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ATRIX LABORATORIES INC

Form 10-K/A

May 14, 2002

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

FORM 10-K/A
AMENDMENT NO. 1

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2001

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number 0-18231

ATRIX LABORATORIES, INC.
(Exact name of registrant as specified in its charter)

DELAWARE	84-1043826
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

2579 MIDPOINT DRIVE FORT COLLINS, COLORADO	80525
(Address of principal executive office)	(Zip Code)

Registrant's telephone number, including area code: (970) 482-5868

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock \$.001 par value

(Title of Class)

Series A Preferred Stock Purchase Rights

(Title of Class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

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The aggregate market value of voting stock held by non-affiliates of the Registrant as of March 26, 2002 was \$446,922,463.

The number of shares outstanding of the Registrant's common stock as of March 26, 2002 was 20,101,315.

DOCUMENTS INCORPORATED BY REFERENCE:

Part III, Items 10, 11, 12, and 13 are incorporated by reference to the definitive Proxy Statement for the Registrant's Annual Meeting of Stockholders scheduled to be held on May 5, 2002.

EXPLANATORY NOTE

This Amendment No. 1 on Form 10-K/A amends the Registrant's Annual Report on Form 10-K, as filed by the Registrant on April 1, 2002, and is being filed solely to include under Item 14 the audited financial statements required by Rule 3-09 of Regulation S-X of the Registrant's joint venture, Transmucosal Technologies Ltd. Transmucosal Technologies is a Bermuda company owned by the Registrant and Elan International Services Ltd., a wholly owned subsidiary of Elan Corporation plc, holding 80.1% and 19.9% (non-voting shares) of the shares, respectively. Except as otherwise stated herein, all other information contained in the original Report was current as of the date of filing of the Report on April 1, 2002 and has not been updated by this Amendment No. 1.

PART IV

ITEM 14. EXHIBITS, CONSOLIDATED FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K.

(a) Our following documents are filed as part of this Report:

1. Consolidated Financial Statements

Independent Auditors' Report
Consolidated Balance Sheets - December 31, 2001 and 2000
Consolidated Statements of Operations - Years Ended
December 31, 2001, 2000, and 1999
Consolidated Statements of Changes in Shareholders'
Equity - Years Ended December 31, 2001, 2000,
and 1999
Consolidated Statements of Cash Flows - Years Ended
December 31, 2001, 2000, and 1999
Notes to the Consolidated Financial Statements

2. Consolidated Financial Statement Schedules

The following financial statements of Transmucosal Technologies Ltd., the Registrant's joint venture with Elan International Services Ltd., a wholly owned subsidiary of Elan Corporation plc, are filed as part of this Report.

Independent Auditors' Report
Balance Sheets as at December 31, 2001 and 2000
Statements of Loss for the Periods Ended December 31,

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2001 and 2000
Statements of Changes in Shareholders' Equity for the
Periods Ended December 31, 2001 and 2000
Statements of Cash Flows for the Periods Ended December 31,
2001 and 2000
Notes to Financial Statements

Other schedules for which provision is made in the applicable regulations of the Securities and Exchange Commission have been omitted because they are not required under the related instructions or the information related is contained elsewhere in the financial statements.

3. Exhibits

The exhibits are set forth in the Exhibit Index.

(b) Reports on Form 8-K: We filed the following Current Reports on Form 8-K during the quarter ended December 31, 2001:

- Current Report on Form 8-K dated October 15, 2001, filed with the Securities and Exchange Commission on October 17, 2001, under Item 5. Other Events, and Item 7. Exhibits.
- Current Report on Form 8-K dated November 16, 2001, filed with the Securities and Exchange Commission on November 27, 2001, under Item 5. Other Events, and Item 7. Exhibits.
- Current Report on Form 8-K dated December 7, 2001, filed with the Securities and Exchange Commission on December 10, 2001, under Item 5. Other Events, and Item 7. Exhibits.

SIGNATURES

Pursuant to the requirements of Section 13 and 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on our behalf by the undersigned, thereunto duly authorized.

ATRIX LABORATORIES, INC.
(Registrant)

Date: May 14, 2002

By: /s/ Brian G. Richmond

Brian G. Richmond
Chief Financial Officer, Secretary
and Treasurer

[KPMG Letterhead]

INDEPENDENT AUDITOR'S REPORT

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The Board of Directors and Shareholders of
Transmucosal Technologies Ltd.

