

Edgar Filing: ORPHAN MEDICAL INC - Form SC 13D/A

ORPHAN MEDICAL INC
Form SC 13D/A
April 28, 2005

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 13D
UNDER THE SECURITIES EXCHANGE ACT OF 1934
(AMENDMENT NO. 3)

ORPHAN MEDICAL, INC.
(Name of Issuer)

COMMON STOCK, \$.01 PAR VALUE
(Title of Class of Securities)

687303 10 7 (FOR COMMON STOCK ISSUED UPON CONVERSION)
(CUSIP Number)

MICHAEL GREENE
PARTNER
UBS CAPITAL II LLC
299 PARK AVENUE
NEW YORK, NEW YORK 10171
(212) 821-6380
(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

COPIES TO:

NANCY E. FUCHS, ESQ.
KAYE SCHOLER LLP
425 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 836-8000

APRIL 18, 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 Rule 13d-1(e), 13d-1(f) or 13d-1(g), check the following box [].

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

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 (the "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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 NAMES OF REPORTING PERSONS
 I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)
 1 UBS Capital II LLC 13-3699851

CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP
 2 (SEE INSTRUCTIONS) (a) []
 (b) []

3 SEC USE ONLY

SOURCE OF FUNDS (SEE INSTRUCTIONS)
 4 OO

CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED
 5 PURSUANT TO ITEMS 2(d) OR 2(e) []

CITIZENSHIP OR PLACE OF ORGANIZATION
 6 Delaware

SOLE VOTING POWER
 7 -0-

SHARED VOTING POWER
 UBS Capital II LLC owns (i) 289,986 shares of Common
 Stock, (ii) 8,706 shares of Senior Convertible Preferred
 Stock (convertible into approximately 1,069,533(1) shares
 of Common Stock), (iii) 4,420 shares of Series B
 Convertible Preferred Stock (convertible into
 approximately 680,000(2) shares of Common Stock), (iv) a
 warrant to purchase up to 2,050 shares of non-voting
 Series C Convertible Preferred Stock or 315,385 shares
 8 of Series D Non-Voting Convertible Preferred Stock
 (convertible into an aggregate of 315,385 shares of
 Common Stock) or any combination thereof up to a maximum
 aggregate purchase price of \$2,050,000, (v) a warrant to
 purchase up to 282,353 shares of Series D Non-Voting
 Convertible Preferred Stock (convertible into 282,353
 shares of Common Stock) and (vi) options to purchase
 40,000 shares of Common Stock. By virtue of the Proxy
 granted to Buyer pursuant to the Voting Agreement (all
 as defined in Item 4 hereof), the Buyer may be deemed to
 share the power to vote the foregoing securities in
 accordance with the terms of the Voting Agreement.

 (1) Assuming conversion price of \$8.14 per share, the adjusted conversion
 price.

(2) Assuming conversion price of \$6.50 per share, the initial conversion
 price.

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SOLE DISPOSITIVE POWER

9 UBS Capital II LLC owns (i) 289,986 shares of Common Stock, (ii) 8,706 shares of Senior Convertible Preferred Stock (convertible into approximately 1,069,533(1) shares of Common Stock), (iii) 4,420 shares of Series B Convertible Preferred Stock (convertible into approximately 680,000(2) shares of Common Stock), (iv) a warrant to purchase up to 2,050 shares of non-voting Series C Convertible Preferred Stock or 315,385 shares of Series D Non-Voting Convertible Preferred Stock (convertible into an aggregate of 315,385 shares of Common Stock) or any combination thereof up to a maximum aggregate purchase price of \$2,050,000, (v) a warrant to purchase up to 282,353 shares of Series D Non-Voting Convertible Preferred Stock (convertible into 282,353 shares of Common Stock) and (vi) options to purchase 40,000 shares of Common Stock.

SHARED DISPOSITIVE POWER

10
-0-

AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

UBS Capital II LLC owns (i) 289,986 shares of Common Stock, (ii) 8,706 shares of Senior Convertible Preferred Stock (convertible into approximately 1,069,533(1) shares of Common Stock), (iii) 4,420 shares of Series B Convertible Preferred Stock (convertible into approximately 680,000(2) shares of Common Stock), (iv) a warrant to purchase up to 2,050 shares of non-voting Series C Convertible Preferred Stock or 315,385 shares of Series D Non-Voting Convertible Preferred Stock (convertible into an aggregate of 315,385 shares of Common Stock) or any combination thereof up to a maximum aggregate purchase price of \$2,050,000, (v) a warrant to purchase up to 282,353 shares of Series D Non-Voting Convertible Preferred Stock (convertible into 282,353 shares of Common Stock) and (vi) options to purchase 40,000 shares of Common Stock.

