

MEDAREX INC
Form S-3
August 28, 2003
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As filed with the Securities and Exchange Commission on August 28, 2003

REGISTRATION NO. 333-

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-3

REGISTRATION STATEMENT

UNDER THE SECURITIES ACT OF 1933

MEDAREX, INC.

(Exact name of registrant as specified in its charter)

New Jersey
(State or other jurisdiction of
incorporation or organization)

2836
(Primary standard industrial
classification code number)

22-2822175
(I.R.S. Employer Number)

Medarex, Inc.

707 State Road

Princeton, NJ 08540

(609) 430-2880

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Donald L. Drakeman

President and Chief Executive Officer

Medarex, Inc.

707 State Road

Princeton, NJ 08540

(609) 430-2880

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New York, NY 10169

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(212) 818-9200

Princeton, NJ 08540

(609) 430-2880

Approximate date of commencement of proposed sale to the public:

From time to time after the effective date of the Registration Statement, as determined by the Registrant.

If the only securities registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

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 number of the earlier effective registration statement for the same offering. "

If this form is a post-effective amendment filed pursuant to Rule 462(d) 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 delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. "

CALCULATION OF REGISTRATION FEE

TITLE OF EACH CLASS OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED	PROPOSED	PROPOSED	AMOUNT OF REGISTRATION FEE
		MAXIMUM OFFERING PRICE PER UNIT	MAXIMUM AGGREGATE OFFERING PRICE(1)	
4.25% Convertible Senior Notes due August 15, 2010	\$ 125,000,000	100%	\$ 125,000,000	\$ 10,113
Common Stock, par value \$.01 per share(2)(3)	18,601,190(2)			
Total			\$ 125,000,000	\$ 10,113

(1) Equals the aggregate principal amount of the notes being registered. Estimated solely for purposes of calculating the registration fee pursuant to Rule 457(o) under the Securities Act.

(2)

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Represents the number of shares of common stock that are currently issuable upon conversion of the notes at the initial conversion price of \$6.72 per share. The notes are initially convertible into 148,8261 shares of common stock per each \$1,000 principal amount of notes, subject to adjustment in certain circumstances. Pursuant to Rule 416 under the Securities Act, the registrant is also registering such indeterminate number of shares of common stock as may be issued from time to time upon conversion of the notes as a result of dilution resulting from stock splits, stock dividends or similar transactions. No additional consideration will be received for the common stock, and therefore no registration fee is required pursuant to Rule 457(i).

- (3) Each share of the registrant's common stock being registered hereunder, if issued prior to the termination by the registrant of its shareholders rights agreement, includes Series A junior participating preferred stock purchase rights. Prior to the occurrence of certain events, the Series A junior participating preferred stock purchase rights will not be exercisable or evidenced separately from the registrant's common stock and have no value except as reflected in the market price of the shares to which they are attached.

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, OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

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The information in this prospectus is incomplete and may be changed. The selling securityholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED AUGUST 28, 2003

PROSPECTUS

\$125,000,000

MEDAREX, INC.

4.25% Convertible Senior Notes Due August 15, 2010

Shares of Common Stock Issuable Upon Conversion of the Notes

In July 2003, we issued and sold \$125,000,000 aggregate principal amount of our 4.25% Convertible Senior Notes, due August 15, 2010, in a private offering. This prospectus will be used by selling securityholders to resell the notes and the common stock issuable upon conversion of the notes.

The notes will mature on August 15, 2010. We will pay interest on the notes on August 15 and February 15 of each year. The first interest payment will be made on February 15, 2004. The notes will be issued only in denominations of \$1,000 and integral multiples of \$1,000. We have pledged a portfolio of U.S. treasury securities as security for the notes, in an amount sufficient to pay the first six scheduled interest payments due on the notes.

You may convert the notes into shares of our common stock at any time prior to their maturity or their prior redemption or repurchase by us. The conversion rate is 148.8261 shares of common stock per each \$1,000 principal amount of notes, subject to adjustment in certain circumstances. This is equivalent to a conversion price of approximately \$6.72 per share.

