

Sorrento Therapeutics, Inc.
Form 10-K/A
March 27, 2013

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, 2012

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 000-52228

SORRENTO THERAPEUTICS, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)
6042 Cornerstone Ct. West, Suite B
San Diego, California
(Address of Principal Executive Offices)

33-0344842
(I.R.S. Employer
Identification No.)

92121
(Zip Code)

(858) 210-3700

(Registrant's telephone number, including area code)

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

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

Common Stock, par value \$0.0001 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes No

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 the filing requirements for at least the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (Section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) 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.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer
Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

The aggregate market value of voting stock held by non-affiliates of the registrant is calculated based upon the closing sale price of the common stock on June 30, 2012 (the last trading day of the registrant's second fiscal quarter of 2012), as reported on the Over-the-Counter Bulletin Board, and such aggregate market value was approximately \$33,667,189.

At March 22, 2013, the registrant had 336,075,440 shares of common stock outstanding.

EXPLANATORY NOTE

This Amendment No. 1 (this Amendment) to the Annual Report on Form 10-K for the period ended December 31, 2012 (the Form 10-K) of Sorrento Therapeutics, Inc. is being filed for the purpose of furnishing Exhibit 101 to the Form 10-K in accordance with Rule 405 of Regulation S-T. Exhibit 101 to this report provides the consolidated financial statements and related notes from the Form 10-K formatted in eXtensible Business Reporting Language (XBRL). The Interactive Data File Exhibits were incomplete in the earlier filing.

Pursuant to Rule 406T of Regulation S-T, the interactive data files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

No attempt has been made in this Amendment to modify or update the other disclosures presented in the Form 10-K. This Amendment does not reflect events occurring after the filing of the Form 10-K (i.e., occurring after March 25, 2013) or modify or update those disclosures that may be affected by subsequent events. Such subsequent matters are addressed in subsequent reports filed by the registrant with the SEC. Accordingly, this Amendment should be read in conjunction with the Form 10-K and the registrant's other filings with the SEC.

Item 15. Exhibits and Financial Statement Schedules.

(a)(3) Exhibits

| Exhibit No. | Description |
|-------------|---|
| 2.1* | Merger Agreement, dated July 14, 2009, by and among QuikByte Software, Inc., Sorrento Therapeutics, Inc., Sorrento Merger Corp., Inc., the Stockholders Agent and the Parent Representative (incorporated by reference to Exhibit 2.1 to the Registrant's Current Report on Form 8-K filed with the SEC on July 14, 2009). |
| 2.2 | First Amendment to Merger Agreement, dated August 26, 2009, by and among QuikByte Software, Inc., Sorrento Therapeutics, Inc., Sorrento Merger Corp., Inc., the Stockholders Agent and the Parent Representative (incorporated by reference to Exhibit 2.2 to the Registrant's Current Report on Form 8-K filed with the SEC on August 26, 2009). |
| 2.3 | Plan of Conversion (incorporated by reference to Exhibit 2.1 to the Registrant's Current Report on Form 8-K filed with the SEC on October 23, 2009). |
| 3.1 | Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the SEC on October 23, 2009). |
| 3.2 | Certificate of Ownership and Merger (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed with the SEC on December 7, 2009). |
| 3.3 | Bylaws (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed with the SEC on October 23, 2009). |
| 4.1 | Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed with the SEC on October 23, 2009). |
| 9.1 | Form of Stockholder Voting Agreement by and among QuikByte Software, Inc. and the Stockholders of Sorrento Therapeutics, Inc. set forth on the signature page thereto, dated as of July 14, 2009 (incorporated by reference to Exhibit 9.1 to the Registrant's Current Report on Form 8-K filed with the SEC on September 21, 2009). |
| 10.1 | Form of Stock Purchase Agreement, dated September 18, 2009, by and among QuikByte Software, Inc. and the Investors listed on Exhibit A thereto (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on September 21, 2009). |

