

Celator Pharmaceuticals Inc
Form SC TO-T/A
July 12, 2016

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

SCHEDULE TO
Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934
(Amendment No. 4)

Celator Pharmaceuticals, Inc.
(Name of Subject Company)

Plex Merger Sub, Inc.
(Name of Offeror)

An Indirect Wholly-Owned Subsidiary of

Jazz Pharmaceuticals Public Limited Company
(Name of Offerors)

(Names of Filing Persons (identifying status as offeror, issuer or other person))

Common Stock, par value \$0.001 per share

(Title of Class of Securities)

15089R102

(CUSIP Number of Class of Securities)

Suzanne Sawochka Hooper, Esq.

Executive Vice President and General Counsel

Jazz Pharmaceuticals Public Limited Company

c/o Jazz Pharmaceuticals, Inc.

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CALCULATION OF FILING FEE

Transaction Valuation*

\$1,525,877,169.75

Amount of Filing Fee**

\$153,655.83

* Estimated solely for purposes of calculating the filing fee. The transaction valuation was calculated by adding (i) 42,966,043 outstanding shares of common stock of Celator Pharmaceuticals, Inc. (Celator), par value \$0.001 per share (the Shares), multiplied by the offer price of \$30.25 per Share, (ii) 5,395,386 Shares issuable pursuant

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to outstanding options with an exercise price less than the offer price of \$30.25 per Share, multiplied by \$27.78, which is the offer price of \$30.25 per Share minus the weighted average exercise price for such options of \$2.47 per Share, (iii) 2,871,632 Shares issuable pursuant to outstanding warrants with an exercise price less than the offer price of \$30.25 per Share, multiplied by \$26.56, which is the offer price of \$30.25 per Share minus the weighted average exercise price for such warrants of \$3.69 per Share. The calculation of the filing fee is based on information provided by Celator as of June 7, 2016.

** The amount of the filing fee is calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory #1 for fiscal year 2016, issued August 27, 2015 by multiplying the transaction value by .0001007.

x Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$153,655.83 Filing Party: Jazz Pharmaceuticals

Public Limited Company and Plex Merger Sub, Inc.
Form or Registration No.: Schedule TO Date Filed: June 10, 2016

.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

x third-party tender offer subject to Rule 14d-1.

.. issuer tender offer subject to Rule 13e-4.

.. going-private transaction subject to Rule 13e-3.

.. amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer. x

This Amendment No. 4 (this Amendment) amends and supplements the Tender Offer Statement on Schedule TO (as amended and together with any subsequent amendments and supplements thereto, the Schedule TO), filed with the Securities and Exchange Commission on June 10, 2016 by Plex Merger Sub, Inc., a Delaware corporation (Purchaser) and an indirect wholly-owned subsidiary of Jazz Pharmaceuticals plc, a public limited company organized under the laws of Ireland (Parent). The Schedule TO relates to the offer by Purchaser to purchase all of the outstanding shares of common stock, par value \$0.001 per share (the Shares), of Celator Pharmaceuticals, Inc., a Delaware corporation (Celator), at \$30.25 net to the seller in cash, without interest (less any required withholding taxes), upon the terms and subject to the conditions set forth in the Offer to Purchase, dated June 10, 2016 (together with any amendments and supplements thereto, the Offer to Purchase), and in the related letter of transmittal (the Letter of Transmittal), copies of which are attached hereto as Exhibits (a)(1)(i) and (a)(1)(ii), respectively, which Offer to Purchase and Letter of Transmittal collectively constitute the Offer.

The information in the Offer to Purchase and the Letter of Transmittal is incorporated in this Amendment by reference to all of the applicable items in the Schedule TO, except that such information is amended and supplemented to the extent specifically provided in this Amendment. Capitalized terms used and not otherwise defined in this Amendment shall have the meanings assigned to such terms in the Offer to Purchase or in the Schedule TO.

Amendments to the Offer to Purchase

Items 1 through 9; Item 11.

