

NEUROGEN CORP
Form SC 13D
August 31, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934

NEUROGEN CORPORATION

(Name of Issuer)

Common Stock, \$0.025 par value per share

(Title of Class of Securities)

6412E106

(CUSIP Number)

Charles Berkman

Ligand Pharmaceuticals Incorporated

10275 Science Center Drive

San Diego, CA 92121

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(858) 550-7835

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

Copy to: Hayden Trubitt

Stradling Yocca Carlson & Rauth

4365 Executive Drive, Suite 1500

San Diego, CA 92121

(858) 926-3000

August 23, 2009

(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. "

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

(Continued on following pages)

(Page 1 of 8 Pages)

(1) Names of Reporting Persons

Ligand Pharmaceuticals Incorporated

(2) Check the Appropriate Box if a Member of a Group (see instructions)

(a) ..

(b) ..

(3) SEC Use Only

(4) Source of Funds (see instructions)

N/A

(5) Check if Disclosure of Legal Proceedings is Required Pursuant to Item 2(d) or 2(e) ..

(6) Citizenship or Place of Organization

Delaware

(7) Sole Voting Power

Number of

0

Shares

(8) Shared Voting Power

Beneficially

Owned by

26,577,339 (i) (see Item 5)

Each

(9) Sole Dispositive Power

Reporting

Person

0

(10) Shared Dispositive Power

With

0

(11) Aggregate Amount Beneficially Owned by Each Reporting Person

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26,577,339 (see Item 5)

(12) Check if the Aggregate Amount in Row 11 Excludes Certain Shares (see instructions)

(13) Percent of Class Represented by Amount in Row 11

36.1%

(14) Type of Reporting Person (see instructions)

CO

(i) Includes certain shares issuable upon exercise of warrants and stock options.

Item 1. Security and Issuer

This statement relates to the Common Stock, \$0.025 par value per share (the Shares), of Neurogen Corporation (the Issuer), and the principal executive offices of the Issuer are located at 45 Northeast Industrial Road, Branford, Connecticut 06405.

Item 2. Identity and Background

This statement is being filed pursuant to Rule 13d-1 under the Securities Exchange Act of 1934, as amended (the Exchange Act), by Ligand Pharmaceuticals Incorporated, a Delaware corporation (Ligand). Ligand's principal business is drug discovery and development. The address of the principal business and of the principal office of Ligand is 10275 Science Center Drive, San Diego, California 92121.

The name, business address, present principal occupation or employment and citizenship of each director and executive officer of Ligand is set forth on Schedule A attached hereto.

During the last five years, none of Ligand or any of the persons listed on Schedule A has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

Item 3. Source and Amount of Funds or Other Consideration

Reference is made to the Voting Agreements and to the Merger, each as defined in Item 6 below.

This statement is being filed with respect to the acquisition of shared voting power pursuant to, and with respect to the Shares subject to, the respective Voting Agreements. Ligand did not pay or commit to pay any cash to procure the Voting Agreements. No cash will be paid in or in connection with the Merger to Issuer stockholders except, under certain circumstances, as a pass-through of a portion of certain specified payments (if any) which may be made by third-party purchasers or licensees of assets now owned by the Issuer.

Item 4. Purpose of Transaction

This statement is being filed in connection with the Merger Agreement (as defined in Item 6 below) and the Voting Agreements.

Except as set forth in this statement and as expressly contemplated by the Merger Agreement (including the Merger), Ligand does not have any plan or proposals that relate to or would result in any of the transactions described in subparagraphs (a) through (j) of Item 4 of Schedule 13D.

Following the Merger, the Shares will no longer be traded on NASDAQ, there will be no public market for the Shares, and registration of the Shares under the Exchange Act will be terminated.

Item 5. Interest in Securities of the Issuer

(a) and (b) Other than those Shares that may be deemed to be beneficially owned in connection with the Voting Agreements, Ligand has not acquired and does not beneficially own any Shares. None of the persons named in Schedule A hereto beneficially own any Shares apart from any beneficial interest reported by Ligand hereunder.

As a result of the Voting Agreements, Ligand may be deemed to have the power to vote up to an aggregate of 26,577,339 Shares in favor of approval of the Merger, and thus, for the purpose of Rule 13d-3 promulgated under the Exchange Act, Ligand may be deemed to possess shared voting power and to be the beneficial owner of an aggregate of 26,577,339 Shares. Such Shares that may be deemed to be beneficially owned by Ligand constitute approximately 36.1% of the Shares outstanding as of August 23, 2009 (as calculated in accordance with Exchange Act Rule 13d-3).

Schedule B attached hereto contains the names of the Stockholders (Ligand's counterparties as to the respective Voting Agreements see Item 6 below) and the numbers of Shares beneficially held by each Stockholder.

(c) Except for the Voting Agreements described above, to the knowledge of Ligand, no transactions in the Shares have been effected during the past 60 days by Ligand or any person named in Schedule A.