12 CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS) []

PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

13 UBS Capital II LLC beneficially owns shares of Common Stock and capital stock convertible into an aggregate of approximately 19.4% of Common Stock of the Issuer (based on 11,430,066 shares outstanding as of March 10, 2005 plus shares of Common Stock issuable upon the conversion and exercise of the reported securities).

TYPE OF REPORTING PERSON (SEE INSTRUCTIONS)

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14

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- (1) Assuming conversion price of \$8.14 per share, the adjusted conversion price.
- (2) Assuming conversion price of \$6.50 per share, the initial conversion price.

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1	NAMES OF REPORTING PERSONS OR I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)
	UBS Capital Holdings LLC 13-3952898

2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS) (a) [] (b) []

3	SEC USE ONLY

4	SOURCE OF FUNDS (SEE INSTRUCTIONS)
	OO

5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e) []

6	CITIZENSHIP OR PLACE OF ORGANIZATION
	Delaware

7	SOLE VOTING POWER
	-0-

8	SHARED VOTING POWER
	-0-

9	SOLE DISPOSITIVE POWER
	-0-

10	SHARED DISPOSITIVE POWER
	-0-

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AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

11 UBS Capital II LLC owns (i) 289,986 shares of Common Stock, (ii) 8,706 shares of Senior Convertible Preferred Stock (convertible into approximately 1,069,533(1) shares of Common Stock), (iii) 4,420 shares of Series B Convertible Preferred Stock (convertible into approximately 680,000(2) shares of Common Stock), (iv) a warrant to purchase up to 2,050 shares of non-voting Series C Convertible Preferred Stock or 315,385 shares of Series D Non-Voting Convertible Preferred Stock (convertible into an aggregate of 315,385 shares of Common Stock) or any combination thereof up to a maximum aggregate purchase price of \$2,050,000, (v) a warrant to purchase up to 282,353 shares of Series D Non-Voting Convertible Preferred Stock (convertible into 282,353 shares of Common Stock) and (vi) options to purchase 40,000 shares of Common Stock. UBS Capital Holdings LLC, by virtue of the fact that it owns 100% of UBS Capital II LLC, beneficially owns all such shares.

12 CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS) []

PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

13 UBS Capital II LLC beneficially owns shares of Common Stock and capital stock convertible into an aggregate of approximately 19.4% of Common Stock of the Issuer (based on 11,430,066 shares outstanding as of March 10, 2004 plus shares of Common Stock issuable upon the conversion and exercise of the reported securities). UBS Capital Holdings LLC, by virtue of the fact that it owns 100% of UBS Capital II LLC, beneficially owns all such shares.

14 TYPE OF REPORTING PERSON (SEE INSTRUCTIONS)

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- (1) Assuming conversion price of \$8.14 per share, the adjusted conversion price.
 - (2) Assuming conversion price of \$6.50 per share, the initial conversion price.

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1 NAMES OF REPORTING PERSONS
OR I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

UBS AG 98-0186363

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2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS) (a) [] (b) []

3 SEC USE ONLY

4 SOURCE OF FUNDS (SEE INSTRUCTIONS)
OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e) []

6 CITIZENSHIP OR PLACE OF ORGANIZATION
Switzerland

7 SOLE VOTING POWER
-0-

8 SHARED VOTING POWER

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH

9 SOLE DISPOSITIVE POWER
-0-

10 SHARED DISPOSITIVE POWER
-0-

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

UBS Capital II LLC owns (i) 289,986 shares of Common Stock, (ii) 8,706 shares of Senior Convertible Preferred Stock (convertible into approximately 1,069,533(1) shares of Common Stock), (iii) 4,420 shares of Series B Convertible Preferred Stock (convertible into approximately 680,000(2) shares of Common Stock), (iv) a warrant to purchase up to 2,050 shares of non-voting Series C Convertible Preferred Stock or 315,385 shares of Series D Non-Voting Convertible Preferred Stock (convertible into an aggregate of 315,385 shares of Common Stock) or any combination thereof up to a maximum aggregate purchase price of \$2,050,000, (v) a warrant to purchase up to 282,353 shares of Series D Non-Voting Convertible Preferred Stock (convertible into 282,353 shares of Common Stock) and (vi) options to purchase 40,000 shares of Common Stock. UBS AG, by virtue of the fact that it owns 100% of UBS Capital Holdings LLC, beneficially owns all such shares.

