

MAP Pharmaceuticals, Inc.  
Form 424B5  
January 28, 2010  
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**Prospectus Supplement**

**Filed pursuant to Rule 424(b)(5)**

**To Prospectus dated November 11, 2009**

**Registration Statement No. 333-157339**

## **MAP Pharmaceuticals, Inc.**

### **1,527,695 Shares**

### **Common Stock**

Pursuant to this prospectus supplement and the accompanying prospectus, we are offering 1,527,695 shares of our common stock to Azimuth Opportunity Ltd., or Azimuth, pursuant to a Common Stock Purchase Agreement, dated November 11, 2009, between us and Azimuth, at a price of approximately \$13.09 per share. The total purchase price for the shares is \$20.0 million. We will receive net proceeds from the sale of these shares of approximately \$19.7 million after deducting our estimated offering expenses of approximately \$350,000, including a placement agent fee of \$200,000 to be paid to Reedland Capital Partners, an Institutional Division of Financial West Group, member FINRA/SIPC, in connection with this offering.

This prospectus supplement and the accompanying prospectus also cover the sale of these shares by Azimuth to the public. Azimuth is an underwriter within the meaning of Section 2(a)(11) of the Securities Act of 1933, as amended, and any profits on the sales of shares of our common stock by Azimuth and any discounts, commissions or concessions received by Azimuth may be deemed to be underwriting discounts and commissions under the Securities Act.

We expect to issue the shares to Azimuth on or about January 28, 2010. Our common stock is listed on The Nasdaq Global Market under the symbol MAPP. The last reported sales price of our common stock on January 27, 2010 was \$14.96 per share.

Investing in our common stock involves risks. See Risk Factors on page S-4 of this prospectus supplement and the Risk Factors section beginning on page 27 of our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2009, which is incorporated by reference into this prospectus supplement and the accompanying prospectus.

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus supplement. Any representation to the contrary is a criminal offense.**

The date of this prospectus supplement is January 28, 2010.

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**ABOUT THIS PROSPECTUS SUPPLEMENT**

This prospectus supplement and the accompanying prospectus are part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, using a shelf registration process. Both this prospectus supplement and the accompanying prospectus include or incorporate by reference important information about us, our common stock and other information you should know before investing. You should read both this prospectus supplement and the accompanying prospectus as well as additional information described under *Where You Can Find More Information* elsewhere in this prospectus supplement.

You should rely only on the information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus. We have not authorized anyone to provide you with information that is different. This prospectus supplement and the accompanying prospectus do not constitute an offer to sell or a solicitation of an offer to buy by anyone in any jurisdiction in which such offer or solicitation is not authorized, or in which the person is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation. Neither the delivery of this prospectus supplement and the accompanying prospectus nor any sale hereunder shall, under any circumstances, create any implication that there has been no change in our affairs since the date of this prospectus supplement, that the information contained herein is correct as of any time subsequent to the date hereof or that any information incorporated or deemed to be incorporated by reference herein is correct as of any time subsequent to the date hereof.

This prospectus supplement may add to, update or change the information in the accompanying prospectus. If information in this prospectus supplement is inconsistent with information in the accompanying prospectus, this prospectus supplement will apply and will supersede that information in the accompanying prospectus.

Information contained on our website does not constitute part of this prospectus supplement.

Unless the context indicates otherwise, references in this prospectus supplement to *MAP Pharmaceuticals*, *we*, *us*, and *our* and the company to *MAP Pharmaceuticals, Inc.*, its predecessors and its consolidated subsidiaries.

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**SUMMARY**

*The following summary includes basic information about our company and this offering. It may not contain all of the information that is important to you. For a more complete understanding of our company and this offering, we encourage you to read this entire prospectus supplement, including the documents incorporated in this prospectus supplement by reference.*

**The Company**

Our goal is to use proprietary inhalation technologies to enhance the therapeutic benefits and commercial attractiveness of proven drugs while minimizing risk by capitalizing on their known safety, efficacy and commercialization history. We have proprietary product candidates in development that address large market opportunities, including our most advanced product candidate, LEVADEX, formerly known as MAP0004, our proprietary orally inhaled version of dihydroergotamine for the potential treatment of migraine. LEVADEX is designed to provide faster onset and longer lasting pain relief than triptans, the class of drugs most often prescribed for treating migraine.

For our LEVADEX migraine program, we initiated a Phase 3 clinical program in July 2008 pursuant to a special protocol assessment from the U.S. Food and Drug Administration, or the FDA. In May 2009, we announced results of the efficacy portion of our first Phase 3 clinical trial of LEVADEX. We announced that the clinical trial met its four primary endpoints, pain relief and being nausea, phonophobia and photophobia free as reported two hours after dosing. Additional endpoints showed that LEVADEX provided rapid and sustained pain relief for up to 48 hours after dosing. In January 2010, the FDA informed us that a second pivotal efficacy study is not required for our LEVADEX new drug application submission for the acute treatment of migraine. In order to support our New Drug Application for LEVADEX to the FDA, we will need to complete our remaining clinical studies, including our ongoing 12 month open-label safety extension of our Phase 3 clinical study, a pharmacokinetic study and a pharmacodynamic study. The Company anticipates that patients in these studies will complete treatment in 2010.

We hold worldwide commercialization rights for LEVADEX and our goal is to market LEVADEX in the United States through our own focused sales force targeting neurologists and headache specialists. We may establish partnerships with pharmaceutical companies to market and sell to primary care physicians and specialists both inside and outside of the United States.

MAP Pharmaceuticals, Inc., incorporated in the state of Delaware, was originally formed as a limited liability company on July 3, 2003 and converted to a corporation on December 11, 2003. Our principal executive offices are located at 2400 Bayshore Parkway, Suite 200, Mountain View, CA 94043, and our telephone number at that address is (650) 386-3100. Our website can be found at [www.mappharma.com](http://www.mappharma.com).

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**The Offering**

The following summary is qualified in its entirety by reference to the more detailed information appearing elsewhere in this prospectus supplement.

Issuer MAP Pharmaceuticals, Inc.

The Nasdaq Global Market Symbol MAPP

Common Stock Offered 1,527,695 shares

Common Stock to be Outstanding After this Offering 26,291,726 shares  
(1)

Risk Factors See Risk Factors beginning on page S-4 of this prospectus supplement and in the documents incorporated by reference in this prospectus supplement for a discussion of the factors you should carefully consider before deciding to invest in our common stock.

Use of Proceeds We intend to use the net proceeds from this offering for general corporate purposes, focusing on clinical development of LEVADEX. For more information, see Use of Proceeds.

(1) Based on shares outstanding as of January 26, 2010. Excludes 3,546,252 shares of common stock issuable upon the exercise of outstanding stock options and any additional shares of common stock potentially issuable pursuant to the Common Stock Purchase Agreement with Azimuth.

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**FORWARD-LOOKING STATEMENTS**

All statements included or incorporated by reference into this prospectus supplement and the documents incorporated by reference into this prospectus supplement, other than statements of historical facts, that address activities, events or developments that we intend, expect, project, believe or anticipate will or may occur in the future are forward looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, which are subject to the safe harbor created by those sections. This prospectus supplement and the documents incorporated by reference into this prospectus supplement contain forward looking statements that are based on current expectations, estimates, forecasts and projections about us, our future performance, our business or others on our behalf, our beliefs and our management's assumptions. In some cases you can identify forward-looking statements by words such as may, will, should, could, would, expects, plans, anticipates, believes, estimates, projects, predicts, p expressions intended to identify forward-looking statements. Examples of these statements include, but are not limited to, statements regarding:

the implications of interim or final results of our clinical trials, the progress of our research programs, including clinical testing;

the extent to which our issued and pending patents may protect our products and technology;

our ability to identify new product candidates;

the potential of such product candidates to lead to the development of commercial products;

our anticipated timing for initiation or completion of our clinical trials for any of our product candidates;

our future operating expenses;

our future losses;

our future expenditures for research and development; and

the sufficiency of our cash resources.

Our actual results could differ materially from those anticipated in these forward-looking statements for many reasons, including the risks faced by us and described in Risk Factors elsewhere in this prospectus supplement. You should not place undue reliance on these forward-looking statements, which apply only as of the date of this prospectus supplement. These cautionary statements should be considered in connection with any written or oral forward looking statements that we may issue in the future. Except as required by law, we assume no obligation to update these forward-looking statements, whether as a result of new information, future events or otherwise.

