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SPECTRUM PHARMACEUTICALS INC
Form SC 13D/A
May 20, 2005

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
SCHEDULE 13D
Under the Securities Exchange Act of 1934
(Amendment No. 3)*

SPECTRUM PHARMACEUTICALS, INC.

(Name of Issuer)

Common Stock, par value \$0.001 per share

(Title of Class of Securities)

84763A108

(CUSIP Number)

Mitchell D. Kaye, Manager
Xmark Asset Management, LLC
301 Tresser Boulevard
Suite 1320
Stamford, CT 06901
(203) 653-2500

with a copy to:
Steven E. Siesser, Esq.
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, New Jersey 07068
(973) 597-2506

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

May 17, 2005

(Date of Event which Requires Filing of this Statement)

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

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Section 240.13d-7 for other parties to whom copies are to be sent.

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

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

Cusip No. 84763A108

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1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only):

Xmark Asset Management, LLC
13-3954392

2. Check the Appropriate Box if a Member of a Group (See Instructions):

(a) Not
(b) Applicable

3. SEC Use Only

4. Source of Funds (See Instructions): WC

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e): Not Applicable

6. Citizenship or Place of Organization: New York, United States

| | | |
|---------------------|-------------------------------|---|
| Number of | 7. Sole Voting Power: | * |
| Shares Beneficially | 8. Shared Voting Power: | * |
| Owned by | 9. Sole Dispositive Power: | * |
| Each Reporting | 10. Shared Dispositive Power: | * |
| Person With | | |

11. Aggregate Amount Beneficially Owned by Each Reporting Person: 1,151,392*

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions):

X

13. Percent of Class Represented by Amount in Row (11): 7.5%*

14. Type of Reporting Person (See Instructions): IA

* The reporting person is Xmark Asset Management, LLC ("XAM"), a New York limited liability company. XAM's interest in the securities reported herein is limited to its pecuniary interest, if any, in Xmark Fund, L.P., a Delaware limited partnership ("Xmark LP"), and Xmark Fund, Ltd., a Cayman Islands exempted company ("Xmark Ltd").

Xmark LP is the holder of: (i) 564,947 shares (the "Xmark LP Shares") of Common Stock, par value \$0.001 per share (the "Common Stock"), of Spectrum Pharmaceuticals, Inc., a Delaware corporation (the "Company"); (ii) warrants (the "2003 Xmark LP Warrants") which, subject to certain exercise restrictions contained therein, entitle Xmark LP to purchase an aggregate of up to 168,000 shares of Common Stock at an exercise price of \$6.50 per share, which exercise price is subject to adjustment as set forth in the 2003 Xmark LP Warrants; (iii) warrants (the "2004 Xmark LP Warrants") which, subject to certain exercise restrictions contained therein, entitle Xmark LP to purchase an aggregate of up to 53,666 shares of Common Stock at an exercise price of \$10.00 per share, which exercise price is subject to adjustment as set forth in the 2004 Xmark LP Warrants; and (iv) 108 call options exercisable into 10,800 shares of Common Stock at an exercise price of \$10.00 per share.

Xmark Ltd is the holder of: (i) 564,945 shares of Common Stock (the "Xmark Ltd Shares," and together with the Xmark LP Shares, the "Shares"); (ii) warrants

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(the "2003 Xmark Ltd Warrants," and together with the 2003 Xmark LP Warrants, the "2003 Warrants") which, subject to certain exercise restrictions contained therein, entitle Xmark Ltd to purchase an aggregate of up to 252,000 shares of Common Stock at an exercise price of \$6.50 per share, which exercise price is subject to adjustment as set forth in the 2003 Xmark Ltd Warrants; (iii) warrants (the "2004 Xmark Ltd Warrants," and together with the 2004 Xmark LP Warrants, the "2004 Warrants") which, subject to certain exercise restrictions contained therein, entitle Xmark Ltd to purchase an aggregate of up to 51,335 shares of Common Stock at an exercise price of \$10.00 per share, which exercise

price is subject to adjustment as set forth in the 2004 Xmark Ltd Warrants; and (iv) 107 call options exercisable into 10,700 shares of Common Stock at an exercise price of \$10.00 per share.