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| Exhibit No. | Description |
|--------------------|---|
| 10.2 | Escrow Agreement, dated September 21, 2009, by and among QuikByte Software, Inc., the Stockholders Agent, the Parent Representative and Bank of America, N.A. (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K/A filed with the SEC on September 22, 2009). |
| 10.3 | Stock Purchase Agreement dated December 21, 2010 by and among Sorrento Therapeutics, Inc. and the Investors whose names appear on the signature pages thereto (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on December 23, 2010). |
| 10.4 | Stock Purchase Agreement dated December 29, 2011 by and between the Company and Donald R. Scifers 2011 Annuity Trust Y (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on form 8-K filed with the SEC on January 5, 2012). |
| 10.5 | First Amendment to Stock Purchase Agreement, dated February 28, 2012 (the original agreement dated December 29, 2011), by and among Sorrento Therapeutics, Inc. and the Investors whose names appear on the signature pages thereto. (incorporated by reference to Exhibit 10.40 to the Registrant's Quarterly Report on form 10-Q filed with the SEC on May 15, 2012). |
| 10.6 | Second Amendment to Stock Purchase Agreement, dated March 30, 2012 (the original agreement dated December 29, 2011), by and among Sorrento Therapeutics, Inc. and the Investors whose names appear on the signature pages thereto. (incorporated by reference to Exhibit 10.41 to the Registrant's Quarterly Report on form 10-Q filed with the SEC on May 15, 2012). |
| 10.7 | Amended and Restated Stock Purchase Agreement dated May 14, 2012 by and between the Company and the investors whose names appear on the signature pages thereof. (incorporated by reference to Exhibit 10.1 to Registrant's Current Report on form 8-K filed with the SEC on May 14, 2012). |
| 10.8 | Standard Multi-Tenant Office Lease-Net, dated July 28, 2008, by and between Sorrento Therapeutics, Inc. and Suntree Garden, LLC (incorporated by reference to Exhibit 10.6 to the Registrant's Current Report on Form 8-K filed with the SEC on September 21, 2009). |
| 10.9 | First Amendment to Office Lease, dated August 18, 2009, by and between Sorrento Therapeutics, Inc. and Suntree Garden, LLC (incorporated by reference to Exhibit 10.7 to the Registrant's Current Report on Form 8-K filed with the SEC on September 21, 2009). |
| 10.10 | Second Amendment to Office Lease, dated October 1, 2009, by and between Sorrento Therapeutics, Inc. and Suntree Garden, LLC (incorporated by reference to Exhibit 10.10 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 25, 2010). |
| 10.11 | Third Amendment to Office Lease, dated November 11, 2010, by and between Sorrento Therapeutics, Inc. and Suntree Garden, LLC (incorporated by reference to Exhibit 10.12 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 30, 2012). |
| 10.12 | Fourth Amendment to Office Lease, dated January 17, 2011, by and between Sorrento Therapeutics, Inc. and Suntree Garden, LLC (incorporated by reference to Exhibit 10.13 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 30, 2012). |
| 10.13 | Fifth Amendment to Office Lease, dated February 9, 2012, by and between Sorrento Therapeutics, Inc. and Suntree Garden, LLC (incorporated by reference to Exhibit 10.14 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 30, 2012). |
| 10.14 | Sixth Amendment to Office Lease, dated June 20 2012, by and between Sorrento Therapeutics, Inc. and Suntree Garden, LLC. (incorporated by reference to Exhibit 10.15 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2012). |