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**RISK FACTORS**

An investment in our common stock involves a high degree of risk. Before you make a decision to invest in our common stock, you should consider carefully the risks described below and in the section entitled "Risk Factors" contained in our Quarterly Report on Form 10-Q for the quarter ended September 30, 2009, as filed with the SEC on November 6, 2009, which is incorporated herein by reference in its entirety, as well as any amendment or update thereto reflected in our subsequent filings with the SEC. If any of these risks actually occur, our business, operating results, prospects or financial condition could be materially and adversely affected. This could cause the trading price of our common stock to decline and you may lose part or all of your investment. Moreover, the risks described are not the only ones that we face. Additional risks not presently known to us or that we currently deem immaterial may also affect our business, operating results, prospects or financial condition.

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**Table of Contents****USE OF PROCEEDS**

We estimate that we will receive net proceeds of approximately \$19.7 million from the sale of the shares of common stock. Net proceeds is what we expect to receive after deducting our estimated offering expenses of approximately \$350,000, including a placement agent fee of \$200,000 to be paid to Reedland Capital Partners, an Institutional Division of Financial West Group, member FINRA/SIPC, in connection with this offering.

We intend to use the net proceeds from this offering for general corporate purposes, focusing on clinical development of LEVADEX.

The foregoing represents our intentions based upon our present plans and business conditions. The occurrence of unforeseen events or changed business conditions, however, could result in the application of the proceeds of the offering in a manner other than as described in this prospectus supplement. Pending the application of the net proceeds, we expect to invest such proceeds in short-term, interest-bearing instruments.

**PRICE RANGE OF COMMON STOCK**

Our common stock is listed on The Nasdaq Global Market under the symbol MAPP. The following table sets forth, for the quarterly periods indicated, the high and low sales price per share of the common stock as reported on The Nasdaq Global Market:

	High	Low
<b>Year Ended December 31, 2008</b>		
First Quarter	\$ 17.69	\$ 10.39
Second Quarter	14.80	9.75
Third Quarter	11.75	6.68
Fourth Quarter	10.44	1.75
<b>Year Ended December 31, 2009</b>		
First Quarter	\$ 13.08	\$ 1.57
Second Quarter	13.85	2.00
Third Quarter	12.52	8.54
Fourth Quarter	10.85	7.86
<b>Year Ended December 31, 2010</b>		
First Quarter (through January 27, 2010)	\$ 16.48	\$ 9.34

On January 27, 2010, the last reported sales price of our common stock was \$14.96 per share.

**DIVIDEND POLICY**

We have never declared or paid dividends since our initial public offering in October 2007 and do not anticipate paying any dividends on our common stock in the foreseeable future.



**Table of Contents****DILUTION**

Our net tangible book value on September 30, 2009 was approximately \$53.5 million, or \$2.18 per share of common stock. Net tangible book value is total assets minus the sum of liabilities and intangible assets. Net tangible book value per share is net tangible book value divided by the total number of common shares outstanding.

After giving effect to the sale of 1,527,695 shares of common stock offered by us in this offering, our pro forma net tangible book value on September 30, 2009 would have been approximately \$73.2 million, or \$2.81 per share of common stock. The adjustments made to determine pro forma net tangible book value per share are the following:

an increase in total assets to reflect the net proceeds of the offering as described under "Use of Proceeds"; and

the addition of the number of shares offered by this prospectus supplement to the number of shares outstanding as of September 30, 2009.

The following table illustrates the pro forma increase in net tangible book value of \$0.63 per share and the dilution (the difference between the offering price per share and net tangible book value per share) to new investors:

Public offering price per share	\$ 13.09
Net tangible book value per share on September 30, 2009	\$ 2.18
Increase in net tangible book value per share attributable to the offering	\$ 0.63
Pro forma net tangible book value per share on September 30, 2009, after giving effect to the offering	\$ 2.81
Dilution per share to new investors in the offering	\$ 10.28

The following table shows the difference between existing shareholders and new investors with respect to the number of shares purchased from us, the total consideration paid and the average price paid per share.

	Shares Purchased		Total Consideration		Average Price
	Number	Percent	Amount	Percent	Per Share
Existing shareholders	24,764,031	94%	226,284,000	92%	\$ 9.14
New investors	1,527,695	6%	20,000,000	8%	\$ 13.09
Total	26,291,726	100%	246,284,000	100%	\$ 9.37

The above discussion and tables are based on shares outstanding as of January 26, 2010 and excludes 3,546,252 shares of common stock issuable upon the exercise of outstanding stock options and any additional shares of common stock potentially issuable pursuant to the Common Stock Purchase Agreement with Azimuth.

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**PLAN OF DISTRIBUTION**

As disclosed previously in our Current Report on Form 8-K filed on November 12, 2009, we entered into what is sometimes termed an equity line of credit arrangement with Azimuth Opportunity Ltd., or Azimuth, on November 11, 2009. Specifically, we entered into a Common Stock Purchase Agreement, or the Purchase Agreement, that provides that, upon the terms and subject to the conditions set forth therein, Azimuth is committed to purchase up to \$60 million worth of shares of our common stock over the 24-month term of the Purchase Agreement; provided, however, in no event may we sell under the Purchase Agreement more than such number shares of common stock which is equal to one share less than 20% of our outstanding shares of common stock on the effective date of the Purchase Agreement, which is 4,906,904, or the Trading Market Limit. In addition, in no event shall Azimuth be obligated to purchase under the Purchase Agreement any shares of our common stock which, when aggregated with all other shares of our common stock then owned beneficially by Azimuth, would result in the beneficial ownership by Azimuth of more than 9.9% of the then issued and outstanding shares of our common stock. From time to time over the term of the Purchase Agreement, and at our sole discretion, we may present Azimuth with draw down notices requiring Azimuth to purchase a specified dollar amount of shares of our common stock, based on the price per share over ten consecutive trading days or such other period mutually agreed upon by us and Azimuth, or the Draw Down Period, with each draw down subject to limitations based on the price of our common stock and a maximum limit of 2.5% of our market capitalization at the time of such draw down, or such other limit of our market capitalization as mutually agreed upon by us and Azimuth. We may present Azimuth with up to 36 draw down notices during the term of the Purchase Agreement, with only one such draw down notice allowed per Draw Down Period and a minimum of five trading days required between each Draw Down Period.

Once presented with a draw down notice, Azimuth is required to purchase a pro rata portion of the shares on each trading day during the trading period on which the daily volume weighted average price for our common stock exceeds a threshold price determined by us for such draw down. The per share purchase price for these shares equals the daily volume weighted average price of our common stock on each date during the Draw Down Period on which shares are purchased, less a discount ranging from 3.625% to 5.75%, based on a specified minimum price by us. If the daily volume weighted average price of our common stock falls below the threshold price on any trading day during a Draw Down Period, the Purchase Agreement provides that Azimuth will not be required to purchase the pro-rata portion of shares of common stock allocated to that day. However, at its election, Azimuth may buy the pro-rata portion of shares allocated to that day at the threshold price less the discount described above.

The Purchase Agreement also provides that, from time to time and at our sole discretion, we may grant Azimuth the right to exercise one or more options to purchase additional shares of our common stock during each Draw Down Period for an amount of shares specified by us based on the trading price of our common stock. Upon Azimuth's exercise of an option, we will sell to Azimuth the shares of our common stock subject to the option at a price equal to the greater of the daily volume weighted average price of our common stock on the day Azimuth notifies us of its election to exercise its option or the threshold price for the option determined by us, less a discount calculated in the same manner as it is calculated in the draw down notices.

On January 11, 2010, we presented Azimuth with a draw down notice, which was subsequently amended. On January 28, 2010, we expect to settle with Azimuth on the purchase of 1,527,695 shares of our common stock under the terms of this draw down notice and the Purchase Agreement. Accordingly, pursuant to this prospectus supplement and the accompanying prospectus, we are offering 1,527,695 shares of our common stock to Azimuth, at a price of approximately \$13.70 per share less a discount of approximately 4.5% per share for a net price of approximately \$13.09 per share. The offering price of these shares was established with reference to the volume weighted average prices of our common stock on The Nasdaq Global Market for the period beginning January 12, 2010 and ending January 26, 2010, net of a weighted average discount of approximately 4.5% per share. This prospectus supplement and the accompanying prospectus also cover the sale of these shares by Azimuth to the public. The total gross purchase price for the shares is \$20.0 million. We will receive net proceeds from the sale of these shares of approximately \$19.7 million after deducting our estimated offering expenses of approximately \$350,000, including a placement agent fee of \$200,000 to be paid to Reedland Capital Partners, an Institutional Division of Financial West Group, member FINRA/SIPC, in connection with this offering.