The 2003 Warrants and the 2004 Warrants each provide that in no event shall such warrants be exercisable for shares of Common Stock to the extent that the issuance of Common Stock thereunder would result in the "beneficial ownership" (as defined in Section 13(d) of the Securities Exchange Act of 1934, as amended, and Regulations 13D-G thereunder) by Xmark LP, Xmark Ltd, or their affiliates, of more than 4.95% and 4.99%, respectively, of the Common Stock (the "Issuance Limitation"). The Issuance Limitation may not be waived.

XAM serves as investment manager for each of Xmark LP and Xmark Ltd. In such capacity, XAM possesses the power to vote and direct the disposition of all securities held by Xmark LP and Xmark Ltd. Thus, as of May 17, 2005 for the purposes of Reg. Section 240.13d-3, XAM may be deemed to beneficially own 1,151,392 shares of Common Stock, or 7.5% of the Common Stock deemed issued and outstanding as of that date. Two XAM affiliates acquired in the open market and currently own 50 January 2007 call options with respect to the Common Stock, the beneficial ownership of which is hereby disclaimed by the Reporting Person.

Item 4. Purpose of Transaction.

On May 16, 2005, Mitchell D. Kaye, the investment manager of Xmark Asset Management, LLC ("XAM"), had a telephone conversation with Dr. Rajesh Shrotriya, the Chief Executive Officer of Spectrum Pharmaceuticals, Inc. (the "Company"). The conversation arose as a result of recent correspondence from XAM to the Company.

XAM has recently raised a number of concerns to the board of directors of the Company with respect to corporate governance. While XAM remains committed to the Company and believes in the potential value of its principal business model, XAM expressed concerns about the process for setting executive compensation, the Board's determination to reduce the size of the Board from seven to five directors, the Board's role in setting the strategic direction of the Company, and certain other matters.

In response to these concerns, the Company's CEO, Dr. Shrotriya, agreed to speak with Mr. Kaye, the investment manager of XAM, on May 16. As part of that conversation, Mr. Kaye indicated that he did not believe that the concerns of the shareholders of the Company were being adequately heard by the Board, and that some of his concerns with respect to corporate governance and director independence could be alleviated if the Spectrum Board agreed to add an

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additional independent director based on a candidate or candidates suggested either by XAM or by XAM and the other large shareholders of Spectrum. Dr. Shrotriya agreed to discuss this request with the Board and to inform Mr. Kaye of the results of that discussion.

This Amendment Number 3 to this Schedule 13D is being filed because XAM's requested addition of another director to the Company's Board would constitute a change in the present board of directors described in paragraph (d) under Item 4.

Item 5. Interest in Securities of the Issuer.

Based upon the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2005, there were 15,352,949 shares of Common Stock issued and outstanding as of May 9, 2005. As of May 17, 2005, Xmark LP and Xmark Ltd beneficially own 1,151,392 shares of Common Stock.

As of May 17, 2005, Xmark LP is the holder of (i) 564,947 shares of Common Stock of the Company, (ii) warrants which, subject to certain exercise restrictions contained therein, entitle Xmark LP to purchase up to an aggregate of 168,000 shares of Common Stock at an exercise price of \$6.50 per share (the "2003 Xmark LP Warrants"), which exercise price is subject to adjustment as set forth in the 2003 Xmark LP Warrants, (iii) warrants which, subject to certain exercise restrictions contained therein, entitle Xmark LP to purchase up to an aggregate of 53,666 shares of Common Stock at an exercise price of \$10.00 per share (the "2004 Xmark LP Warrants"), which exercise price is subject to adjustment as set forth in the 2004 Xmark LP Warrants, and (iv) 108 call options exercisable into 10,800 shares of Common Stock at an exercise price of \$10.00 per share. Xmark Ltd is the holder of (i) 564,945 shares of Common Stock, (ii) warrants which, subject to certain exercise restrictions contained therein, entitle Xmark Ltd to purchase up to an aggregate of 252,000 shares of Common Stock at an exercise price of \$6.50 per share (the "2003 Xmark Ltd Warrants,"