Prior to August 15, 2006, we may redeem some or all of the notes at any time through a provisional redemption at a redemption price equal to 100% of the principal amount of the notes to be redeemed plus accrued and unpaid interest to the redemption date and the make-whole payment described below, if the closing price of our common stock has exceeded 150% of the conversion price then in effect for at least 20 trading days within a period of 30 consecutive trading days ending on the trading day before the date of mailing of the provisional redemption notice. Upon any such provisional redemption, we will make an additional make-whole payment equal to \$130.10 per \$1,000 principal amount of notes redeemed, less the amount of any interest actually paid and any interest accrued and unpaid on these notes before the provisional redemption date. We may make such make-whole payment, at our option, in cash or shares or a combination thereof. Payments made in shares of our common stock will be valued at 95% of the average of the closing sale prices of our common stock for the five consecutive trading days ending on the third trading day immediately prior to the provisional redemption date.

On or after August 15, 2006, we may redeem some or all of the notes at any time at the redemption prices described in this prospectus.

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You have the option, subject to certain conditions, to require us to repurchase any notes held by you in the event of a change in control, as described in this prospectus, at a price equal to 100% of the principal amount of the notes plus accrued and unpaid interest to the date of repurchase.

The notes are evidenced by a global note deposited with the Wilmington Trust Company, as trustee under the indenture pursuant to which the notes were issued, as custodian for The Depository Trust Company, or DTC. Except as described in this prospectus, beneficial interests in the global note will be shown on, and transfers thereof will be effected only through, records maintained by DTC and its direct and indirect participants.

Prior to this offering, the notes have been eligible for trading on the PORTAL[®] Market of The Nasdaq Stock Market, Inc. Notes sold by means of this prospectus are not expected to remain eligible for trading on the PORTAL[®] Market. We do not intend to list the notes for trading on any national securities exchange or on The NASDAQ National Market[®]. On August 27, 2003, the last reported sale price for our common stock on The NASDAQ National Market was \$5.70 per share. Our common stock is listed under the symbol MEDX.

The notes and the common stock into which the notes are convertible may be offered and sold from time to time pursuant to this prospectus by the holders of those securities or by their transferees, pledges, donees, or successors, all of which we refer to as selling securityholders. The securities may be sold by the selling securityholders directly to purchasers or through underwriters, broker-dealers or agents. If required, at the time of a particular offering of securities by a selling securityholder, a supplement to this prospectus will be circulated setting forth the name or names of any underwriters, broker-dealers or agents, any discounts, commissions or other terms constituting compensation for underwriters and any discounts, commissions or concessions allowed or reallocated or paid to agents or broker-dealers. The selling securityholders will receive all of the net proceeds from the sale of the securities and will pay all underwriting discounts and selling commissions, if any, applicable to any sale. We will not receive any proceeds from the sale by the selling securityholders of the notes or the common stock issuable upon conversion of the notes. We are responsible for the payment of other expenses incident to the registration of the securities. The selling securityholders and any broker-dealers, agent or underwriters that participate in the distribution of any securities may be deemed to be underwriters within the meaning of Section 2(11) of the Securities Act of 1933, as amended. Any discounts, commissions, concessions or profit they earn on any sale of the securities may be deemed to be underwriting compensation under the Securities Act of 1933, as amended.

Investing in our securities involves risks. See Risk Factors on page 9 of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2003

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You should rely only on the information contained or incorporated by reference into this prospectus. We have not authorized anyone to provide you with different information. The selling securityholders are not making an offer of the securities to be sold under this prospectus in any jurisdictions where the offers or sales are not permitted. You should not assume that the information contained in this prospectus is accurate as of any date other than the date on the front cover of this prospectus, or that the information contained in any document incorporated by reference is accurate as of any date other than the date of the document incorporated by reference. The delivery of this prospectus does not, under any circumstances, mean that there has not been a change in our affairs since the date hereof.