Additional information is set forth under the caption "Plan of Distribution" in the accompanying prospectus.

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**VALIDITY OF THE SECURITIES**

Latham & Watkins LLP, Menlo Park, California, has upon the validity of the issuance and sale of the securities on behalf of MAP Pharmaceuticals, Inc.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov). You may also read and copy any document we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. We maintain a website at [www.mappharma.com](http://www.mappharma.com). The information contained on our website is not incorporated by reference in this prospectus supplement and the accompanying prospectus and you should not consider it a part of this prospectus supplement and the accompanying prospectus.

The SEC allows us to incorporate by reference the information we file with them which means that we can disclose important information to you by referring you to those documents instead of having to repeat the information in this prospectus supplement. The information incorporated by reference is considered to be part of this prospectus supplement, and later information that we file with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future information filed (rather than furnished) with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act between the date of this prospectus supplement and the termination of the offering, provided, however, that we are not incorporating any information furnished under any of Item 2.02 or Item 7.01 of any current report on Form 8-K:

our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, as amended by Form 10-K/A filed on April 9, 2009;

our Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2009, June 30, 2009 and September 30, 2009;

our Current Reports on Form 8-K filed with the SEC on January 12, 2009, January 26, 2009, February 3, 2009, February 13, 2009, February 23, 2009 (with respect to Item 8.01), March 23, 2009, May 26, 2009, July 9, 2009, August 6, 2009, October 30, 2009, November 12, 2009 and January 11, 2010; and

the description of our common stock contained in our Registration Statement on Form 8-A filed with the SEC on October 2, 2007. You may request a copy of any documents incorporated by reference in this prospectus supplement, at no cost, by writing or calling us at the following address and telephone number:

MAP Pharmaceuticals, Inc.

Attn: Corporate Secretary

2400 Bayshore Parkway, Suite 200

Mountain View, CA 94043

(650) 386-3100

Exhibits to the filings will not be sent, however, unless those exhibits have specifically been incorporated by reference in this prospectus supplement.



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**PROSPECTUS**

**MAP Pharmaceuticals, Inc.  
\$100,000,000**

**Debt Securities, Common Stock,**

**Preferred Stock and Warrants**

We may offer and sell the securities from time to time in one or more offerings. This prospectus provides you with a general description of the securities we may offer.

Each time we sell securities, we will provide a supplement to this prospectus that contains specific information about the offering and the amounts, prices and terms of the securities. The supplement may also add, update or change information contained in this prospectus. You should carefully read this prospectus and the accompanying prospectus supplement before you invest in any of our securities.

We may offer and sell the following securities:

debt securities;

common stock;

preferred stock; and

warrants.

The securities may be offered directly by us, through agents designated from time to time by us or to or through underwriters or dealers. If any agents, dealers or underwriters are involved in the sale of any of the securities, their names and any applicable purchase price, fee, commission or discount arrangement between or among them will be set forth, or will be calculable from the information set forth, in the applicable prospectus supplement. See the sections entitled About This Prospectus and Plan of Distribution for more information. No securities may be sold without delivery of this prospectus and the applicable prospectus supplement describing the method and terms of the offering of such securities.

**See Risk Factors on page 1 for information you should consider before buying any securities.**

Our common stock is traded on The Nasdaq Global Market under the symbol MAPP. The last reported sales price of our common stock on November 10, 2009 was \$8.69 per share.

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is November 11, 2009.**

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You should rely only on the information contained or incorporated by reference in this prospectus and in any applicable supplement to this prospectus. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus and the accompanying prospectus supplement and any free writing prospectus prepared by or on behalf of us is accurate only as of the date on their respective covers. Our business, financial condition, results of operations and prospects may have changed since that date.

Unless the context indicates otherwise, references in this prospectus to MAP Pharmaceuticals, we, us, our and the company refer to MAP Pharmaceuticals, Inc., its predecessors and its consolidated subsidiaries.

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**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or SEC, using a shelf registration process. Under this process, we may sell debt securities; common stock; preferred stock and warrants. This prospectus provides you with only a general description of the securities that we may offer. Each time we sell securities, we will provide a supplement to this prospectus that contains specific information about the terms of the securities. The prospectus supplement may also add, update or change information contained in this prospectus. Before purchasing any securities, you should carefully read both this prospectus and the accompanying prospectus supplement and any free writing prospectus prepared by or on behalf of us, together with the additional information described under the heading **Where You Can Find More Information**.

**FORWARD LOOKING STATEMENTS**

All statements included or incorporated by reference into this prospectus and any accompanying prospectus supplement, other than statements of historical facts, that address activities, events or developments that we intend, expect, project, believe or anticipate will or may occur in the future are forward looking statements. This prospectus and any accompanying prospectus contain forward looking statements that are based on current expectations, estimates, forecasts and projections about us, our future performance, our business or others on our behalf, our beliefs and our management's assumptions. In addition, we, or others on our behalf, may make forward looking statements in press releases or written statements, or in our communications and discussions with investors and analysts in the normal course of business through meetings, webcasts, phone calls and conference calls. Words such as expect, anticipate, outlook, could, will, target, project, intend, plan, believe, should, may, assume, or continue, and variations of such words and similar expressions are intended to identify such forward looking statements. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions that are difficult to predict. We have based our forward looking statements on our management's beliefs and assumptions based on information available to our management at the time the statements are made. We caution you that actual outcomes and results may differ materially from what is expressed, implied or forecast by our forward looking statements. Reference is made in particular to forward looking statements regarding product sales, regulatory activities, clinical trial results, reimbursement, expenses, earnings per share, liquidity and capital resources, and trends. Except as required under the federal securities laws and the rules and regulations of the SEC, we do not have any intention or obligation to update publicly any forward looking statements after the distribution of this prospectus and any accompanying prospectus supplement, whether as a result of new information, future events, changes in assumptions or otherwise.

You are cautioned not to rely unduly on any forward looking statements. These risks and uncertainties are discussed in more detail under **Risk Factors**, **Business** and **Management's Discussion and Analysis of Financial Condition and Results of Operations** in our reports and other documents on file with the SEC. You may obtain copies of these documents as described under **Where You Can Find More Information** below.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov). You may also read and copy any document we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. We maintain a website at [www.mappharma.com](http://www.mappharma.com). The information contained on our website is not incorporated by reference in this prospectus and any accompanying prospectus supplement and you should not consider it a part of this prospectus and any accompanying prospectus supplement.

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The SEC allows us to incorporate by reference the information we file with them which means that we can disclose important information to you by referring you to those documents instead of having to repeat the information in this prospectus. The information incorporated by reference is considered to be part of this prospectus, and later information that we file with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future information filed (rather than furnished) with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act between the date of this prospectus and the termination of the offering and also between the date of the initial registration statement and prior to effectiveness of the registration statement, provided, however, that we are not incorporating any information furnished under any of Item 2.02 or Item 7.01 of any current report on Form 8-K:

Annual Report on Form 10-K for the fiscal year ended December 31, 2008, as amended by Form 10-K/A filed on April 9, 2009;

Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2009 filed on May 8, 2009, the fiscal quarter ended June 30, 2009 filed on August 3, 2009, and the fiscal quarter ended September 30, 2009 filed on November 6, 2009; and

Current Reports on Form 8-K filed on January 12, 2009, January 26, 2009, February 3, 2009, February 13, 2009, February 23, 2009 (with respect to Item 8.01), March 23, 2009, May 26, 2009 (with respect to Item 8.01), July 9, 2009, August 6, 2009, September 10, 2009 (with respect to Item 8.01) and November 12, 2009.

You may request a copy of any documents incorporated by reference in this prospectus and any accompanying prospectus supplement, at no cost, by writing or calling us at the following address and telephone number:

MAP Pharmaceuticals, Inc.

Attn: Corporate Secretary

2400 Bayshore Parkway, Suite 200

Mountain View, CA 94043

(650) 386-3100

Exhibits to the filings will not be sent, however, unless those exhibits have specifically been incorporated by reference in this prospectus and any accompanying prospectus supplement.



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**MAP PHARMACEUTICALS, INC.**

Our goal is to use proprietary inhalation technologies to enhance the therapeutic benefits and commercial attractiveness of proven drugs while minimizing risk by capitalizing on their known safety, efficacy and commercialization history. We have proprietary product candidates in development that address large market opportunities, including our most advanced product candidate, LEVADEX, formerly known as MAP0004, our proprietary orally inhaled version of dihydroergotamine for the potential treatment of migraine. LEVADEX is designed to provide faster onset and longer lasting pain relief than triptans, the class of drugs most often prescribed for treating migraine.