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| Exhibit No. | Description |
|-------------|--|
| 10.15 | Share Purchase Agreement, dated June 10, 2009, by and between Sorrento Therapeutics, Inc. and OPKO Health, Inc. (incorporated by reference to Exhibit 10.8 to the Registrant's Current Report on Form 8-K filed with the SEC on September 21, 2009). |
| 10.16 | Limited License Agreement, dated June 10, 2009, by and between Sorrento Therapeutics, Inc. and OPKO Health, Inc. (incorporated by reference to Exhibit 10.9 to the Registrant's Current Report on Form 8-K filed with the SEC on September 21, 2009). |
| 10.17+ | Patent Assignment Agreement, dated June 10, 2009, by and between Henry H. Ji and Sorrento Therapeutics, Inc. (incorporated by reference to Exhibit 10.10 to the Registrant's Current Report on Form 8-K filed with the SEC on September 21, 2009). |
| 10.18+ | License Agreement, dated January 8, 2010, by and between The Scripps Research Institute and the Company (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on May 14, 2010). |
| 10.19± | Form of Stock Option Agreement (incorporated by reference to Exhibit 10.11 to the Registrant's Current Report on Form 8-K/A filed with the SEC on September 22, 2009). |
| 10.20± | Form of Indemnity Agreement (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on October 23, 2009). |
| 10.21± | Form of Indemnification Agreement (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on August 7, 2012). |
| 10.22± | 2009 Stock Incentive Plan, and forms of agreements related thereto (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the SEC on October 23, 2009). |
| 10.23± | 2009 Equity Incentive Plan, and forms of agreement related thereto (incorporated by reference to Exhibit 10.17 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 25, 2010). |
| 10.24± | Employment Agreement, dated September 21, 2012, by and between Sorrento Therapeutics, Inc. and Henry Ji, Ph.D. (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on November 8, 2012). |
| 10.25± | First Amendment to Employment Agreement dated October 18, 2012, by and between Sorrento Therapeutics, Inc. and Henry Ji, Ph.D. (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on November 8, 2012). |
| 10.26± | Employment Agreement, dated September 21, 2012, by and between Sorrento Therapeutics, Inc. and Richard G. Vincent (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on November 8, 2012). |
| 10.27± | First Amendment to Employment Agreement, dated October 18, 2012, by and between Sorrento Therapeutics, Inc. and Richard G. Vincent (incorporated by reference to Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on November 8, 2012). |
| 10.28±~ | Independent Director Compensation Policy |
| 10.29±~ | Stock Option Cancellation Agreement and Option Amendment, dated September 30, 2012, by and between Sorrento Therapeutics, Inc. and Richard G. Vincent. |
| 10.30±~ | Stock Option Cancellation Agreement, dated October 17, 2012, by and between Sorrento Therapeutics, Inc. and David Webb, Ph.D. |
| 23.1~ | Consent of Mayer Hoffman McCann P.C. |

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| Exhibit No. | Description |
|--------------------|---|
| 31.1 | Certification of Henry Ji, Ph.D., Principal Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, as amended. |
| 31.2 | Certification of Richard Glenn Vincent, Principal Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, as amended. |
| 32.1 | Certification of Henry Ji, Ph.D., Principal Executive Officer, and Richard Glenn Vincent, Principal Financial Officer, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, as amended. |
| 101.INS** | XBRL Instance Document |
| 101.SCH** | XBRL Taxonomy Extension Schema Document |
| 101.CAL** | XBRL Taxonomy Extension Calculation Linkbase Document |
| 101.DEF** | XBRL Taxonomy Extension Definition Linkbase Document |
| 101.LAB** | XBRL Taxonomy Extension Label Linkbase Document |
| 101.PRE** | XBRL Taxonomy Extension Presentation Linkbase Document |

* Non-material schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Registrant hereby undertakes to furnish supplementally copies of any of the omitted schedules and exhibits upon request by the SEC.

** Pursuant to Rule 406T of Regulation S-T, these interactive data files are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933 or Section 18 of the Securities Act of 1934 and otherwise not subject to liability.

+ The SEC has granted confidential treatment with respect to certain portions of this exhibit. Omitted portions have been filed separately with the SEC.

± Management contract or compensatory plan.

~ Filed with Annual Report on Form 10-K on March 25, 2013.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Amendment No. 1 to its Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: March 26, 2013

SORRENTO THERAPEUTICS, INC.

By: /s/ Richard G. Vincent
Director, Chief Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this Amendment No. 1 to the Annual Report on Form 10-K has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

| Signature | Title(s) | Date |
|------------------------|---|----------------|
| /s/ HENRY JI | Director, Chief Executive Officer | March 26, 2013 |
| Henry Ji, Ph.D. | & President <i>(Principal Executive Officer)</i> | |