We have audited the accompanying balance sheets of Transmucosal Technologies Ltd. as at December 31, 2001 and 2000 and the related statement of loss, changes in shareholders' equity and cash flows for the year ended December 31, 2001 and the period from July 14, 2000 (date of incorporation) to December 31, 2000. These financial statements are the responsibility of the company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material aspects, the financial position of Transmucosal Technologies Ltd. as at December 31, 2001 and the results of its operations and its cash flows for the periods then ended in conformity with accounting principles generally accepted in the United States of America.

/s/KPMG
Chartered Accountants
Hamilton, Bermuda
March 7, 2002

TRANSMUCOSAL TECHNOLOGIES LTD.

Balance Sheets

December 31, 2001
(Expressed in United States Dollars)

	2001	2000
	-----	-----
ASSETS		
Cash and cash equivalents	\$ 2,144	\$
	-----	-----
Total assets	\$ 2,144	\$
	=====	=====
LIABILITIES		
Accounts payable and accrued expenses	\$ 951,562	\$ 269,
	-----	-----
Total liabilities	951,562	269,
	-----	-----

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SHAREHOLDERS' EQUITY

Share capital (Note 5)	12,000	12,
Share premium (Note 6)	14,988,000	14,988,
Contributed surplus (Note 7)	3,436,107	
Retained deficit	(19,385,525)	(15,269,
	-----	-----
Total shareholders' equity	(949,418)	(269,
	-----	-----
Total liabilities and shareholders' equity	\$ 2,144	\$
	=====	=====

See accompanying notes to financial statements

TRANSMUCOSAL TECHNOLOGIES LTD.

Statements of Loss

Periods Ended December 31, 2001 and 2000
(Expressed in United States Dollars)

	2001	2000
	-----	-----
INCOME		
Net investment income	\$ 48	\$ --
	-----	-----
Total income	48	--
	-----	-----
EXPENSES		
Research and development (Note 3)	4,091,081	251,482
Audit fees	9,776	--
Government fees	9,345	--
License fee (Note 4)	--	15,000,000
General and administrative	5,440	18,449
	-----	-----
Total operating expenses	4,115,642	15,269,931
	-----	-----
Net loss	\$ (4,115,594)	\$ (15,269,931)
	=====	=====

See accompanying notes to financial statements

TRANSMUCOSAL TECHNOLOGIES LTD.

Statements of Changes in Shareholders' Equity

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Periods Ended December 31, 2001 and 2000
(Expressed in United States Dollars)

	2001	2000
	-----	-----
SHARE CAPITAL		
Balance at beginning of period	\$ 12,000	\$ --
Shares issued during the period (Note 5)	--	12,000
	-----	-----
Balance at end of period	12,000	12,000
	-----	-----
SHARE PREMIUM		
Balance at beginning of period	14,988,000	--
Share premium during the period (Note 6)	--	14,988,000
	-----	-----
Balance at end of period	14,988,000	14,988,000
	-----	-----
CONTRIBUTED SURPLUS		
Balance at beginning of period	--	--
Contributed surplus during year (Note 7)	3,436,107	--
	-----	-----
	3,436,107	--
RETAINED DEFICIT		
Balance at beginning of period	(15,269,931)	--
Net loss for the period	(4,115,594)	(15,269,931)
	-----	-----
Balance at end of period	(19,385,525)	(15,269,931)
	-----	-----
Total shareholders' equity	\$ (949,418)	\$ (269,931)
	=====	=====

See accompanying notes to financial statements

TRANSMUCOSAL TECHNOLOGIES LTD.

Statements of Cash Flows

Periods Ended December 31, 2001 and 2000
(Expressed in United States Dollars)

	2001	2000
	-----	-----
CASH FLOWS FROM OPERATING ACTIVITIES		
Net loss	\$ (4,115,594)	\$ (15,269,931)
Adjustments to reconcile net income to net cash		

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provided by operating activities

Accounts payable and accrued expenses	681,631	269,
	-----	-----
Cash used by operating activities	(3,433,963)	(15,000,
	-----	-----
CASH FLOWS FROM FINANCING ACTIVITIES		
Proceeds from issuance of shares	--	15,000,
Contributed surplus	3,436,107	
	-----	-----
Cash provided by financing activities	3,436,107	15,000,
	-----	-----
Net increase in cash and cash equivalents	2,144	
Cash and cash equivalents at beginning of period	--	
	-----	-----
Cash and cash equivalents at end of period	\$ 2,144	\$
	=====	=====

See accompanying notes to financial statements

TRANSMUCOSAL TECHNOLOGIES LTD.