For our LEVADEX migraine program, we initiated a Phase 3 clinical program in July 2008 pursuant to a special protocol assessment from the U.S. Food and Drug Administration. In May 2009, we announced results of the efficacy portion of our first Phase 3 clinical trial of LEVADEX. We announced that the clinical trial met its four primary endpoints, pain relief and being nausea, phonophobia and photophobia free as reported two hours after dosing. Additional endpoints showed that LEVADEX provided rapid and sustained pain relief for up to 48 hours after dosing.

In order to obtain regulatory approval for LEVADEX, we will need to conduct additional Phase 3 and Phase 2 clinical trials. We anticipate initiating our second Phase 3 clinical trial of LEVADEX in the first quarter of 2010. We hold worldwide commercialization rights for LEVADEX and our goal is to market LEVADEX in the United States through our own focused sales force targeting neurologists and headache specialists. We may establish partnerships with pharmaceutical companies to market and sell to primary care physicians and specialists both inside and outside of the United States.

MAP Pharmaceuticals, Inc., incorporated in the state of Delaware, was originally formed as a limited liability company on July 3, 2003 and converted to a corporation on December 11, 2003. Our principal executive offices are located at 2400 Bayshore Parkway, Suite 200, Mountain View, CA 94043, and our telephone number at that address is (650) 386-3100. Our website can be found at [www.mappharma.com](http://www.mappharma.com).

**RISK FACTORS**

Investment in any securities offered pursuant to this prospectus involves risks. You should carefully consider the risk factors incorporated by reference to our most recent Annual Report on Form 10-K, any subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K that we have filed or will file, and all other information contained or incorporated by reference into this prospectus, as updated by our subsequent filings under the Exchange Act, and the risk factors and other information contained in the applicable prospectus supplement before acquiring any of such securities. The occurrence of any of these risks might cause you to lose all or part of your investment in the offered securities. Please also refer to the section above entitled Forward Looking Statements.

**USE OF PROCEEDS**

We intend to use the net proceeds from the sale of the securities offered by us under this prospectus for general corporate purposes, including repaying, redeeming or repurchasing debt, acquisitions, share repurchases, capital expenditures and working capital. When a particular series of securities is offered, the prospectus supplement relating to that series will set forth our intended use for the net proceeds we receive from the sale of the securities. Pending the application of the net proceeds, we may invest the proceeds in short-term, interest-bearing instruments or other investment-grade securities.

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**RATIO OF EARNINGS TO FIXED CHARGES**

The following summary is qualified by the more detailed information appearing in the computation table found in Exhibit 12.1 to the registration statement of which this prospectus is part and the historical financial statements, including the notes to those financial statements, incorporated by reference in this prospectus. The following table sets forth our ratio of earnings to fixed charges for each of the periods indicated (in thousands):

	Year Ended December 31,				
	2008	2007	2006	2005	2004
<b>Ratio of earnings to fixed charges (1)</b>					

- (1) For the purpose of computing the ratio of earnings to fixed charges, earnings consist of net loss plus fixed charges. Fixed charges consist of interest expense, amortization of debt expense and discount or premium related to indebtedness, whether expensed or capitalized. Earnings were insufficient to cover fixed charges for these periods. We have not included a ratio of earnings to combined fixed charges and preferred stock dividends because we do not have any preferred stock outstanding as of the date of this prospectus. The amount of the coverage deficiency was \$70,872, \$38,717, \$25,574, \$16,249 and \$8,831 for the years ended December 31, 2008, 2007, 2006, 2005 and 2004, respectively.

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**DESCRIPTION OF DEBT SECURITIES**

The debt securities covered by this prospectus will be issued under one or more separate indentures to be entered into between us and a trustee to be identified in the applicable prospectus supplement. This prospectus, together with its prospectus supplement, will describe all the material terms of a particular series of debt securities.

The following is a summary of the most important provisions and definitions of the indenture. For additional information, you should look at the indenture that is filed as an exhibit to the registration statement which includes the prospectus.

**General**

Debt securities may be issued in separate series without limitation as to aggregate principal amount. We may specify a maximum aggregate principal amount for the debt securities of any series.

We are not limited as to the amount of debt securities we may issue under the indenture, though such amount shall be limited by the aggregate principal amount of securities that we may sell under this prospectus. The prospectus supplement will set forth:

the offering price;

the title;

any limit on the aggregate principal amount;

the person who shall be entitled to receive interest, if other than the record holder on the record date;

the date the principal will be payable;

the interest rate, if any, the date interest will accrue, the interest payment dates and the regular record dates;

the place where payments may be made;

any mandatory or optional redemption provisions;

if applicable, the method for determining how the principal, premium, if any, or interest will be calculated by reference to an index or formula;

if other than U.S. currency, the currency or currency units in which principal, premium, if any, or interest will be payable and whether we or the holder may elect payment to be made in a different currency;

the portion of the principal amount that will be payable upon acceleration of stated maturity, if other than the entire principal amount;

if the principal amount payable at stated maturity will not be determinable as of any date prior to stated maturity, the amount which will be deemed to be the principal amount;

any defeasance provisions if different from those described below under Satisfaction and Discharge; Defeasance;

any conversion or exchange provisions;

any obligation to redeem or purchase the debt securities pursuant to a sinking fund;

whether the debt securities will be issuable in the form of a global security;

any subordination provisions, if different from those described below under Subordinated Debt Securities;

any deletions of, or changes or additions to, the events of default or covenants; and

any other specific terms of such debt securities.

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Unless otherwise specified in the prospectus supplement:

the debt securities will be registered debt securities; and

registered debt securities denominated in U.S. dollars will be issued in denominations of \$1,000 and any integral multiple thereof. Debt securities may be sold at a substantial discount below their stated principal amount, bearing no interest or interest at a rate which at the time of issuance is below market rates.

### **Exchange and Transfer**

Debt securities may be transferred or exchanged at the office of the security registrar or at the office of any transfer agent designated by us.

We will not impose a service charge for any transfer or exchange, but we may require holders to pay any tax or other governmental charges associated with any transfer or exchange.

In the event of any potential redemption of debt securities of any series, we will not be required to:

issue, register the transfer of or exchange any debt security of that series during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption and ending at the close of business on the day of the mailing; or

register the transfer of or exchange any debt security of that series selected for redemption, in whole or in part, except the unredeemed portion being redeemed in part.

We may initially appoint the trustee as the security registrar. Any transfer agent, in addition to the security registrar initially designated by us, will be named in the prospectus supplement. We may designate additional transfer agents or change transfer agents or change the office of the transfer agent. However, we will be required to maintain a transfer agent in each place of payment for the debt securities of each series.

### **Global Securities**

The debt securities of any series may be represented, in whole or in part, by one or more global securities. Each global security will:

be registered in the name of a depositary that we will identify in a prospectus supplement;

be deposited with the depositary or nominee or custodian; and

bear any required legends.

No global security may be exchanged in whole or in part for debt securities registered in the name of any person other than the depositary or any nominee unless:

the depositary has notified us that it is unwilling or unable to continue as depositary or has ceased to be qualified to act as depositary;

an event of default is continuing; or

any other circumstances described in a prospectus supplement occur.

As long as the depository, or its nominee, is the registered owner of a global security, the depository or nominee will be considered the sole owner and holder of the debt securities represented by the global security for all purposes under the indenture. Except in the above limited circumstances, owners of beneficial interests in a global security:

will not be entitled to have the debt securities registered in their names;

will not be entitled to physical delivery of certificated debt securities; and

will not be considered to be holders of those debt securities under the indentures.

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Payments on a global security will be made to the depository or its nominee as the holder of the global security. Some jurisdictions have laws that require that certain purchasers of securities take physical delivery of such securities in definitive form. These laws may impair the ability to transfer beneficial interests in a global security.

Institutions that have accounts with the depository or its nominee are referred to as participants. Ownership of beneficial interests in a global security will be limited to participants and to persons that may hold beneficial interests through participants. The depository will credit, on its book-entry registration and transfer system, the respective principal amounts of debt securities represented by the global security to the accounts of its participants.

