commitment Parties have committed to provide an aggregate of \$1,150,000,000 of senior financing to Watson, consisting of a \$500,000,000 revolving credit facility and a \$650,000,000 senior term loan facility. The commitment under the Letter expires on November 13, 2006. The Letter was entered into in connection with the proposed Merger and the Amendment.

The Letter provides that the senior term facility would mature in five years and that the revolving facility would have a five year term. Loans under the facilities would bear interest equal to LIBOR plus 0.75% (subject to certain adjustments). The indebtedness would be guaranteed by Watson's material domestic subsidiaries. The indebtedness would be pre-payable at the election of Watson without premium (subject to certain adjustments).

The foregoing description of the Letter is qualified in its entirety by reference to the Letter attached as Exhibit 99.1, and incorporated herein by reference.

On July 10, 2006, Watson and Andrx issued a joint press release describing the events above, which is attached as Exhibit 99.2, and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d)

- 2.1 Agreement and Plan of Merger, dated as of March 12, 2006, by and among Watson Pharmaceuticals, Inc., a Nevada corporation, Water Delaware, Inc., a Delaware corporation, and Andrx Corporation, a Delaware corporation (incorporated by reference to the Company's Current Report on Form 8-K filed with the SEC on March 13, 2006).
  - 2.2 Letter agreement dated July 7, 2006, by and among Watson Pharmaceuticals, Inc., a Nevada corporation, Water Delaware, Inc., a Delaware corporation, and Andrx Corporation, a Delaware corporation.
  - 99.1 Senior Credit Facilities Amended and Restated Commitment Letter from Canadian Imperial Bank of Commerce, acting through its New York Agency, CIBC World Markets Corp., Wachovia Bank, National Association, and Wachovia Capital Markets, LLC dated as of July 6, 2006.
  - 99.2 Text of press release, dated July 10, 2006.
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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: July 10, 2006

By: /s/ David A. Buchen  
David A. Buchen  
Senior Vice President,  
General Counsel and Secretary

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