Notes to Financial Statements

December 31, 2001 and 2000

1. GENERAL

Transmucosal Technologies Ltd. (the "Company") was incorporated in Bermuda on July 14, 2000 as Atrix Newco, Ltd. The Company is owned by Atrix Laboratories, Inc. ("Atrix") and Elan International Services Ltd. ("EIS"), a wholly-owned subsidiary of Elan Corporation plc, holding 80.1% and 19.9% (non-voting shares) of the shares respectively. On December 14, 2000 the Company changed its name to Transmucosal Technologies Ltd.

The primary objective of the Company is to carry on the business of the development, testing, registration, manufacturing, commercialization, and licensing of "Products" (as defined in the Subscription, Joint Development and Operating Agreement ("JDOA") dated July 18, 2000 between EIS, Atrix and the Company. The focus of the collaborative venture will be to develop the "Products" using the Elan Intellectual Property, the Atrix Intellectual Property and the Atrix Technology pursuant to the JDOA.

2. SIGNIFICANT ACCOUNTING POLICY

The accompanying financial statements are prepared in accordance with accounting principles generally accepted in the United States of America which require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses

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during the reporting period. Actual results could differ from those estimates. The following are the significant accounting policies adopted by the Company:

(a) Going concern

These financial statements have been prepared on the basis that the Company is a going concern. The Company's ability to continue operating is dependent on achieving profitable operations and/or receiving additional development funding. It is the opinion of management that the Company will be a going concern based on additional development funding as described in Note 7.

TRANSMUCOSAL TECHNOLOGIES LTD.

Notes to Financial Statements

December 31, 2001 and 2000

(b) Research and development costs

Research costs are charged as an expense of the period in which they are incurred. Development costs are deferred to future periods if certain criteria relating to future benefits are satisfied and if the costs do not exceed the expected future benefits.

3. RELATED PARTY TRANSACTIONS

The following table summarizes the Company's related party transactions for the period:

Research and development costs	
paid to shareholders	\$4,091,081

These transactions are in the normal course of operations and are measured at the exchange amount, which is the amount of consideration established and agreed to by the related parties.

4. LICENSE FEE

During fiscal 2000, the Company paid a license fee to Elan Corporation plc in the amount of \$15,000,000 to acquire rights to certain Elan intellectual property. This license fee, which is non-refundable, was expensed in the prior year.

5. SHARE CAPITAL

Voting common shares, of par value US\$1.00 per share
6,000 shares authorised;
6,000 shares issued and outstanding

Non-voting convertible preferred shares, of par value US\$1.00 per share
6,000 shares authorised;

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6,000 shares issued and outstanding

TRANSMUCOSAL TECHNOLOGIES LTD.

Notes to Financial Statements

December 31, 2001 and 2000

At any time after July 18, 2002, each holder of the preferred shares shall have the right to convert all, or a portion, of such preferred shares into common shares on a one-to-one basis, as outlined in the Bye-laws of the Company.

6. SHARE PREMIUM

Share premium represents amounts contributed by shareholders in excess of the par value of the shares subscribed for.

7. DEVELOPMENT FUNDING

It is estimated that the Company may require an initial research and development budget of approximately \$10 million, within the first 24 to 36 months from the date of incorporation, to commence development of the Products based upon the Elan Technology, Atrix Technology and/or Company Technology. The Development Funding shall be applied to the Company's research and development costs associated with development of the products. At December 31, 2001, \$3,436,107 had been contributed as development funding.

8. TAXES

Under current Bermuda law, the Company is not required to pay any taxes in Bermuda on either income or capital gains. The Company has received an undertaking from the Minister of Finance in Bermuda that in the event of such taxes being imposed, the Company will be exempted from taxation until the year 2016.

