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MYLAN LABORATORIES INC

Form SC 13D/A

November 19, 2004

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

SCHEDULE 13D

Under the Securities Exchange Act of 1934
(Amendment No. 3)*

Mylan Laboratories Inc.
(Name of Issuer)

Common Stock, par value \$.50 per share
(Title of Class of Securities)

628530107
(CUSIP Number)

Keith Schaitkin, Esq.
Associate General Counsel
Icahn Associates Corp. & affiliated companies
767 Fifth Avenue, 47th Floor
New York, New York 10153
(212) 702-4380

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

November 19, 2004
(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 Section 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- for other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

SCHEDULE 13D

Item 1. Security and Issuer

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This Schedule 13D filed by the Registrants with the U.S. Securities and Exchange Commission on September 7, 2004 as amended on September 17, 2004 and November 1, 2004, relates to the common shares, \$.50 par value (the "Shares"), of Mylan Laboratories Inc., a Pennsylvania corporation (the "Issuer") is amended to furnish information as set forth herein. All capitalized terms not otherwise defined shall have the meaning ascribed to such terms in the previously filed statement on Schedule 13D.

Item 4. Purpose of Transaction

Item 4 is hereby amended to add the following:

On November 19, 2004, High River delivered a letter to the Issuer, which letter is attached hereto as Exhibit 1, and is incorporated herein in its entirety.

SECURITY HOLDERS ARE ADVISED TO READ THE PROXY STATEMENT AND OTHER DOCUMENTS RELATED TO SOLICITATION OF PROXIES BY MR. ICAHN AND HIS AFFILIATES FROM THE STOCKHOLDERS OF MYLAN LABORATORIES INC. FOR USE AT ITS SPECIAL MEETING WHEN AND IF THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. WHEN COMPLETED, A DEFINITIVE PROXY STATEMENT AND A FORM OF PROXY WILL BE MAILED TO STOCKHOLDERS OF MYLAN LABORATORIES INC. AND WILL BE AVAILABLE AT NO CHARGE AT THE SECURITIES AND EXCHANGE COMMISSION'S WEBSITE AT [HTTP://WWW.SEC.GOV](http://www.sec.gov). INFORMATION RELATING TO THE PARTICIPANTS IN A PROXY SOLICITATION IS CONTAINED IN THE SCHEDULE 14A FILED BY MR. ICAHN AND HIS AFFILIATES WITH THE SECURITIES AND EXCHANGE COMMISSION ON OCTOBER 14, 2004 WITH RESPECT TO MYLAN LABORATORIES INC. THAT SCHEDULE 14A IS CURRENTLY AVAILABLE AT NO CHARGE ON THE SECURITIES AND EXCHANGE COMMISSION'S WEBSITE.

Item 7. Material to be Filed as Exhibits

1. Letter dated November 19, 2004 from High River to the Issuer.

SIGNATURE

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

Dated: November 19, 2004

BARBERRY CORP.

By: /s/ Edward E. Mattner
Name: Edward E. Mattner
Title: Authorized Signatory

HOPPER INVESTMENTS LLC
By: BARBERRY CORP., Sole Member

By: /s/ Edward E. Mattner
Name: Edward E. Mattner

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Title: Authorized Signatory

HIGH RIVER LIMITED PARTNERSHIP

By: HOPPER INVESTMENTS LLC, General Partner

By: BARBERRY CORP., Sole Member

By: /s/ Edward E. Mattner

Name: Edward E. Mattner

Title: Authorized Signatory

/s/ Carl C. Icahn

CARL C. ICAHN

/s/ Gail Golden

GAIL GOLDEN

[Signature Page of Amendment No. 3 to Schedule 13D with respect to Mylan]

High River Limited Partnership
767 Fifth Avenue - 47th Floor
New York, New York 10153

November 19, 2004

Board of Directors
Mylan Laboratories, Inc.
1500 Corporate Drive - Suite 400
Canonsburg, Pennsylvania 15317-8574

Ladies and Gentlemen:

Over the course of a lengthy conversation held in our office on September 10, 2004, Mr. Coury led us to understand, in substance, that he wanted Mylan to engage in the King Pharmaceuticals, Inc. ("King") acquisition because of his skepticism regarding the future growth potential of the generic drug industry and his belief that the acquisition of King was the best and basically the only alternative for Mylan. However, as the largest Mylan shareholder, we are not persuaded that there is no growth potential in the generic drug industry and we believe that there are much better alternatives for Mylan than the acquisition of King. In fact, in light of the many risks associated with King, we believe that an acquisition of King would be an egregious mistake. We are therefore making the proposal set forth below.

We are willing to purchase Mylan at \$20 per share. (1) We would be prepared

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to enter into an acquisition contract with Mylan without requiring a break-up fee. This would allow Mylan to seek alternative buyers while we are doing a customary due diligence. In this regard, we have had informal discussions that lead us to believe that at least three synergistic buyers would also have an interest in acquiring Mylan on, but only on, a friendly basis. To our knowledge, Mylan has not previously shown any indication to competitors that it would be willing to entertain "friendly" bids and offer due diligence. However, it should be noted that there can be no assurance that such transactions would emerge.

If you determine that you cannot at this time put Mylan up for sale or grant due diligence because of the current King contract, we are willing to stand by our \$20 per share proposal until such time that either Mylan shareholders vote the King deal down or you determine that you are legally free to put Mylan up for sale and grant due diligence.

In order to underscore the sincerity of our proposal, we are prepared to negotiate an agreement not to wage a proxy fight to unseat Mr. Coury and the existing Mylan Board during the next 2 years (thereby, in our opinion, putting our existing investment in Mylan of over \$450 million at risk), if we do not proceed with the acquisition following the completion of due diligence. We anticipate that diligence would not take more than 6 weeks. We are ready to meet with you as soon as possible.

1 As you are aware the contract with King contemplates other offers and provides for a break-up fee in that regard.

By entering into the King agreement, the Board has determined to change the direction of Mylan from a generics company to a much riskier hybrid focusing on branded products. The Board appears willing to pay \$4 billion to accomplish this transition and what is even more preposterous, the Board appears willing to allow an untested Robert Coury to run this new and highly complicated venture. Additionally, the recent developments at King have highlighted the tremendous risks inherent in this acquisition, about which we have been complaining, and have turned the entire situation into a three-ring circus.

The corporate scandals of the past few years have brought a major sea change concerning directors and their personal responsibility. Board members can no longer blithely hide behind the business judgment rule and opinion letters of advisors when exercising their corporate authority. We believe that now, more than ever, shareholders of companies, our courts and the citizens of our country at large, demand that boards act responsibly and be held responsible for their actions. If the Board determines to proceed with any new King acquisition without first submitting to shareholders the alternative outlined above, such action would, in our view, constitute a quintessential example of a board abrogating its responsibility. Do not doubt that we will hold Mylan's Board members personally responsible for any breach of fiduciary duty associated with these matters.

Very truly yours,

High River Limited Partnership

By: Hopper Investments LLC,
its general partner

By: Barberry Corp., sole member

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By: /s/ Carl C. Icahn

Name: Carl C. Icahn

Title: Chairman of the Board