

Edgar Filing: ZIOPHARM ONCOLOGY INC - Form SC 13G

ZIOPHARM ONCOLOGY INC
Form SC 13G
May 10, 2006

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

SCHEDULE 13G
UNDER THE SECURITIES EXCHANGE ACT OF 1934

ZIOPHARM ONCOLOGY, INC.
(Name of Issuer)

COMMON STOCK, PAR VALUE \$0.001 PER SHARE
(Title of Class of Securities)

98973P101
(CUSIP NUMBER)

MAY 3, 2006
(Date of event which requires filing of this statement)

Check the appropriate box to designate the rule pursuant to which this Schedule is filed:

- Rule 13d-1(b)
 Rule 13d-1(c)
 Rule 13d-1(d)

* 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 the disclosures provided in a prior cover page.

The information required in 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).

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-
1. NAME OF REPORTING PERSONS
I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Millennium Partners, L.P.
13-3521699

-
2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*

(a)
(b)

-
3. SEC USE ONLY

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4. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands

NUMBER OF 5. SOLE VOTING POWER

SHARES -0-

BENEFICIALLY 6. SHARED VOTING POWER

OWNED BY 793,486

EACH 7. SOLE DISPOSITIVE POWER

REPORTING -0-

PERSON 8. SHARED DISPOSITIVE POWER

WITH 793,486

9. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

793,486

10. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES CERTAIN SHARES*

11. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9)

5.2%

12. TYPE OF REPORTING PERSON*

PN

*SEE INSTRUCTIONS BEFORE FILLING OUT!

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1. NAME OF REPORTING PERSONS

I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Millenco, L.P.
13-3532932

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*

(a)

(b)

3. SEC USE ONLY

4. CITIZENSHIP OR PLACE OF ORGANIZATION

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Delaware

NUMBER OF 5. SOLE VOTING POWER

SHARES -0-

BENEFICIALLY 6. SHARED VOTING POWER

OWNED BY -0-

EACH 7. SOLE DISPOSITIVE POWER

REPORTING -0-

PERSON 8. SHARED DISPOSITIVE POWER

WITH -0-

9. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

793,486

10. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES CERTAIN SHARES*

|_ |

11. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9)

5.2%

12. TYPE OF REPORTING PERSON*

PN, BD

*SEE INSTRUCTIONS BEFORE FILLING OUT!

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1. NAME OF REPORTING PERSONS

I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Millennium Management, L.L.C.

13-3804139

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*

(a) |_ |

(b) |X |

3. SEC USE ONLY

4. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

NUMBER OF 5. SOLE VOTING POWER

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SHARES -0-

BENEFICIALLY 6. SHARED VOTING POWER

OWNED BY 793,486

EACH 7. SOLE DISPOSITIVE POWER

REPORTING -0-

PERSON 8. SHARED DISPOSITIVE POWER

WITH 793,486

9. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

793,486

10. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES CERTAIN SHARES*

|_ |

11. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9)

5.2%

12. TYPE OF REPORTING PERSON*

OO

*SEE INSTRUCTIONS BEFORE FILLING OUT!

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1. NAME OF REPORTING PERSONS
I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Israel A. Englander

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*

(a) |_ |
(b) |X |

3. SEC USE ONLY

4. CITIZENSHIP OR PLACE OF ORGANIZATION

United States

NUMBER OF 5. SOLE VOTING POWER

SHARES -0-

BENEFICIALLY 6. SHARED VOTING POWER

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OWNED BY 793,486

EACH 7. SOLE DISPOSITIVE POWER

REPORTING -0-

PERSON 8. SHARED DISPOSITIVE POWER

WITH 793,486

9. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

793,486

10. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES CERTAIN SHARES*

11. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9)

5.2%

12. TYPE OF REPORTING PERSON*

IN

*SEE INSTRUCTIONS BEFORE FILLING OUT!

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Item 1.