EXHIBIT INDEX

EXHIBIT NUMBER -----	DESCRIPTION -----
2.1	Agreement and Plan of Reorganization dated November 24, 1998 by and among Atrix Acquisition Corporation and ViroTex Corporation.(1)
2.2	Certificate of Merger of Atrix Acquisition Corporation into ViroTex Corporation 1998.(1)
3.1	Amended and Restated Certificate of Incorporation.(2)

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- 3.2 Certificate of Amendment to Amended and Restated Certificate of Incorporation.(3)
- 3.3 Certificate of Designation of the Series A Preferred Stock filed with the State of California, N.A., as trustee thereunder.(4)
- 3.4 Certificate of Designations of Preferences and Rights of Series A Convertible Preferred Stock filed with the State of Delaware on July 18, 2000.(5)
- 3.5 Ninth Amended and Restated Bylaws.*
- 4.1 Form of Common Stock Certificate.(6)
- 4.2 Indenture, dated November 15, 1997, by and among the Registrant and State Street Bank of California, N.A., as trustee thereunder.(7)
- 4.3 Form of Note (included in Indenture, see Exhibit 4.2).
- 4.4 Amended and Restated Rights Agreement (including form of Right Certificate, as Exhibit A) and Summary of Rights, as Exhibit B).(8)
- 4.5 Warrant to purchase 6,750 shares of Atrix Common Stock issued to Gulfstar Investments, Ltd., or EIS.(5)
- 4.6 Registration Rights Agreement, dated as of July 18, 2000, between Registrant and EIS.(5)
- 4.7 Warrant dated as of July 18, 2000, issued by Registrant to EIS.(5)
- 4.8 Convertible Promissory Note, dated as of July 18, 2000, issued by Registrant to EIS.(5)
- 4.9 Warrant, dated as of April 4, 2001, issued by Atrix Laboratories, Inc. to Ferghana Investments, Ltd.(5)
- 10.1 Lease Agreement dated May 11, 1991 between the Registrant and GB Ventures.(6) 10.2 Lease Agreement dated December 16, 1996 between the Registrant and Block Drug Corporation ("Block Agreement").(6)
- 10.2A First Amendment to Block Agreement dated June 10, 1997.(2)**
- 10.2B Second Amendment to Block Agreement dated July 31, 1997.(2)**
- 10.2C Third Amendment to Block Agreement dated February 4, 1998.(2)**
- 10.2D Fourth Amendment to Block Agreement dated January 12, 1999.(2)**
- 10.2E Fifth Amendment to Block Agreement dated January 27, 1999.(2)**
- 10.2F Sixth Amendment to Block Agreement dated September 24, 1999.(11)**
- 10.2G Eighth Amendment to Block Agreement dated as of August 24, 2001.(12)**
- 10.3 Registration Rights Agreement, dated as of November 15, 1997, by and among Registrant, Montgomery Securities, Inc. and SBC Warburg Dillon Read, Inc.(7)
- 10.4 Amended and Restated Performance Stock Option Plan, as amended.(2)
- 10.5 Non-Qualified Stock Option Plan, as amended.(2)
- 10.6 Non-Employee Director Stock Incentive Plan.(13)

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- 10.7 Employment Agreement between Registrant and Dr. J. Steven Garrett dated April 17
- 10.8 Employment Agreement between Registrant and Dr. David W. Osborne dated November
- 10.9 Employment Agreement between Registrant and Dr. Richard L. Jackson dated Novembe
- 10.10 Personal Services Agreement between Registrant and David R. Bethune dated August
- 10.11 Stock Purchase Agreement, dated as of August 8, 2000, by and between Registrant
- 10.12 Collaborative Research Agreement, dated as of August 8, 2000, by and between Reg
Inc.(14)**
- 10.13 License and Royalty Agreement, dated as of August 8, 2000, by and between Regist
- 10.14 Collaboration, Development and Supply Agreement dated as of August 28, 2000 betw
Pharmaceuticals, Inc.(15)**
- 10.15 Securities Purchase Agreement, dated as of July 18, 2000, between Registrant and
- 10.16 Newco Registration Rights Agreement, dated as of July 18, 2000, among Registrant
Newco, and EIS.(5)
- 10.17 Subscription, Joint Development and Operating Agreement, dated as of July 18, 20
Newco and Elan Pharma International Limited, or EPIL.(5)**
- 10.18 Company License Agreement, dated as of July 18, 2000, among Registrant, Newco an
or Elan.(5)**
- 10.19 EPIL License Agreement, dated as of July 18, 2000 among Elan, EPIL, Newco and Re
- 10.20 Collaboration, License and Supply Agreement, dated as of December 8, 2000, by an
Sanofi-Synthelabo Inc.(16)**
- 10.21 Stock Purchase Agreement, dated as of December 29, 2000, by and between Registra
Sanofi-Synthelabo.(16)
- 10.22 2000 Stock Incentive Plan.(17)
- 10.23 License Agreement by and between Registrant and CollaGenex Pharmaceuticals, Inc.
2001. (12)**
- 10.24 Stock Purchase Agreement by and between Registrant and CollaGenex Pharmaceutical
August 24, 2001.(12)**
- 10.25 Collaboration, License and Supply Agreement by and between Registrant and Fujisa
dated October 15, 2001.(12)**
- 10.26 Collaboration, License and Supply Agreement, dated as of April 4, 2001, by and b
MediGene.(18)**
- 10.27 Stock Purchase Agreement, dated as of April 4, 2001, by and between Registrant a
- 10.28 2001 Executive Long Term Incentive Compensation Program.*
- 21 Subsidiaries of the Registrant. (17)
- 23 Consent of Deloitte & Touche LLP.*
- 23.1 Consent of KPMG.