FORWARD-LOOKING STATEMENTS

This prospectus, including the documents that we incorporate by reference, contains forward-looking statements within the meaning of Sections 27A and 21E of the Securities Exchange Act of 1934, as amended, including statements regarding our expectations, beliefs, intentions, or strategies regarding the future. Forward-looking statements include, without limitation, statements in Summary Medarex, Inc., Risk Factors, and elsewhere in this offering circular regarding, among other things, uncertainties relating to our technology; history of operating losses and anticipation of future losses; uncertainty of product development; need for additional capital and uncertainty of change; uncertainty of patent and proprietary rights; management of growth and risks of acquiring new technologies; uncertainties related to clinical trials; government regulation and uncertainty of obtaining regulatory approval; dependence on key personnel; dependence on research collaborators and scientific advisors; uncertainty of health care reform measures and third-party reimbursement and risk of product liability. All forward-looking statements included in this offering circular are based on information available to us, as of the date hereof, and we do not assume any obligation to update any such forward-looking statements. Our actual results may differ materially from the results discussed in the forward-looking statements. Among the factors that could cause actual results to differ materially are the factors detailed in Risk Factors below. Accordingly, in addition to the other information in this offering circular, such factors should be considered carefully. References to our products, business, financial results or financial condition should be considered to refer to us and our subsidiaries unless the context otherwise requires.

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PROSPECTUS SUMMARY

This summary provides an overview of selected information and does not contain all the information you should consider. You should read the entire prospectus, including the section entitled Risk Factors, and the documents incorporated by reference in this prospectus, carefully before making an investment decision. When used in this prospectus, unless otherwise indicated, the terms we, our, and us refer to Medarex and its subsidiaries.

Medarex, Inc.

We are a biopharmaceutical company focused on the discovery and development of human antibody-based therapeutic products. We believe that our UltiMab Human Antibody Development SystemSM enables us to rapidly create and develop therapeutic products for a wide range of diseases, including cancer, inflammation, autoimmune disease and other life-threatening and debilitating diseases.

We believe that antibodies are proven candidates for therapeutic products. To date, the United States Food and Drug Administration, or FDA, has approved fourteen antibody-based therapeutic products for sale in the United States. In 2002, twelve of these products generated aggregate worldwide sales in excess of \$4.5 billion. We intend to participate in this market, and to this end, are developing an expanding pipeline of therapeutic antibody products generated through the use of our proprietary UltiMabSM technology.

Twelve antibodies derived from our technology are currently in human clinical trials or have had regulatory applications submitted for such trials for a wide range of diseases, such as cancer (including various lymphomas), rheumatoid arthritis, multiple sclerosis and psoriasis. Three of these products are fully owned by Medarex: MDX-010 (Phase II), MDX-060 (Phase I/II) and MDX-070 (Phase I/II), for the treatment of cancer, lymphoma and/or HIV. One antibody for autoimmune disease, MDX-018 (Phase I/II), is being jointly developed with our partner, Genmab A/S, and three are being developed by Genmab: HuMax-CD4 (Phase II) for psoriasis and lymphoma, HuMax-IL15 (Phase II) for rheumatoid arthritis and HuMax EGFr (Phase I/II) for head and neck cancer. Another partner, Immuno-Designed Molecules S.A., or IDM, is developing Osidem (Phase III) for ovarian cancer. Additionally, our licensing partners Novartis Pharma AG and Centocor, Inc. (a subsidiary of Johnson & Johnson) are developing a total of four antibodies, for anti-inflammatory and autoimmune diseases, that are currently in early clinical trials. We and our partners also have a number of product candidates in preclinical development.