Ownership of beneficial interests in a global security will be shown on and effected through records maintained by the depository, with respect to participants' interests, or any participant, with respect to interests of persons held by participants on their behalf. Payments, transfers and exchanges relating to beneficial interests in a global security will be subject to policies and procedures of the depository. The depository policies and procedures may change from time to time. Neither we nor the trustee will have any responsibility or liability for the depository's or any participant's records with respect to beneficial interests in a global security.

## **Payment and Paying Agent**

The provisions of this paragraph will apply to the debt securities unless otherwise indicated in the prospectus supplement. Payment of interest on a debt security on any interest payment date will be made to the person in whose name the debt security is registered at the close of business on the regular record date. Payment on debt securities of a particular series will be payable at the office of a paying agent or paying agents designated by us. However, at our option, we may pay interest by mailing a check to the record holder.

We may also name any other paying agents in the prospectus supplement. We may designate additional paying agents, change paying agents or change the office of any paying agent. However, we will be required to maintain a paying agent in each place of payment for the debt securities of a particular series.

All moneys paid by us to a paying agent for payment on any debt security which remain unclaimed at the end of two years after such payment was due will be repaid to us. Thereafter, the holder may look only to us for such payment.

## **Consolidation, Merger and Sale of Assets**

Except as otherwise set forth in the prospectus supplement, we may not consolidate with or merge into any other person, in a transaction in which we are not the surviving corporation, or convey, transfer or lease our properties and assets substantially as an entirety to, any person, unless:

we are the surviving corporation or the successor assumes our obligations on the debt securities and under the indenture;

immediately after giving effect to the transaction, no default or event of default shall have occurred and be continuing; and

certain other conditions are met.

## **Events of Default**

Unless we inform you otherwise in the prospectus supplement, the indenture will define an event of default with respect to any series of debt securities as one or more of the following events:

- (1) failure to pay principal of or any premium on any debt security of that series when due;
- (2) failure to pay any interest on any debt security of that series within 30 days following the due date;

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(3) default in the performance or breach of any covenant or warranty in the indenture continued for 90 days after being given the notice required in the indenture;

(4) our bankruptcy, insolvency or reorganization; and

(5) any other event of default specified in the prospectus supplement.

An event of default of one series of debt securities is not necessarily an event of default for any other series of debt securities.



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If an event of default, other than an event of default described in clause (4) above, shall occur and be continuing, either the trustee or the holders of at least 25% in aggregate principal amount of the outstanding securities of that series may declare the principal amount of the debt securities of that series to be due and payable immediately.

If an event of default described in clause (4) above shall occur, the principal amount of all the debt securities of that series will automatically become immediately due and payable. Any payment by us on the subordinated debt securities following any such acceleration will be subject to the subordination provisions described below under Subordinated Debt Securities.

After acceleration the holders of a majority in aggregate principal amount of the outstanding securities of that series may, under certain circumstances, rescind and annul such acceleration if all events of default, other than the non-payment of accelerated principal, or other specified amount, have been cured or waived.

Other than the duty to act with the required care during an event of default, the trustee will not be obligated to exercise any of its rights or powers at the request of the holders unless the holders shall have offered to the trustee reasonable indemnity. Generally, the holders of a majority in aggregate principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee.

A holder will not have any right to institute any proceeding under the indentures, or to appoint a receiver or a trustee, or to any other remedy under the indentures, unless:

- (1) the holder has previously given to the trustee written notice of a continuing event of default with respect to the debt securities of that series;
- (2) the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made a written request and have offered reasonable indemnity to the trustee to institute the proceeding; and
- (3) the trustee has failed to institute the proceeding and has not received direction inconsistent with the original request from the holders of a majority in aggregate principal amount of the outstanding debt securities of that series within 60 days after the original request.

Holders may, however, sue to enforce the payment of principal, premium or interest on any debt security on or after the due date or to enforce the right, if any, to convert any debt security without following the procedures listed in (1) through (3) above.

We will furnish the trustee an annual statement by our officers as to whether or not we are in default in the performance of the indenture and, if so, specifying all known defaults.

## **Modification and Waiver**

Except as provided in the next two succeeding paragraphs, we and the trustee may make modifications and amendments to the indentures (including, without limitation, through consents obtained in connection with a purchase of, or tender offer or exchange offer for, outstanding securities) and may waive any existing default or event of default (including, without limitation, through consents obtained in connection with a purchase of, or tender offer for, outstanding securities) with the consent of the holders of a majority in aggregate principal amount of the outstanding securities of each series affected by the modification or amendment.

However, neither we nor the trustee may make any modification or amendment without the consent of the holder of each outstanding security of that series affected by the modification or amendment if such modification or amendment would:

change the stated maturity of any debt security;

reduce the principal of, premium, if any, on or interest on any debt security;

reduce the principal of an original issue discount security or any other debt security payable on acceleration of maturity;

reduce the rate of or extend the time for payment of interest on any debt security;

change the currency in which any debt security is payable;

impair the right to enforce any payment after the stated maturity or redemption date;

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waive any default or event of default in payment of the principal of, premium on or interest on any debt security;

waive a redemption payment or modify any of the redemption provisions of any debt security;

adversely affect the right, if any, to convert any debt security; or

change the provisions in the indenture that relate to modifying or amending the indenture.

Notwithstanding the preceding, without the consent of any holder of outstanding securities, we and the trustee may amend or supplement the indentures:

to cure any ambiguity, defect or inconsistency;

to provide for uncertificated securities in addition to or in place of certificated securities;

to provide for the assumption of our obligations to holders of any debt security in the case of a merger or consolidation or sale of all or substantially all of our assets;

to make any change that would provide any additional rights or benefits to the holders of securities or that does not adversely affect the legal rights under the indenture of any such holder;

to comply with requirements of the Commission in order to effect or maintain the qualification of an indenture under the Trust Indenture Act;

to conform the text of the indentures to any provision of the Description of Debt Securities to the extent that such provision in the Description of Debt Securities was intended to be a verbatim recitation of a provision of the indentures;

to provide for the issuance of additional securities in accordance with the limitations set forth in the indenture as of the date of the indenture;

to allow any guarantor to execute a supplemental indenture with respect to debt securities and to release guarantors in accordance with the terms of the indenture; or

to add additional obligors under the indenture and the securities.

The consent of holders is not necessary under the indentures to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment.

**Satisfaction and Discharge; Defeasance**

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We may be discharged from our obligations on the debt securities of any series that have matured or will mature or be redeemed within one year if we irrevocably deposit with the trustee enough cash to pay all principal, interest and any premium due on the stated maturity date or redemption date of the debt securities.

Each indenture contains a provision that permits us to elect:

to be discharged from all of our obligations, subject to limited exceptions, with respect to any series of debt securities then outstanding; and/or

to be released from our obligations under the following covenants and from the consequences of an event of default resulting from a breach of all covenants other than the obligation to pay principal and interest.

To make either of the above elections, we must deposit in trust with the trustee enough money to pay in full the principal, interest and any premium on the debt securities. This deposit may be made in cash and/or U.S. government obligations. As a condition to either of the above elections, we must deliver to the trustee an opinion of counsel that the holders of the debt securities will not recognize income, gain or loss for Federal income tax purposes as a result of the action.

If any of the above events occurs, the holders of debt securities of the series will not be entitled to the benefits of the indenture, except for the rights of holders to receive payments on the debt securities, the registration of transfer and exchange of debt securities and replacement of lost, stolen or mutilated debt securities.

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### **Notices**

Notices to holders will be given by mail to the addresses of the holders in the security register.

### **Governing Law**

The indentures and the debt securities will be governed by, and construed under, the laws of the State of New York.

### **Regarding the Trustee**

The indenture limits the right of the trustee, should it become a creditor of us, to obtain payment of claims or secure its claims.

The trustee is permitted to engage in certain other transactions. However, if the trustee acquires any conflicting interest, and there is a default under the debt securities of any series for which they are trustee, the trustee must eliminate the conflict or resign.

### **Subordinated Debt Securities**

Payment on subordinated debt securities will, to the extent provided in the indenture, be subordinated in right of payment to the prior payment in full of all of our senior indebtedness (except that holders of notes may receive and retain subordinated debt securities and payments made from either of the trusts described under Satisfaction and Discharge; Defeasance ). The subordinated debt securities also are effectively subordinated to all debt and other liabilities, including trade payables and lease obligations, if any, of our subsidiaries, if any.