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12 CHECK IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN
SHARES (SEE INSTRUCTIONS) []

PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

UBS Capital II LLC beneficially owns shares of Common Stock and capital stock convertible into an aggregate of approximately 19.4% of Common Stock of the Issuer (based on 11,430,066 shares outstanding as of March 10, 2005 plus shares of Common Stock issuable upon the conversion and exercise of the reported securities). UBS AG beneficially owns all such shares, by virtue of the fact that it owns 100% of UBS Capital Holdings LLC.

TYPE OF REPORTING PERSON (SEE INSTRUCTIONS)

14

CO

- (1) Assuming conversion price of \$8.14 per share, the adjusted conversion price.
- (2) Assuming conversion price of \$6.50 per share, the initial conversion price.

SCHEDULE 13D

The Statement on Schedule 13D (the "Schedule 13D") initially filed on August 3, 1998 with the Securities and Exchange Commission (the "Commission") by UBS Capital II LLC, a Delaware limited liability company ("UBS"), UBS Capital Holdings LLC, a Delaware limited liability company ("Holdings") and UBS AG, a Swiss banking corporation ("UBS AG"), as amended by Amendment No. 1 to the Schedule 13D filed on August 20, 1999 and Amendment No. 2 to the Schedule 13D filed on March 3, 2005, which relates to the beneficial ownership of (a) shares of Common Stock ("Common Stock") of Orphan Medical, Inc., a Minnesota corporation (the "Company"), (b) shares of Senior Convertible Preferred Stock, par value \$.01 per share (the "Preferred Stock"), which are convertible into shares of Common Stock, (c) shares of Series B Convertible Preferred Stock, par value \$.01 per share (the "Series B Preferred Stock"), which are convertible into shares of Common Stock, (d) a warrant to purchase shares of non-voting Series C Convertible Preferred Stock, par value \$.01 per share (the "Series C Preferred Stock") or shares of Series D Non-Voting Convertible Preferred Stock, par value \$.01 per share (the "Series D Preferred Stock") or any combination thereof, which are convertible into shares of Common Stock and (e) a warrant to purchase shares of Series D Preferred Stock, which are convertible into shares of Common Stock, is hereby amended as follows.

ITEM 4 PURPOSE OF TRANSACTION

The following is hereby added to the end of Item 4:

The foregoing is qualified in its entirety by the following:

Orphan Medical, Inc., a Delaware corporation (the "Company"), Jazz Pharmaceuticals, Inc., a Delaware corporation ("Buyer"), and Twist Merger Sub, Inc., a Delaware corporation ("Sub") entered into a Merger Agreement as of April 18, 2005 (the "Merger Agreement", attached hereto as Exhibit 9 and incorporated by reference herein), which provides for, upon the terms and subject to the

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conditions set forth therein, the merger of Sub with and into the Company (as set forth in the Merger Agreement) in exchange for a cash payment for all of the issued and outstanding shares of capital stock of the Company (the "Merger").

The Voting Agreement provides that approval of the Merger Agreement by (i) the holders of a majority of the issued and outstanding shares of the Company's Common Stock, \$0.01 par value per share, voting together with the holders of the Company's Senior Convertible Preferred Stock, \$0.01 par value per share ("Senior Preferred Stock"), voting on an as converted basis and (ii) the holders of a majority of the issued and outstanding shares of Senior Preferred Stock, voting as a separate class, among other things, is required in order to consummate the transactions contemplated by the Merger Agreement. Pursuant to the Agreement, dated as of December 7, 2001, between the Company and UBS attached hereto as Exhibit 8 and incorporated by reference herein, UBS irrevocably waived its rights to vote the Senior Preferred Stock as a separate class with respect to certain matters, including a merger of the Company with or into another person.