As of August 1, 2003, we have more than 45 partnerships with pharmaceutical and biotechnology companies to jointly develop and commercialize products or to enable other companies to use our proprietary technology in their development of new therapeutic products. These companies include industry leaders such as Amgen, Inc., Centocor, Inc. (a subsidiary of Johnson & Johnson), Pfizer, Inc., Eli Lilly & Company, Human Genome Sciences, Inc., Abbott Laboratories, Novartis Pharma AG, Novo Nordisk A/S and Schering AG. Some of our partnerships are licensing partnerships, with the potential to pay us licensing fees, milestone payments and royalty payments; others are collaborative partnerships and provide for the sharing of product development costs, as well as any revenues, expenses and profits associated with products arising under the collaboration.

In addition to our UltiMab Human Antibody Development System, we have considerable experience in preclinical and clinical development as well as in manufacturing antibodies for clinical trials. Our existing manufacturing facility in Annandale, New Jersey currently has the capacity to develop up to 15 new antibody projects per year for clinical development purposes, meeting our near-term production demands. We have assembled a team of experienced scientific, production, clinical and regulatory personnel to facilitate the discovery, development and commercialization of antibody-based products for us and for our partners. We intend to add sales and marketing and additional manufacturing capabilities as needed.

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We are working to build one of the industry's largest clinical pipelines of human antibody-based therapeutics for the treatment of cancer and other life-threatening and debilitating diseases. To this end, we have implemented a business strategy involving the expansion and diversification of our product pipeline and partnerships and an increase in our resources to develop, manufacture and commercialize products. We intend to capitalize on the value of our own human antibody products by developing them through late stage clinical trials and/or regulatory approval. We believe this will allow us to retain substantial commercial rights or profit sharing opportunities with regard to these products. In addition, we are enhancing and expanding our partnerships, which provide us the opportunity to participate in the development and commercialization of substantially more product candidates than we could using only our own resources. We believe our business strategy will allow us to build and maximize value by delivering a productive clinical pipeline of medically important and commercially successful products.

We were incorporated in 1987. Our principal executive offices are located at 707 State Road, Princeton, New Jersey 08540. Our telephone number is (609) 430-2880. We maintain a worldwide website at www.medarex.com. The reference to our worldwide web address does not constitute incorporation by reference of the information contained on our website. Our Annual Report on Form 10-K, our Quarterly Reports on Form 10-Q, our Current Reports on Form 8-K and all amendments to those reports that we file with the Securities and Exchange Commission, or SEC, are currently available free of charge to the general public through our website at www.medarex.com. These reports are accessible on our website at a reasonably practicable time after being filed with the SEC.

Medarex[®], HuMab-Mouse[®], GenPharm[®] and KM-Mouse[®] are registered U.S. trademarks of Medarex, Inc. UltiMab Human Antibody Development SystemSM and UltiMabSM are trademarks or service marks of Medarex, Inc. All other company names, trademarks and service marks included herein are trademarks, registered trademarks, service marks or trade names of their respective owners.

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The Offering

Issuer	Medarex, Inc.
Securities Offered	\$125,000,000 aggregate principal amount of 4.25% convertible senior notes due August 15, 2010.
Maturity Date	August 15, 2010, unless earlier redeemed, repurchased or converted.
Interest	4.25% per annum on the principal amount, payable semi-annually in arrears in cash on August 15 and February 15 of each year, commencing February 15, 2004. The first interest payment will include interest from July 23, 2003, the date of issuance of the notes.
Security	We have entered into a pledge agreement with Wilmington Trust Company, as securities intermediary, pursuant to which we have purchased and pledged to the securities intermediary, as security for the notes and for the exclusive benefit of the holders of the notes, a portfolio of approximately \$15.8 million of U.S. treasury securities. This treasury portfolio consists of U.S. treasury securities that mature on or prior to the business day immediately preceding each of the first six interest payment dates for the notes in such amounts as will be sufficient to provide for payment in full of the first six scheduled interest payments on the notes when due. In limited circumstances involving an event of default under the notes, the pledged U.S. treasury securities and the pledge account will also secure the repayment of the principal amount of the notes and our obligation to pay the additional payment referred to below under the section herein entitled Description of Notes Provisional Redemption. The notes will otherwise not be secured.
Conversion	<p>You may convert the notes at any time into shares of common stock at a conversion rate equal to 148.8261 shares of common stock per \$1,000 principal amount of notes, which is equivalent to a conversion price of approximately \$6.72 per share of common stock. The conversion rate is subject to adjustment in certain events.</p> <p>You may convert the notes at any time before the close of business on the maturity date, unless we have previously redeemed or repurchased the notes. Holders of notes called for redemption or repurchase will be entitled to convert the notes up to and including the business day prior to the date fixed for redemption or repurchase, as the case may be.</p>
Ranking	The notes are senior unsecured (except as set forth under the section herein entitled Description of the Notes Security) obligations and will rank equal in right of payment with our existing and future unsecured and unsubordinated indebtedness. The notes will be effectively subordinated to any future secured indebtedness to the extent of the value of the assets securing such indebtedness. The notes will also be structurally subordinated to the indebtedness and other liabilities of our existing subsidiaries and any future subsidiaries,