Upon any distribution of our assets upon any dissolution, winding up, liquidation or reorganization, the payment of the principal of and interest on subordinated debt securities will be subordinated in right of payment to the prior payment in full of all senior indebtedness in cash or other payment satisfactory to the holders of senior indebtedness. In the event of any acceleration of subordinated debt securities because of an event of default, the holders of any senior indebtedness would be entitled to payment in full in cash or other payment satisfactory to such holders of all senior indebtedness obligations before the holders of subordinated debt securities are entitled to receive any payment or distribution (except that holders of notes may receive and retain subordinated debt securities and payments made from either of the trusts described under Satisfaction and Discharge; Defeasance ). The indenture requires us or the trustee to promptly notify holders of designated senior indebtedness if payment of subordinated debt securities is accelerated because of an event of default.

We may not make any payment on subordinated debt securities, including upon redemption at the option of the holder of any subordinated debt securities or at our option, if:

a default in the payment of the principal, premium, if any, interest, rent or other obligations in respect of designated senior indebtedness occurs and is continuing beyond any applicable period of grace (called a payment default ); or

a default other than a payment default on any designated senior indebtedness occurs and is continuing that permits holders of designated senior indebtedness to accelerate its maturity, and the trustee receives a notice of such default (called a payment blockage notice ) from us or any other person permitted to give such notice under the indenture (called a non-payment default ).

We may resume payments and distributions on the subordinated debt securities:

in the case of a payment default, upon the date on which such default is cured, waived or ceases to exist; and

in the case of a non-payment default, the earlier of the date on which such nonpayment default is cured, waived or ceases to exist and 179 days after the date on which the payment blockage notice is received by the trustee, if the maturity of the designated senior indebtedness has not been accelerated.

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No new period of payment blockage may be commenced pursuant to a payment blockage notice unless 365 days have elapsed since the initial effectiveness of the immediately prior payment blockage notice and all scheduled payments of principal, any premium and interest, including any liquidated damages, on the notes that have come due have been paid in full in cash. No non-payment default that existed or was continuing on the date of delivery of any payment blockage notice shall be the basis for any later payment blockage notice unless the non-payment default is based upon facts or events arising after the date of delivery of such payment blockage notice.

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If the trustee or any holder of the notes receives any payment or distribution of our assets in contravention of the subordination provisions on the subordinated debt securities before all senior indebtedness is paid in full in cash, property or securities, including by way of set-off, or other payment satisfactory to holders of senior indebtedness, then such payment or distribution will be held in trust for the benefit of holders of senior indebtedness or their representatives to the extent necessary to make payment in full of all unpaid senior indebtedness in cash or payment satisfactory to the holders of senior indebtedness (except that holders of notes may receive and retain subordinated debt securities and payments made from either of the trusts described under Satisfaction and Discharge; Defeasance ).

In the event of our bankruptcy, dissolution or reorganization, holders of senior indebtedness may receive more, ratably, and holders of the subordinated debt securities may receive less, ratably, than our other creditors (including our trade creditors). This subordination will not prevent the occurrence of any event of default under the indenture.

We are not prohibited from incurring debt, including senior indebtedness, under the indenture. We may from time to time incur additional debt, including senior indebtedness.

We are obligated to pay reasonable compensation to the trustee and to indemnify the trustee against certain losses, liabilities or expenses incurred by the trustee in connection with its duties relating to the subordinated debt securities. The trustee's claims for these payments will generally be senior to those of noteholders in respect of all funds collected or held by the trustee.

## **Certain Definitions**

Senior indebtedness means the principal, premium, if any, interest, including any interest accruing after bankruptcy, and rent or termination payment on or other amounts due on our current or future indebtedness, whether created, incurred, assumed, guaranteed or in effect guaranteed by us, including any deferrals, renewals, extensions, refundings, amendments, modifications or supplements to the above. However, senior indebtedness does not include:

indebtedness that expressly provides that it shall not be senior in right of payment to the subordinated debt securities or expressly provides that it is on the same basis or junior to the subordinated debt securities;

our indebtedness to any of our majority-owned subsidiaries, if any; and

the subordinated debt securities.

## **DESCRIPTION OF CAPITAL STOCK**

*The following summary of the terms of our common stock does not purport to be complete and is subject to and qualified in its entirety by reference to our Amended and Restated Certificate of Incorporation, or certificate of incorporation, and Amended and Restated Bylaws, or bylaws, copies of which are on file with the Commission as exhibits to registration statements previously filed by us. See Where You Can Find More Information.*

Our authorized capital stock consists of 100,000,000 shares of common stock, \$0.01 par value per share, and 5,000,000 shares of preferred stock in one or more series, \$0.01 par value per share. The only equity securities currently outstanding are shares of common stock.

### **Common Stock**

As of November 10, 2009, we had 24,534,529 shares of common stock outstanding. As of November 10, 2009, we had 3,669,314 shares of common stock reserved for issuance upon exercise of outstanding stock options granted under our 2005 Equity Incentive Plan and our 2007 Incentive Award Plan. As of November 10, 2009, we had warrants to purchase an aggregate of 51,571 shares of our common stock outstanding.

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### ***Voting Rights***

Holders of our common stock are entitled to one vote per share on all matters to be voted upon by the stockholders. Holders of our common stock are not entitled to cumulative voting rights with respect to the election of directors, which means that the holders of a majority of the shares voted can elect all of the directors then standing for election.

### ***Dividends***

Subject to limitations under Delaware law and preferences that may apply to any outstanding shares of preferred stock, holders of our common stock are entitled to receive ratably such dividends or other distributions, if any, as may be declared by our board of directors out of funds legally available for them.

### ***Liquidation***

In the event of our liquidation, dissolution or winding up, holders of our common stock are entitled to share ratably in all assets remaining after payment of liabilities, subject to the liquidation preference of any outstanding preferred stock.

### ***Rights and Preferences***

Our common stock has no preemptive, conversion or other rights to subscribe for additional securities. There are no redemption or sinking fund provisions applicable to our common stock. The rights, preferences and privileges of holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

### ***Fully Paid and Non-Assessable***

All outstanding shares of our common stock are validly issued, fully paid and non-assessable.

### **Preferred Stock**

As of November 10, 2009, we had no shares of preferred stock outstanding.

Our board of directors is authorized, pursuant to the Delaware General Corporation Law, to fix or alter from time to time the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions of any wholly unissued series of Preferred Stock, and to establish from time to time the number of shares constituting any such series or any of them; and to increase or decrease the number of shares of any series subsequent to the issuance of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be decreased in accordance with the foregoing sentence, the shares constituting such decrease shall resume the status that they had prior to the adoption of the resolution originally fixing the number of shares of such series.

### **Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company. The transfer agent and registrar for any series or class of preferred stock will be set forth in the applicable prospectus supplement.

### **Nasdaq Global Market**

Our common stock is traded on The Nasdaq Global Market under the symbol MAPP.

### **Delaware Takeover Statute**

We are subject to Section 203 of the Delaware General Corporate Law ( DGCL ). This statute regulating corporate takeovers prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for three years following the date that the stockholder became an interested stockholder, unless:



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prior to the date of the transaction, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;

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the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding (a) shares owned by persons who are directors and also officers and (b) shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

on or subsequent to the date of the transaction, the business combination is approved by the board and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66<sup>2</sup>/<sub>3</sub>% of the outstanding voting stock that is not owned by the interested stockholder.

Section 203 defines a business combination to include:

any merger or consolidation involving the corporation and the interested stockholder;

any sale, transfer, pledge or other disposition involving the interested stockholder of 10% or more of the assets of the corporation;

subject to exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;

subject to exceptions, any transaction involving the corporation that has the effect of increasing the proportionate share of any class or series of stock or convertible security owned by the interested stockholder; or

the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by the entity or person.

## **Certificate of Incorporation and Bylaws Provisions**

Provisions of our certificate of incorporation and bylaws may have the effect of making it more difficult for a third party to acquire, or discourage a third party from attempting to acquire, control of our company by means of a tender offer, a proxy contest or otherwise. These provisions may also make the removal of incumbent officers and directors more difficult. These provisions are intended to discourage certain types of coercive takeover practices and inadequate takeover bids and to encourage persons seeking to acquire control of MAP Pharmaceuticals to first negotiate with us. These provisions could also limit the price that investors might be willing to pay in the future for shares of our common stock. These provisions may make it more difficult for stockholders to take specific corporate actions and could have the effect of delaying or preventing a change in our control. The amendment of any of these anti-takeover provisions would require approval by holders of at least 66<sup>2</sup>/<sub>3</sub>% of our outstanding common stock entitled to vote.