(d) Ligand does not have, and to the knowledge of Ligand no other person than the respective Stockholders has, the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, the 26,577,339 Shares reported herein.

(e) Inapplicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

On August 23, 2009, Ligand, the Issuer and Neon Signal, LLC, a Delaware limited liability company and wholly-owned subsidiary of Ligand (Merger Sub) entered into an Agreement and Plan of Merger (the Merger Agreement) pursuant to which Merger Sub will, subject to the satisfaction or waiver of the conditions therein, merge with and into the Issuer, the separate corporate existence of Merger Sub shall cease and the Issuer shall be the successor or surviving corporation of the merger (the Merger), and a wholly-owned subsidiary of Ligand.

Upon the consummation of the Merger, (i) the Issuer will be acquired by and become a wholly-owned subsidiary of Ligand and (ii) each Share will be converted into the right to receive Ligand common stock, in an amount calculated pursuant to a formula contained in the Merger Agreement, and a pro rata allocation of contingent value rights and (potentially) cash and/or third-party stock.

The Merger is subject to approval by the Issuer stockholders and other closing conditions.

As an inducement for Ligand to enter into the Merger Agreement, and in consideration thereof, Ligand procured and entered into (i) voting agreements with Stephen R. Davis and Warburg Pincus Private Equity VIII, L.P., each dated August 23, 2009, and (ii) voting agreements with Baker Brothers Life Sciences, L.P., Baker Biotech Fund I, L.P., Baker Bros. Investments, L.P., Baker/Tisch Investments, L.P., Baker Bros. Investments II, L.P., Julian Baker, and FBB Associates, each dated August 22, 2009 (all together, the Stockholders; and all together, the Voting Agreements). Pursuant to their terms, the Voting Agreements became effective on August 23, 2009 upon the execution of the Merger Agreement by all parties to the Merger Agreement.

Each Stockholder, in its respective Voting Agreement, agreed, on the terms and subject to the conditions of the Voting Agreement, to: (i) vote all of the Shares owned of record and/or beneficially owned by such Stockholder or over which such Stockholder exercises sole voting power, including any after-acquired shares, (A) in favor of the approval of the Merger and adoption of the Merger Agreement; (B) against any Acquisition Proposal or Superior Proposal (each as defined in the Merger Agreement); and (C) against any proposal or transaction which would reasonably be expected to prevent or delay the consummation of the Merger or the Merger Agreement; and (ii) not enter into any agreement or understanding with any person or entity the effect of which would be materially inconsistent with or violative of any provision contained in the foregoing clause (i).

Each respective Voting Agreement automatically terminates upon the earliest to occur of the following: (i) such date and time as the Merger shall become effective in accordance with the terms and provisions of the Merger Agreement; (ii) such date and time as the Merger Agreement shall have been validly terminated pursuant to Article VII thereof; or (iii) the date and time of any amendment, modification, change or waiver, which waiver is made at the request of, or with the consent of, Ligand, Merger Sub or their respective representatives, to the terms of the Merger Agreement or one or more of the CVR Agreements (as defined in the Merger Agreement) executed after the date thereof that (a) is not consented to in writing by such Stockholder in such Stockholder's sole discretion and (b) is or results in (w) any change (adverse-to-such-Stockholder) in the Exchange Ratio as defined in the Merger Agreement as of the date thereof, or (x) any change (adverse-to-such-Stockholder) to the economic terms of the CVRs (as defined in

the Merger Agreement) as set forth in the Merger Agreement and the forms of CVR Agreements attached thereto, as they exist on the date thereof, or (y) any change to the Merger Agreement provisions governing the economic terms of any potential cash payment that may be paid to the Company's stockholders (including such Stockholder) before the Merger as permitted by Section 2.06(a)(iii) of the Merger Agreement, or (z) any change in the form of consideration payable pursuant to the Merger Agreement or the CVR Agreements as in effect on the date thereof (provided that the addition of consideration in any form, without the reduction or elimination of any part of the full amount of each respective form of consideration as called for in the Merger Agreement or the CVR Agreements as in effect on the date thereof, shall not be considered such a change in the form of consideration).

Pursuant to an Irrevocable Proxy (the Proxy) delivered by each respective Stockholder in connection with the execution and delivery of such Stockholder's Voting Agreement, each respective Stockholder appointed John Higgins and Charles Berkman (who are executive officers of Ligand) as such Stockholder's agents, attorneys-in-fact and proxies, with full power of substitution and resubstitution, to, subject to the terms and conditions of the Proxy, vote in the manner described in clause (i), above, the shares of Common Stock owned of record and/or beneficially owned by such Stockholder. The Proxy automatically terminates upon the termination of the corresponding Voting Agreement.

The foregoing descriptions of the Merger Agreement, the Voting Agreements and the Proxies do not purport to be complete and are qualified in their entirety by reference to such agreements. A copy of the Merger Agreement, listed as Exhibit 1 hereto, is incorporated by reference to Exhibit 10.1 to Ligand's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 24, 2009. A copy of the form of Voting Agreement and form of Proxy, listed as Exhibit 2 hereto, is incorporated by reference to Exhibit 10.6 to Ligand's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 24, 2009.