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- * Previously filed with, and incorporated by reference to, the Registrant's original Annual Report on Form 10-K for the year ended December 31, 2001, as filed with the Securities and Exchange Commission on April 1, 2002 (File No. 000-18321).
- ** We have omitted certain portions of this Exhibit and have requested confidential treatment with respect to such portions.
- (1) Incorporated by reference to Registrant's Current Report on Form 8-K dated November 24, 1998, as filed with the Securities and Exchange Commission (File No. 000-18321).
 - (2) Incorporated by reference to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 1998, as filed with the Securities and Exchange Commission (File No. 000-18321).
 - (3) Incorporated by reference to Registrant's Registration Statement on Form S-3, filed with the Securities and Exchange Commission on June 5, 2001 (File No. 333-55634).
 - (4) Incorporated by reference to Registrant's Registration Statement on Form 8-A, as filed with the Securities and Exchange Commission on October 1, 1998 (File No. 000-18231).
 - (5) Incorporated by reference to Registrant's Current Report on Form 8-K dated July 18, 2000, as filed with the Securities and Exchange Commission on August 4, 2000 (File No. 000-18321).
 - (6) Incorporated by reference to Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 1993, as filed with the Securities and Exchange Commission (File No. 000-18321).
 - (7) Incorporated by reference to Registrant's Current Report on Form 8-K dated November 6, 1997, as filed with the Securities and Exchange Commission on December 9, 1997 (File No. 000-18321).
 - (8) Incorporated by reference to Registrant's Current Report on Form 8-K dated November 16, 2001, as filed with the Securities and Exchange Commission on November 27, 2001 (File No. 000-18231).
 - (9) Incorporated by reference to Registrant's Registration Statement on Form S-3, filed with the Securities and Exchange Commission on February 6, 2002 (File No. 333-82250).
 - (10) Incorporated by reference to Registrant's Current Report on Form 8-K dated December 16, 1996, as amended on May 20, 1998, as filed with the Securities and Exchange Commission (File No. 000-18321).
 - (11) Incorporated by reference to Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 1999, as filed with the Securities and Exchange Commission (File No. 000-18321).
 - (12) Incorporated by reference to Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001 (File No. 000-18231).
 - (13) Incorporated by reference to Registrant's Annual Report on Form 10-K for the year ended December 31, 1999, as filed with the Securities and Exchange Commission (File No. 000-18321).
 - (14) Incorporated by reference to Registrant's Current Report on Form 8-K dated August 8, 2000, as filed with the Securities and Exchange Commission on September 7, 2000 (File No. 000-18321).
 - (15) Incorporated by reference to Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000, as filed with the Securities and Exchange Commission (File No. 000-18321).
 - (16) Incorporated by reference to Registrant's Current Report on Form 8-K dated December 29, 2000, as filed with the Securities and Exchange Commission on February 23, 2001 (File No. 000-18231).
 - (17) Incorporated by reference to Registrant's Annual Report on Form 10-K for the year ended December 31, 2000, as filed with the Securities and Exchange Commission (File No. 000-18231).
 - (18) Incorporated by reference to Registrant's Current Report on Form 8-K dated April 4, 2001, filed with the Securities and Exchange Commission on June 20, 2001 (File No. 000-18231).