In particular, our certificate of incorporation and bylaws provide for the following:

### ***Staggered Board of Directors***

Our board of directors is divided into three classes of the same or nearly the same number of directors, each serving staggered three-year terms, which means that only one class of directors may be elected at each annual

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meeting or special meeting in lieu of such annual meeting. These provisions may make the removal of incumbent directors difficult and may discourage third parties from attempting to circumvent the anti-takeover effects of our certificate of incorporation and bylaws by removing our incumbent directors.

### ***Removal of Directors, Vacancies***

Directors may be removed without cause; however, removal without cause requires the affirmative vote of the stockholders holding at least 66<sup>2</sup>/<sub>3</sub>% of the outstanding shares of our capital stock entitled to vote at an election of directors. Vacancies on our board of directors may be filled only by our board of directors unless the board of directors determines by resolution that any such vacancies shall be filled by the stockholders.

### ***No Cumulative Voting***

Delaware law provides that stockholders are not entitled to the right to cumulative votes in the election of directors unless our certificate of incorporation provides otherwise. Our certificate of incorporation does not expressly provide for cumulative voting.

### ***No Written Consent of Stockholders***

Any action to be taken by our stockholders must be effected at a duly called annual or special meeting and may not be effected by written consent.

### ***Special Meetings of Stockholders***

Special meetings of our stockholders may be called only by the board of directors, chairperson of the board of directors, chief executive officer or president (in the absence of a chief executive officer).

### ***Advance Notice Requirement***

Stockholder proposals to be brought before an annual meeting of our stockholders must comply with advance notice procedures. These advance notice procedures require timely notice and apply in several situations, including stockholder proposals relating to the nominations of persons for election to the board of directors. Generally, to be timely, notice must be received at our principal executive offices not less than 90 days nor more than 120 days prior to the first anniversary of the date on which we first mailed our proxy statement to stockholders in connection with the previous year's annual meeting of stockholders.

### ***Amendment***

The approval of not less than 66<sup>2</sup>/<sub>3</sub>% of the outstanding shares of our capital stock entitled to vote is required to amend the provisions of our bylaws by stockholder action, or to amend the provisions of our certificate of incorporation that are described in this section or that are described under *Limitation of Liability and Indemnification of Executive Officers and Directors* below. These provisions will make it more difficult to circumvent the anti-takeover provisions of our certificate of incorporation and our bylaws.

### ***Issuance of Designated Preferred Stock***

Our board of directors is authorized to issue, without further action by the stockholders, up to 5,000,000 shares of designated preferred stock with rights and preferences, including voting rights, designated from time to time by the board of directors. The existence of authorized but unissued shares of preferred stock enables our board of directors to render more difficult or to discourage an attempt to obtain control of us by means of a merger, tender offer, proxy contest or otherwise.

### ***Limitation of Liability and Indemnification of Executive Officers and Directors***

Delaware law authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties. Our certificate of incorporation



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includes a provision that eliminates, to the fullest extent permitted by Delaware law, the personal liability of a director to our company or our stockholders for monetary damages for any breach of fiduciary duty as a director. Subject to certain limitations, our bylaws provide that we must indemnify our directors and executive officers to the fullest extent permitted by Delaware law.

We have entered, and intend to continue to enter, into separate indemnification agreements with each of our directors and officers which may be broader than the specific indemnification provisions contained in the DGCL. These indemnification agreements may require us, among other things, to indemnify our directors, officers, and some employees for all reasonable expenses and liabilities incurred in connection with any action or proceeding brought against them by reason of the fact that they are or were our agents.

The limitation of liability and indemnification provisions in our certificate of incorporation, bylaws, and indemnification agreements may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit our stockholders and us. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable.

There is currently no pending material litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought.

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**DESCRIPTION OF WARRANTS**

This section describes the general terms of the warrants that we may offer and sell by this prospectus. This prospectus and any accompanying prospectus supplement will contain the material terms and conditions for each warrant. The accompanying prospectus supplement may add, update or change the terms and conditions of the warrants as described in this prospectus.

**General**

We may issue warrants to purchase debt securities, preferred stock or common stock. Warrants may be issued independently or together with any securities and may be attached to or separate from those securities. The warrants will be issued under warrant agreements to be entered into between us and a bank or trust company, as warrant agent, all of which will be described in the prospectus supplement relating to the warrants we are offering. The warrant agent will act solely as our agent in connection with the warrants and will not have any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants.

**Debt Warrants**

We may issue warrants for the purchase of our debt securities. As explained below, each debt warrant will entitle its holder to purchase debt securities at an exercise price set forth in, or to be determinable as set forth in, the related prospectus supplement. Debt warrants may be issued separately or together with debt securities.

The debt warrants are to be issued under debt warrant agreements to be entered into between us, and one or more banks or trust companies, as debt warrant agent, as will be set forth in the prospectus supplement relating to the debt warrants being offered by the prospectus supplement and this prospectus.

The particular terms of each issue of debt warrants, the debt warrant agreement relating to the debt warrants and the debt warrant certificates representing debt warrants will be described in the applicable prospectus supplement, including, as applicable:

the title of the debt warrants;

the initial offering price;

the title, aggregate principal amount and terms of the debt securities purchasable upon exercise of the debt warrants;

the currency or currency units in which the offering price, if any, and the exercise price are payable;

the title and terms of any related debt securities with which the debt warrants are issued and the number of the debt warrants issued with each debt security;

the date, if any, on and after which the debt warrants and the related debt securities will be separately transferable;

the principal amount of debt securities purchasable upon exercise of each debt warrant and the price at which that principal amount of debt securities may be purchased upon exercise of each debt warrant;

if applicable, the minimum or maximum number of warrants that may be exercised at any one time;

the date on which the right to exercise the debt warrants will commence and the date on which the right will expire;

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if applicable, a discussion of United States federal income tax, accounting or other considerations applicable to the debt warrants;

whether the debt warrants represented by the debt warrant certificates will be issued in registered or bearer form, and, if registered, where they may be transferred and registered;

anti-dilution provisions of the debt warrants, if any;

redemption or call provisions, if any, applicable to the debt warrants;

any additional terms of the debt warrants, including terms, procedures and limitations relating to the exchange and exercise of the debt warrants; and

the exercise price.

Debt warrant certificates will be exchangeable for new debt warrant certificates of different denominations and, if in registered form, may be presented for registration of transfer, and debt warrants may be exercised at the corporate trust office of the debt warrant agent or any other office indicated in the related prospectus supplement. Before the exercise of debt warrants, holders of debt warrants will not be entitled to payments of principal of, premium, if any, or interest, if any, on the debt securities purchasable upon exercise of the debt warrants, or to enforce any of the covenants in the indenture.

**Equity Warrants**

We may issue warrants for the purchase of our equity securities, such as our preferred stock or common stock. As explained below, each equity warrant will entitle its holder to purchase equity securities at an exercise price set forth in, or to be determinable as set forth in, the related prospectus supplement. Equity warrants may be issued separately or together with equity securities.

The equity warrants are to be issued under equity warrant agreements to be entered into between us and one or more banks or trust companies, as equity warrant agent, as will be set forth in the prospectus supplement relating to the equity warrants being offered by the prospectus supplement and this prospectus.

The particular terms of each issue of equity warrants, the equity warrant agreement relating to the equity warrants and the equity warrant certificates representing equity warrants will be described in the applicable prospectus supplement, including, as applicable:

the title of the equity warrants;

the initial offering price;

the aggregate number of equity warrants and the aggregate number of shares of the equity security purchasable upon exercise of the equity warrants;

the currency or currency units in which the offering price, if any, and the exercise price are payable;



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if applicable, the designation and terms of the equity securities with which the equity warrants are issued, and the number of equity warrants issued with each equity security;

the date, if any, on and after which the equity warrants and the related equity security will be separately transferable;

if applicable, the minimum or maximum number of the equity warrants that may be exercised at any one time;

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the date on which the right to exercise the equity warrants will commence and the date on which the right will expire;

if applicable, a discussion of United States federal income tax, accounting or other considerations applicable to the equity warrants;

anti-dilution provisions of the equity warrants, if any;

redemption or call provisions, if any, applicable to the equity warrants;

any additional terms of the equity warrants, including terms, procedures and limitations relating to the exchange and exercise of the equity warrants; and

the exercise price.

Holders of equity warrants will not be entitled, solely by virtue of being holders, to vote, to consent, to receive dividends, to receive notice as shareholders with respect to any meeting of shareholders for the election of directors or any other matter, or to exercise any rights whatsoever as a holder of the equity securities purchasable upon exercise of the equity warrants.

