

Edgar Filing: DELCATH SYSTEMS INC - Form 8-K

DELCATH SYSTEMS INC  
Form 8-K  
November 30, 2005

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 28, 2005

DELCATH SYSTEMS, INC.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation)	001-16133 (Commission File Number)	06-1245881 (IRS Employer Identification No.)
1100 Summer Street, Stamford, Connecticut (Address of principal executive offices)		06905 (Zip Code)

Registrant's telephone number, including area code: (203) 323-8668

N/A

(Former name or former address, if changes since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2 below):

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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### Item 1.01. Entry into a Material Definitive Agreement

The information set forth below under Item 3.02 is incorporated herein by reference.

### Section 3 - Securities and Trading Markets

#### Item 3.02. Unregistered Sales of Equity Securities

On November 28, 2005, the Company sold an aggregate of approximately 753,000 shares (the "Shares") of its Common Stock, par value \$0.01, to three institutional investors for an aggregate selling price of \$2,500,000. The Company also issued three series of warrants (collectively, the "Warrants") to the investors pursuant to which the investors could acquire up to approximately 659,000 additional shares. The Company's press release dated November 28, 2005 is incorporated herein by reference and filed as an exhibit hereto. The Company entered into a Common Stock Purchase Agreement and related agreements with the investors pursuant to which the Shares and the Warrants were issued.

The Company claims an exemption from registration of the offer and sale of the Shares and the Warrants pursuant to Section 4(2) of the Securities Act of 1933 and Rule 506 thereunder as securities offered and sold to "accredited investors," as defined in Rule 501 under the Securities Act of 1933.

#### Item 3.03. Material Modification to Rights of Security Holders

The information set forth above under Item 3.02 is incorporated herein by reference.

### Section 9. Financial Statements and Exhibits

#### Item 9.01. Financial Statements and Exhibits.

- (a) Not applicable
- (b) Not applicable.
- (c) Not applicable.
- (d) Exhibits:

3

Exhibit	Description
4.1	Form of 2005 Series A Warrant to Purchase Shares of Common Stock issued pursuant to the Common Stock Purchase Agreement dated as of November 27, 2005.
4.2	Form of 2005 Series B Warrant to Purchase Shares of Common Stock issued pursuant to the Common Stock Purchase Agreement dated as of November 27, 2005.
4.3	Form of 2005 Series C Warrant to Purchase Shares of Common Stock issued pursuant to the Common Stock Purchase Agreement dated as of November 27, 2005.

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- 10.1 Common Stock Purchase Agreement dated as of November 27, 2005 by and among Delcath Systems, Inc. and the Purchasers Listed on Exhibit A thereto.
- 10.2 Registration Rights Agreement dated as of November 27, 2005 by and among Delcath Systems, Inc. and the Purchasers Listed on Schedule I thereto.
- 10.3 Voting Agreement dated as of November 27, 2005 by and between Delcath Systems, Inc., the purchasers listed on Exhibit A to the Common Stock Purchase Agreement dated as of November 27, 2005 and Vertical Ventures LLC.
- 19 Press Release dated November 28, 2005 of Delcath Systems, Inc.

4

### SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DELCATH SYSTEMS, INC.

By: /s/ M. S. KOLY

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M. S. Koly  
President and Chief Executive  
Officer

Date: November 30, 2005

### EXHIBIT INDEX

Exhibit	Description
4.1	Form of 2005 Series A Warrant to Purchase Shares of Common Stock issued pursuant to the Common Stock Purchase Agreement dated as of November 27, 2005.
4.2	Form of 2005 Series B Warrant to Purchase Shares of Common Stock issued pursuant to the Common Stock Purchase Agreement dated as of November 27, 2005.
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of November 27, 2005.

- 10.1 Common Stock Purchase Agreement dated as of November 27, 2005 by and among Delcath Systems, Inc. and the Purchasers Listed on Exhibit A thereto.
- 10.2 Registration Rights Agreement dated as of November 27, 2005 by and among Delcath Systems, Inc. and the Purchasers Listed on Schedule I thereto.
- 10.3 Voting Agreement dated as of November 27, 2005 by and between Delcath Systems, Inc., the purchasers listed on Exhibit A to the Common Stock Purchase Agreement dated as of November 27, 2005 and Vertical Ventures LLC.
- 19 Press Release dated November 28, 2005 of Delcath Systems, Inc.