(a) Name of Issuer

ZIOPHARM Oncology, Inc., a company incorporated under the laws of Delaware (the "Company").

(b) Address of Issuer's Principal Executive Offices:

1180 Avenue of the Americas, 19th Floor
New York, NY 10036

Item 2(a). Name of Person Filing

Item 2(b). Address of Principal Business Office

Item 2(c). Citizenship

Millennium Partners, L.P.
c/o Millennium Management, L.L.C.
666 Fifth Avenue
New York, New York 10103
Citizenship: Cayman Islands

Millenco, L.P.
c/o Millennium Management, L.L.C.
666 Fifth Avenue
New York, New York 10103
Citizenship: Delaware

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Millennium Management, L.L.C.
666 Fifth Avenue
New York, New York 10103
Citizenship: Delaware

Israel A. Englander
c/o Millennium Management, L.L.C.
666 Fifth Avenue
New York, New York 10103
Citizenship: United States

(d) Title of Class of Securities

Common Stock, par value \$0.001 per share ("Common Stock")

(e) CUSIP Number

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Item 3. If this statement is filed pursuant to Rule 13d-1(b), or 13d-2(b), check whether the person filing is a:

- (a) Broker or dealer registered under Section 15 of the Act (15 U.S.C. 78o).
- (b) Bank as defined in Section 3(a)(6) of the Act (15 U.S.C. 78c).
- (c) Insurance company as defined in Section 3(a)(19) of the Act (15 U.S.C. 78c).
- (d) Investment company registered under Section 8 of the Investment

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Company Act of 1940 (15 U.S.C. 80a-8).

- (e) An investment adviser in accordance with Rule 13d-1(b)(1)(ii)(E);
- (f) An employee benefit plan or endowment fund in accordance with Rule 13d-1(b)(1)(ii)(F);
- (g) A parent holding company or control person in accordance with Rule 13d-1(b)(1)(ii)(G);
- (h) A savings association as defined in Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813);
- (i) A church plan that is excluded from the definition of an investment company under Section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a-3);
- (j) Group, in accordance with Rule 13d-1(b)(1)(ii)(J).

If this statement is filed pursuant to Rule 13d-1(c), check this box. [X]

Item 4. Ownership

Provide the following information regarding the aggregate number and percentage of the class of securities of the issuer identified in Item 1.

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(a) Amount Beneficially Owned

Each Reporting Person may be deemed the beneficial owner of:

- (i) 231,931 shares of Common Stock that were acquired by Millennium Partners, L.P., a Cayman Islands exempted limited partnership ("Millennium Partners") on or about December 13, 2005, in exchange for 462,962 shares of Series A Convertible Preferred Stock, \$0.001 par value per share, of Ziopharm, Inc. (the "Preferred Shares"). The Preferred Shares had been acquired on April 12, 2005 pursuant to a Subscription Agreement between Ziopharm, Inc. and Millennium Partners. The Preferred Shares were exchanged for shares of Common Stock in connection with Ziopharm, Inc.'s merger with EasyWeb, Inc.;
- (ii) 431,965 shares of Common Stock that were issued to Millennium Partners on May 3, 2006 in connection with a Subscription Agreement between the Company and Millennium Partners; and
- (iii) 129,590 shares of Common Stock issuable to Millennium Partners upon exercise of a Common Stock Purchase Warrant dated May 3, 2006.

The managing partner of Millennium Partners and the general partner of Millenco, L.P. ("Millenco") is Millennium Management, L.L.C., a Delaware limited liability company ("Millennium Management"), and consequently Millennium Management may be deemed to have voting control and investment discretion over securities owned by Millennium Partners and by Millenco. Israel A. Englander ("Mr. Englander") is the managing member of Millennium Management. As a result, Mr. Englander may be deemed to be the beneficial owner of any shares deemed to be beneficially owned by Millennium Management. The foregoing should not be construed in and of itself as an admission by either of Millennium Management or

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Mr. Englander as to beneficial ownership of the shares owned by Millennium Partners or Millenco.