Except for the Merger Agreement, the Voting Agreements and the Proxies, there are no contracts, arrangements, understandings or relationships (legal or otherwise) with respect to any securities of the Issuer, including, but not limited to, transfer or voting of any of the securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guarantees of profits, division of profits or loss, or the giving or withholding of proxies, between (i) Ligand and its directors and executive officers, and (ii) any other person.

Item 7. Materials to be Filed as Exhibits

- Exhibit 1 Agreement and Plan of Merger, dated as of August 23, 2009, among Ligand Pharmaceuticals Incorporated, Neon Signal, LLC and Neurogen Corporation (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by Ligand Pharmaceuticals Incorporated with the SEC on August 24, 2009).
- Exhibit 2 Form of Voting Agreement and Irrevocable Proxy, dated August 23, 2009 (as to first two persons) or August 22, 2009 (as to last seven persons), entered into with Ligand Pharmaceuticals Incorporated by each of Warburg Pincus Private Equity VIII, L.P., Stephen R. Davis, Baker Brothers Life Sciences, L.P., Baker Biotech Fund I, L.P., Baker Bros. Investments, L.P., Baker/Tisch Investments, L.P., Baker Bros. Investments II, L.P., Julian Baker, and FBB Associates (incorporated by reference to Exhibit 10.6 to the Current Report on Form 8-K filed by Ligand Pharmaceuticals Incorporated with the SEC on August 24, 2009).

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: August 31, 2009

LIGAND PHARMACEUTICALS INCORPORATED

By: /s/ Charles S. Berkman
Charles S. Berkman, Vice President,

General Counsel and Secretary

Attention: **Intentional misstatements or omissions of fact constitute Federal criminal violations (see 18 U.S.C. 1001).**

DIRECTORS AND EXECUTIVE OFFICERS OF LIGAND PHARMACEUTICALS INCORPORATED

The name, business address, title, present principal occupation or employment of each of the directors and executive officers of Ligand are set forth below. Each director's or executive officer's business address is 10275 Science Center Drive, San Diego, CA 92121. Each occupation set forth opposite an individual's name refers to Ligand (unless otherwise specified) and each of the persons listed below are citizens of the United States of America.

Name	Present Principal Occupation
Jason M. Aryeh	Director; Managing General Partner of JALAA Equities, LP
Steven J. Burakoff	Director; Director of the Tisch Cancer Institute at Mount Sinai Medical Center (New York, New York)
Todd C. Davis	Director; Managing Director of Cowen Healthcare Royalty Partners, LLC
John L. Higgins	President, Chief Executive Officer and Director
David M. Knott	Director; Chief Investment Manager of Knott Partners Management and of Dorset Management
John W. Kozarich	Chairman of the Board of Directors; Chairman and President of ActivX Biosciences, Inc., a subsidiary of KYORIN Pharmaceutical Co., Ltd.
Stephen L. Saba	Director; Research Analyst and Bio Fund Manager for Knott Partners Management
Charles S. Berkman	Vice President, General Counsel and Secretary
Syed M.I. Kazmi	Vice President, Business Development and Strategic Planning
Martin D. Meglasson	Vice President, Discovery Research
John P. Sharp	Vice President, Finance and Chief Financial Officer

SCHEDULE B

The following information is based upon holdings information set forth by the applicable Stockholders in the Voting Agreements or provided by the Issuer.

Stockholder	Shares Beneficially Owned	Notes
Stephen R. Davis	574,634	(1)
Warburg Pincus Private Equity VIII, L.P.	16,071,402	(2)
Baker Brothers Life Sciences, L.P.	4,364,404	(3)
Baker Biotech Fund I, L.P.	4,152,334	(4)
Baker Bros. Investments, L.P.	435,302	(5)
Baker/Tisch Investments, L.P.	398,224	(6)
Baker Bros. Investments II, L.P.	384,306	(7)
Julian Baker	138,233	(8)
FBB Associates	58,500	

- (1) Includes 413,303 Shares issuable upon exercise of vested options; includes 95,581 shares held in 401(k) plan.
- (2) Includes 2,499,991 Shares issuable upon exercise of outstanding warrants.
- (3) Includes 685,581 Shares issuable upon exercise of outstanding warrants.
- (4) Includes 652,275 Shares issuable upon exercise of outstanding warrants.
- (5) Includes 68,380 Shares issuable upon exercise of outstanding warrants.
- (6) Includes 62,566 Shares issuable upon exercise of outstanding warrants.
- (7) Includes 60,382 Shares issuable upon exercise of outstanding warrants.
- (8) Includes 122,033 Shares issuable upon exercise of outstanding warrants and vested options. Mr. Baker may also be deemed to beneficially own some or all of the shares beneficially owned by each of the other stockholders (other than Stephen R. Davis and Warburg Pincus Private Equity VIII, L.P.) listed in this table.