**PLAN OF DISTRIBUTION**

We may sell the offered securities from time to time:

through agents;

through underwriters or dealers;

directly to one or more purchasers; or

through a combination of any of these methods of sale.

We will identify the specific plan of distribution, including any underwriters, dealers, agents or direct purchasers and their compensation in a prospectus supplement.

In compliance with guidelines of the Financial Industry Regulatory Authority, or FINRA, the maximum consideration or discount to be received by any FINRA member or independent broker dealer may not exceed 8.0% of the aggregate amount of the securities offered pursuant to this prospectus and any applicable prospectus supplement.

**Equity Line of Credit**

On November 11, 2009, we entered into what is sometimes termed an equity line of credit arrangement with Azimuth Opportunity Ltd., or Azimuth. Specifically, we entered into a Common Stock Purchase Agreement, or the Purchase Agreement, that provides that, upon the terms and subject to the conditions set forth therein, Azimuth is committed to purchase up \$60 million worth of shares of our common stock over the 18-month term of the Purchase Agreement; provided, however, in no event may we sell under the Purchase Agreement more than such number shares of common stock which is equal to one share less than 20% of our outstanding shares of common stock on the effective date of the Purchase Agreement. In addition, in no event shall Azimuth be obligated to purchase under the Purchase Agreement any shares of our common stock which, when aggregated with all other shares of our common stock then owned beneficially by Azimuth, would result in the beneficial

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ownership by Azimuth of more than 9.9% of the then issued and outstanding shares of our common stock. From time to time over the term of the Purchase Agreement, and at our sole discretion, we may present Azimuth with draw down notices requiring Azimuth to purchase a specified dollar amount of shares of our common stock, based on the price per share over ten consecutive trading days or such other period mutually agreed upon by us and Azimuth, or the Draw Down Period, with each draw down subject to limitations based on the price of our common stock and a maximum limit of 2.5% of our market capitalization at the time of such draw down. We may present Azimuth with up to 36 draw down notices during the term of the Purchase Agreement, with only one such draw down notice allowed per Draw Down Period and a minimum of five trading days required between each Draw Down Period.

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Once presented with a draw down notice, Azimuth is required to purchase a pro rata portion of the shares on each trading day during the trading period on which the daily volume weighted average price for our common stock exceeds a threshold price determined by us for such draw down. The per share purchase price for these shares equals the daily volume weighted average price of our common stock on each date during the Draw Down Period on which shares are purchased, less a discount ranging from 3.625% to 5.75%, based on a specified minimum price by us. If the daily volume weighted average price of our common stock falls below the threshold price on any trading day during a Draw Down Period, the Purchase Agreement provides that Azimuth will not be required to purchase the pro-rata portion of shares of common stock allocated to that day. However, at its election, Azimuth may buy the pro-rata portion of shares allocated to that day at the threshold price less the discount described above.

The Purchase Agreement also provides that, from time to time and at our sole discretion, we may grant Azimuth the right to exercise one or more options to purchase additional shares of our common stock during each Draw Down Period for an amount of shares specified by us based on the trading price of our common stock. Upon Azimuth's exercise of an option, we will sell to Azimuth the shares of our common stock subject to the option at a price equal to the greater of the daily volume weighted average price of our common stock on the day Azimuth notifies us of its election to exercise its option or the threshold price for the option determined by us, less a discount calculated in the same manner as it is calculated in the draw down notices.

In addition to our issuance of shares of common stock to Azimuth pursuant to the Purchase Agreement, the registration statement to which this prospectus relates also covers the sale of those shares from time to time by Azimuth to the public. Azimuth is an underwriter within the meaning of Section 2(a)(11) of the Securities Act.

Azimuth has informed us that it will use an unaffiliated broker-dealer to effectuate all sales, if any, of common stock that it may purchase from us pursuant to the Purchase Agreement. Such sales will be made on The Nasdaq Global Market at prices and at terms then prevailing or at prices related to the then current market price. Each such unaffiliated broker-dealer will be an underwriter within the meaning of Section 2(a)(11) of the Securities Act. Azimuth has informed us that each such broker-dealer will receive commissions from Azimuth which will not exceed customary brokerage commissions. Azimuth may also pay other expenses associated with the sale of the common stock it acquires pursuant to the Purchase Agreement.

The shares of common stock issued under the Purchase Agreement may be sold in one or more of the following manners:

ordinary brokerage transactions and transactions in which the broker solicits purchasers; or

a block trade in which the broker or dealer so engaged will attempt to sell the shares as agent, but may position and resell a portion of the block as principal to facilitate the transaction.

Azimuth has agreed that during the term of and for a period of 90 days after the termination of the Purchase Agreement, neither Azimuth nor any of its affiliates will, directly or indirectly, sell any of our common stock except the shares that it owns or has the right to purchase pursuant to the provisions of a draw down notice. Azimuth has agreed that during the periods listed above neither it nor any of its affiliates will enter into a short position with respect to shares of our common stock except that Azimuth may sell shares that it is obligated to purchase under a pending draw down notice but has not yet taken possession of so long as Azimuth covers any such sales with the shares purchased pursuant to such draw down notice. Azimuth has further agreed that during the periods listed above it will not grant any option to purchase or acquire any right to dispose of, or otherwise dispose of for value, any shares of our common stock or any common stock convertible into, or exchangeable for, or warrants to purchase, any shares of our common stock, or enter into any swap, hedge or other agreement that transfers, in whole or in part, the economic risk of ownership of our common stock, except for the sales permitted by the prior two sentences.

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In addition, Azimuth and any unaffiliated broker-dealer will be subject to liability under the federal common stock laws and must comply with the requirements of the Securities Act and the Exchange Act, including, without limitation, Rule 10b-5 and Regulation M under the Exchange Act. These rules and regulations may limit the timing of purchases and sales of shares of common stock by Azimuth or any unaffiliated broker-dealer. Under these rules and regulations, Azimuth and any unaffiliated broker-dealer:

may not engage in any stabilization activity in connection with our common stock;

must furnish each broker which offers shares of our common stock covered by the prospectus that is a part of our registration statement with the number of copies of such prospectus and any prospectus supplement which are required by each broker; and

may not bid for or purchase any of our common stock or attempt to induce any person to purchase any of our common stock other than as permitted under the Exchange Act.

These restrictions may affect the marketability of the shares of common stock purchased and sold by Azimuth and any unaffiliated broker-dealer.

We have agreed to indemnify and hold harmless Azimuth and each person who controls Azimuth against certain liabilities, including certain liabilities under the Securities Act. We have agreed to pay up to \$35,000 of Azimuth's reasonable attorneys' fees and expenses (exclusive of disbursements and out-of-pocket expenses) incurred by Azimuth in connection with the preparation, negotiation, execution and delivery of the Purchase Agreement and related transaction documentation. We have also agreed to pay certain fees and expenses incurred by Azimuth in connection with any amendments, modifications or waivers of the Purchase Agreement, ongoing due diligence of our company and other transaction expenses associated with fixed requests made by us from time to time during the term of the Purchase Agreement. Further, if we issue a draw down notice and fail to deliver the shares to Azimuth on the applicable settlement date, and such failure continues for ten trading days, we have agreed to pay Azimuth liquidated damages in cash or restricted shares of our common stock, at Azimuth's option.

Azimuth has agreed to indemnify and hold harmless us and each of our directors, officers and persons who control us against certain liabilities, including certain liabilities under the Securities Act that may be based upon written information furnished by Azimuth to us for inclusion in this prospectus or any other prospectus or prospectus supplement related to this transaction.

Upon each sale of our common stock to Azimuth under the Purchase Agreement, we have also agreed to pay Reedland Capital Partners, an Institutional Division of Financial West Group, member FINRA/SIPC, or Reedland, a placement fee equal to 1.0% of the aggregate dollar amount received by us for the common stock purchased by Azimuth in such sale. We have agreed to indemnify and hold harmless Reedland against certain liabilities, including certain liabilities under the Securities Act.

## **EXPERTS**

The financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control Over Financial Reporting) incorporated in this prospectus by reference to the Annual Report on Form 10-K, as amended, for the year ended December 31, 2008 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

## **VALIDITY OF THE SECURITIES**

Latham & Watkins LLP, Menlo Park, California, will pass upon certain legal matters relating to the issuance and sale of the securities on behalf of MAP Pharmaceuticals, Inc.