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including trade payables in existence on or after the date hereof. As of June 30, 2003, our subsidiaries had approximately \$2.4 million of indebtedness and other liabilities as to which the notes would have been structurally subordinated, excluding intercompany liabilities. The indenture under which the notes were issued does not restrict us or any of our subsidiaries from incurring additional senior or other indebtedness and other liabilities, including secured indebtedness.

Provisional Redemption

We may redeem the notes, in whole or in part, at any time prior to August 15, 2006, at a redemption price, payable in cash, equal to 100% of the principal amount of the notes to be redeemed plus accrued and unpaid interest to the redemption date and the additional make-whole payment described below if:

the closing price of our common stock has exceeded 150% of the conversion price then in effect for at least 20 trading days within a period of 30 consecutive trading days ending on the trading day prior to the date of mailing of the provisional redemption notice; and

the shelf registration statement covering resales of the notes and the common stock issuable upon conversion of the notes is effective and available for use and is expected to remain effective and available for use for the 30 days following the provisional redemption date.

Upon any provisional redemption, we will make an additional make-whole payment on the provisional redemption date with respect to the notes called for redemption in an amount equal to \$130.10 per \$1,000 principal amount of notes, less the amount of any interest actually paid and any interest accrued and unpaid on such notes before the provisional redemption date. We may make this additional payment, at our option, in either cash or our common stock (or a combination of both). We will state the form of consideration to be paid in the redemption notice. Payments made in our common stock will be valued at 95% of the average of the closing sale prices for the five consecutive trading days ending on the third trading day prior to the redemption date. We will be obligated to make this additional payment on all notes called for provisional redemption, including any notes converted after the notice date and prior to the provisional redemption date.

Optional Redemption

On or after August 15, 2006, we may redeem some or all of the notes at any time at the redemption prices specified in this prospectus, plus accrued and unpaid interest to the redemption date.

Global Notes;

Book Entry System

The notes may be issued only in fully registered form without interest coupons and in denominations of \$1,000 and greater multiples. The notes are evidenced by a global note deposited with the trustee for the notes as custodian for The Depository Trust Company, or DTC. Beneficial interests in the global note will be shown on, and transfers of those beneficial interests can only be made through, records maintained by DTC and its direct and indirect participants.

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Repurchase at Holder's Option upon a Change in Control You may require us to repurchase your notes upon a change in control in cash, or, at our option, in our common stock or a combination of cash and common stock, at 100% of the principal amount of the notes to be repurchased plus accrued and unpaid interest to, but excluding, the repurchase date. If we pay the repurchase price in common stock, the common stock will be valued at 95% of the average closing sales price of the common stock on The Nasdaq National Market for the five consecutive trading days ending on the third trading day prior to the repurchase date.

Use of Proceeds The selling securityholders will receive all of the proceeds from the sale under this prospectus of the notes and the common stock issuable upon conversion of the notes. We will not receive any proceeds from these sales.