The Offer to Purchase and Items 1 through 9 and Item 11 of the Schedule TO are hereby amended and supplemented as follows:

At one minute following 11:59 p.m., New York City time, on July 11, 2016, the Offer expired as scheduled and was not extended. Purchaser was advised by the Depository that, as of the Expiration Date, a total of 36,516,173 Shares (excluding shares tendered pursuant to guaranteed delivery procedures that have not yet been received, as defined by Section 251(h)(6) of the DGCL) were validly tendered into and not properly withdrawn from the Offer, representing approximately 81.13% of the Shares outstanding as of the Expiration Date. In addition, the Depository advised that Notices of Guaranteed Delivery have been delivered with respect to 2,016,237 additional Shares, representing approximately 4.48% of the outstanding Shares as of the Expiration Date.

The number of Shares tendered pursuant to the Offer satisfied the Minimum Tender Condition. All conditions to the Offer having been satisfied, Purchaser accepted for payment and will promptly pay for all Shares validly tendered into and not properly withdrawn from the Offer.

Promptly following the consummation of the Offer, Parent and Purchaser intend to complete the acquisition of Celator through the Merger without a meeting of stockholders of Celator in accordance with Section 251(h) of the DGCL. At the Effective Time, each Share then outstanding (other than Shares that were held by any stockholders who properly demanded appraisal in connection with the Merger as described in Section 16 Certain Legal Matters; Regulatory Approvals Appraisal Rights of the Offer to Purchase) will be converted into the right to receive the Offer Price, in cash and without interest except for Shares held by Celator, Parent or Purchaser, which Shares will be cancelled and retired and cease to exist, and no consideration will be delivered in exchange therefor.

Following the Merger, the Shares will be delisted and will cease to trade on NASDAQ.

On July 12, 2016, Parent issued a press release announcing the expiration and results of the Offer. The full text of the press release is attached as Exhibit (a)(5)(iii) to the Schedule TO and is incorporated herein by reference.

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibit:

Exhibit No.	Description
(a)(5)(iii)	Press Release issued by Parent, dated July 12, 2016

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Date: July 12, 2016

Plex Merger Sub, Inc.

By: /s/ Matthew P. Young
Name: Matthew P. Young
Title: Treasurer

Jazz Pharmaceuticals plc

By: /s/ Matthew P. Young
Name: Matthew P. Young
Title: Executive Vice President,
Chief Financial Officer

Item 12. Exhibits.

Exhibit No.	Description
(a)(1)(i)	Offer to Purchase, dated as of June 10, 2016*
(a)(1)(ii)	Form of Letter of Transmittal (including Internal Revenue Service Form W-9)*
(a)(1)(iii)	Form of Notice of Guaranteed Delivery*
(a)(1)(iv)	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees*
(a)(1)(v)	Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees*
(a)(1)(vi)	Summary Advertisement, as published in <i>The New York Times</i> on June 10, 2016*
(a)(5)(i)	Press Release issued by Parent, dated May 31, 2016 (incorporated by reference to the Current Report on Form 8-K filed by Parent on May 31, 2016)
(a)(5)(ii)	Press Release issued by Parent, dated June 29, 2016*
(a)(5)(iii)	Press Release issued by Parent, dated July 12, 2016
(b)(1)	Credit Agreement, dated as of June 18, 2015, among Parent, Jazz Securities Limited, Jazz Pharmaceuticals, Inc., Jazz Financing I Limited, Jazz Pharmaceuticals Ireland Limited, the lenders party thereto and Bank of America, N.A., as Collateral Agent, Administrative Agent, Swing Line Lender and L/C Issuer (incorporated by reference to the Current Report on Form 8-K filed by Parent on June 18, 2015)
(c)	Not applicable
(d)(1)	Agreement and Plan of Merger, dated as of May 27, 2016, among Celator, Parent and Purchaser (incorporated by reference to the Current Report on Form 8-K filed by Parent on May 31, 2016)
(d)(2)	Form of Tender and Support Agreement, dated as of May 27, 2016, among Parent, Purchaser and certain stockholders of Celator (incorporated by reference to the Current Report on Form 8-K filed by Parent on May 31, 2016)
(d)(3)	Confidential Disclosure Agreement, dated December 22, 2014, by and between Parent and Celator*
(e)	Not applicable
(f)	Not applicable
(g)	Not applicable
(h)	Not applicable

* Previously filed.