Note: Millennium Partners is a limited partner of Millenco. As a limited partner, Millennium Partners has no investment or voting control over Millenco or its securities position.

(b) Percent of Class

As of the close of trading on the date of this filing, each Reporting Person may be deemed the beneficial owner of 793,486 shares of Common Stock, or 5.2% of the Company's issued and outstanding shares of Common Stock (which percentage was calculated based on a figure of 15,264,248 outstanding shares of Common Stock as of May 3, 2006, as reported on the Company's Current Report on Form 8-K dated May 3, 2006 and filed with the Securities and Exchange Commission on May 3, 2006).

(c) Number of shares as to which such person has:

- (i) Sole power to vote or to direct the vote:

-0-

- (ii) Shared power to vote or to direct the vote

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793,486

(iii) Sole power to dispose or to direct the disposition of

-0-

(iv) Shared power to dispose or to direct the disposition of

793,486

Item 5. Ownership of Five Percent or Less of a Class

If this statement is being filed to report the fact that as of the date hereof the reporting person has ceased to be the beneficial owner of more than five percent of the class of securities, check the following | |.

Item 6. Ownership of More than Five Percent on Behalf of Another Person.

Not applicable.

Item 7. Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on By the Parent Holding Company

Not applicable.

Item 8. Identification and Classification of Members of the Group

See Exhibit I.

Item 9. Notice of Dissolution of Group

Not applicable.

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Item 10. Certification

By signing below each of the undersigned certifies that, to the best of its knowledge and belief, the securities referred to above were not acquired and are not held for the purpose of or with the effect of changing or influencing the control of the issuer of the securities and were not acquired and are not held in connection with or as a participant in any transaction having that purpose or effect.

Exhibits:

Exhibit I: Joint Filing Agreement, dated as of May 9, 2006, by and among Millennium Partners, L.P., Millenco, L.P., Millennium Management, L.L.C. and Israel A. Englander.

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SIGNATURE

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

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Dated: May 9, 2006

MILLENNIUM PARTNERS, L.P.

MILLENCO, L.P.

By: Millennium Management, L.L.C.
its general partner

By: Millennium Management, L.L.C.
its general partner

By: /s/ Terry Feeney

By: /s/ Terry Feeney

Name: Terry Feeney
Title: Chief Operating Officer

Name: Terry Feeney
Title: Chief Operating Officer

/s/ Israel A. Englander by Simon
Lorne pursuant to Power of Attorney
filed with SEC on June 6, 2005

MILLENNIUM MANAGEMENT, L.L.C.

By: /s/ Terry Feeney

ISRAEL A. ENGLANDER

Name: Terry Feeney
Title: Chief Operating Officer

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EXHIBIT I

JOINT FILING AGREEMENT

This will confirm the agreement by and among the undersigned that the Schedule 13G filed with the Securities and Exchange Commission on or about the date hereof with respect to the beneficial ownership by the undersigned of the Common Stock, par value \$0.001 per share, of ZIOPHARM Oncology, Inc., a company incorporated under the laws of Delaware, is being filed, and all amendments thereto will be filed, on behalf of each of the persons and entities named below in accordance with Rule 13d-1(k) under the Securities Exchange Act of 1934, as amended. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Dated: May 9, 2006

MILLENNIUM PARTNERS, L.P.

MILLENCO, L.P.

By: Millennium Management, L.L.C.
its general partner

By: Millennium Management, L.L.C.
its general partner

By: /s/ Terry Feeney

By: /s/ Terry Feeney

Name: Terry Feeney
Title: Chief Operating Officer

Name: Terry Feeney
Title: Chief Operating Officer

/s/ Israel A. Englander by Simon
Lorne pursuant to Power of Attorney
filed with SEC on June 6, 2005

MILLENNIUM MANAGEMENT, L.L.C.

By: /s/ Terry Feeney

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ISRAEL A. ENGLANDER

Name: Terry Feeney

Title: Chief Operating Officer