Events of Default The following are events of default under the indenture for the notes:

we fail to pay the principal of or any premium on any note when due;

we fail to pay any interest or any liquidated damages on any note when due, which failure continues for 30 days;

we fail to provide notice of a change in control;

we fail to perform any other covenant in the indenture and that failure continues for 60 days after written notice to us by the trustee or the holders of at least 25% in aggregate principal amount of outstanding notes;

any indebtedness under any bonds, debentures, notes or other evidences of indebtedness for money borrowed, or any guarantee thereof, by us or any of our significant subsidiaries, in an aggregate principal amount in excess of \$20 million is not paid when due either at its stated maturity or upon acceleration thereof, and such indebtedness is not discharged, or such acceleration is not rescinded or annulled, within a period of 30 days after notice as provided in the indenture;

the pledge agreement in favor of the holders of the notes governing the pledge of the portfolio of U.S. treasury securities shall cease to be in full force and effect or enforceable in accordance with its terms, other than in accordance with its terms; and

events of bankruptcy, insolvency or reorganization specified in the indenture.

The NASDAQ National Market Symbol for Common Stock MEDX.

Trading of Notes Prior to this offering, the notes have been eligible for trading on the PORTAL Market of The Nasdaq Stock Market, Inc. Notes sold by means of this prospectus are not expected to remain eligible for trading on the PORTAL Market. We do not intend to list the notes for trading on any national securities exchange or on The NASDAQ National Market.

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Governing Law

The indenture and the notes will be governed by the laws of the State of New York.

Risk Factors

You should carefully consider all of the information contained or incorporated by reference in this prospectus prior to investing in the notes. In particular, we urge you to carefully consider the information set forth under **Risk Factors** beginning on page 9 of this prospectus for a discussion of risks and uncertainties relating to us, our business and an investment in the notes.

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The following table sets forth consolidated financial information for the periods indicated. The summary consolidated financial information for each of the years in the five-year period ended December 31, 2002 and at December 31 of each of those years has been derived from our audited consolidated financial statements. The financial information set forth below for the six months ended June 30, 2002 and 2003 has been derived from unaudited consolidated financial information, which we believe presents fairly such consolidated information in conformity with accounting principles generally accepted in the United States and includes all adjustments, consisting only of normal recurring adjustments, that in the opinion of management are necessary for a fair presentation. Results for the six months ended June 30, 2003 are not necessarily indicative of the results that may be expected for any other interim periods or for the year as a whole. You should read the summary consolidated financial information in conjunction with our consolidated financial statements and the notes thereto and the other financial information incorporated by reference in this prospectus.

	For the Year Ended December 31,					For the Six Months Ended June 30,	
	1998	1999	2000	2001	2002	2002	2003
	(in thousands, except per share data)					(unaudited)	
Statement of Operations Data:							
Revenues:							
Sales	\$ 1,349	\$ 1,079	\$ 264	\$ 191	\$ 176	\$ 176	\$ 25
Contract and license revenues	5,443	8,593	19,619	37,140	24,552	14,380	3,650
Sales, contract and license revenues from Genmab		252	2,574	4,973	14,751	4,299	2,540
Total revenues	6,792	9,924	22,457	42,304	39,479	18,855	6,215
Costs and expenses:							
Cost of sales	1,218	709	1,189	642	8,327	1,806	3
Research and development	23,122	19,929	33,942	38,626	82,626	35,615	47,276
General and administrative	5,065	8,036	18,142	19,344	22,852	11,196	10,882
Write-off of facility costs					11,294	11,266	
Acquisition of in-process technology					16,312	16,312	
Total costs and expenses	29,405	28,674	53,273	58,612	141,411	76,195	58,161
Operating loss	(22,613)	(18,750)	(30,816)	(16,308)	(101,932)	(57,340)	(51,946)
Equity in net loss of affiliate			(353)	(7,334)	(50,625)	(7,265)	(6,941)
Interest and investment income	1,956	1,205	21,158	24,728	18,495	9,697	5,715
Impairment loss on investment in partners					(11,886)	(4,091)	