and together with the 2003 Xmark LP Warrants, the "2003 Warrants"), which exercise price is subject to adjustment as set forth in the 2003 Xmark Ltd Warrants, (iii) warrants which, subject to certain exercise restrictions contained therein, entitle Xmark Ltd to purchase up to an aggregate of 51,335 shares of Common Stock at an exercise price of \$10.00 per share (the "2004 Xmark Ltd Warrants", and together with the 2004 Xmark LP Warrants, the "2004 Warrants"), which exercise price is subject to adjustment as set forth in the 2004 Xmark Ltd Warrants, and (iv) 107 call options exercisable into 10,700 shares of Common Stock at an exercise price of \$10.00 per share.

The 2003 Warrants and the 2004 Warrants each provide that in no event shall such warrants be exercisable for shares of Common Stock to the extent that the issuance of Common Stock thereunder would result in the "beneficial ownership" (as defined in Section 13(d) of the Securities Exchange Act of 1934, as amended, and Regulations 13D-G thereunder) by Xmark LP, Xmark Ltd, or their affiliates, of more than 4.95% and 4.99%, respectively, of the Common Stock (the "Issuance Limitation"). The Issuance Limitation may not be waived. Thus, as of May 17, 2005, for the purposes of Reg. Section 240.13d-3, XAM may be deemed to beneficially own 1,151,392 shares of Common Stock, or 7.5% of the Common Stock deemed issued and outstanding as of that date. Two XAM affiliates acquired in the open market and currently own 50 January 2007 call options with respect to the Common Stock, the beneficial ownership of which is hereby disclaimed by the Reporting Person.

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The following table details the transactions effected since the filing of Amendment No. 2 to the Schedule 13D, in Common Stock, by XAM or any person or entity controlled by XAM or any person or entity for which XAM possesses voting or investment control over the securities thereof (each of which was effected in an ordinary brokerage transaction), except for the acquisition and prompt disposition by an XAM affiliate of less than one percent of the number of shares of outstanding Common Stock, which purchases and sales are omitted from the table below. XAM disclaims beneficial ownership of the shares of Common Stock in those omitted purchases and sales.

I. Xmark LP

(Purchases)

| Date ---- | Quantity ----- | Price Per Share ----- |
|--------------|-------------------|--------------------------|
| 4/22/05 | 500 | \$5.94 |
| 4/25/05 | 5,000 | \$5.85 |
| 4/26/05 | 1,500 | \$5.79 |
| 4/29/05 | 3,750 | \$5.43 |

(Sales)

| Date ---- | Quantity ----- | Price Per Share ----- |
|--------------|-------------------|--------------------------|
| 5/12/05 | 3,198 | \$5.04 |
| 5/13/05 | 3,700 | \$5.06 |
| 5/16/05 | 50 | \$5.17 |

II. Xmark Ltd

(Purchases)

| Date ---- | Quantity ----- | Price Per Share ----- |
|--------------|-------------------|--------------------------|
| 4/22/05 | 500 | \$5.94 |
| 4/25/05 | 5,000 | \$5.85 |
| 4/26/05 | 1,500 | \$5.79 |
| 4/29/05 | 3,750 | \$5.43 |

(Sales)

| Date ---- | Quantity ----- | Price Per Share ----- |
|--------------|-------------------|--------------------------|
| 5/12/05 | 3,198 | \$5.04 |
| 5/13/05 | 3,700 | \$5.06 |
| 5/16/05 | 50 | \$5.17 |

Signature

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

May 18, 2005

XMARK ASSET MANAGEMENT, LLC

/s/ Mitchell D. Kaye

Mitchell D. Kaye, Manager

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