In connection with the execution of the Merger Agreement, Buyer has required certain stockholders of the Company, including UBS, to enter into the Voting Agreement, dated as of April 18, 2005, among the Company, Buyer, Sub, UBS and each stockholder of the Company

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signatory thereto (the "Voting Agreement", attached hereto as Exhibit 10 and incorporated by reference herein). The Voting Agreement is described below (certain capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Voting Agreement).

Agreement to Vote. From April 18, 2005 until the termination of the Voting Agreement (the "Term"), at every time as the Company convenes a meeting of, or otherwise seeks a vote of, the Company's stockholders for the purpose of approving the Merger, UBS agrees to vote, or cause to be voted, to the extent not voted by Buyer as appointed by the Proxy (defined below), all of its Subject Shares: (a) in favor of the approval and adoption of the Merger Agreement and the approval of the Merger and the transactions contemplated by the Merger Agreement; (b) against approval of any proposal made in opposition to, or in competition with, the Merger and the transactions contemplated by the Merger Agreement; and (c) against any actions (other than those actions that relate to the Merger and the transactions contemplated by the Merger Agreement) that are intended to, or could be reasonably expected to, impair the ability of the Company to consummate the Merger or otherwise impede, interfere with, delay, postpone, discourage or adversely affect the consummation of the Merger in accordance with the terms of the Merger Agreement. UBS further agrees not to enter into any agreement or understanding with any person to vote or give instructions in any manner inconsistent with or violative of the foregoing terms.

Proxy. UBS constitutes and appoints Buyer as its proxy (its "Proxy") to vote UBS' Subject Shares at every annual, special, adjourned or postponed meeting of the stockholders of the Company called for purposes of considering whether to approve the Merger Agreement or any of the other transactions or matters contemplated by, or directly or indirectly affecting, the Merger Agreement or to execute a written consent of stockholders in lieu of any such meeting.

Transfer of Subject Shares. Except as otherwise contemplated by the Merger Agreement, until the termination of the Voting Agreement, UBS agrees that it will be the beneficial owner of all of its Subject Shares and will hold such Subject Shares free and clear of all Liens and will not, directly or indirectly, without the prior written consent of Buyer: (a) offer for sale, sell, transfer, tender, pledge, encumber, assign or otherwise in any way dispose of, or enter

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into any contract, option or other agreement (oral or written) with respect to or consent to the offer for sale, sale, transfer, tender, pledge, encumbrance, assignment or any other disposition of, any or all of such Stockholder's Subject Shares, or any interest therein; (b) grant any proxies or powers of attorney, deposit any of the Subject Shares into a voting trust or enter into a voting agreement with respect to any of the Subject Shares; (c) take any action that would reasonably be expected to have the effect of preventing or disabling such Stockholder from performing its obligations under this Agreement or making any representation or warranty of such contained in this Agreement untrue or incorrect; or (d) enter into any agreement or arrangement providing for any of the actions described in clause (a), (b) or (c) above.

Termination. The Voting Agreement terminates upon the earliest to occur of (i) the Merger Effective Time, (ii) the valid termination of the Merger Agreement in accordance with its terms, (iii) the execution of any amendment to the Merger Agreement that modifies the amount, form or timing of payment of the Merger Consideration in a manner adverse to any Stockholder without the prior written consent of such Stockholder or (iv) the mutual agreement of the parties hereto.

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Certain Events. UBS agrees that the Voting Agreement and its obligations thereunder shall attach to its Subject Shares and shall be binding upon any person or entity to which legal or beneficial ownership of such Subject Shares shall pass, whether by operation of law or otherwise, including, without limitation, UBS' successors. Notwithstanding any transfer of Subject Shares, the transferor shall remain liable for the performance of all its obligations under the Voting Agreement.

The preceding summary of certain provisions of the Voting Agreement is not intended to be complete and is qualified in its entirety by reference to the full text of the Voting Agreement and the Merger Agreement, copies of which are filed as exhibits hereto and are incorporated herein by reference.

ITEM 5 INTEREST IN SECURITIES OF THE ISSUER

Item 5 is hereby deleted in its entirety and replaced with the following:

a. UBS is the beneficial owner of 289,986 shares of Common Stock, 8,706 shares of Senior Convertible Preferred Stock and 4,420 shares of Series B Convertible Preferred Stock which shares of Senior Convertible Preferred Stock and Series B Convertible Preferred Stock are currently convertible into an aggregate of 1,749,533 shares of Common Stock. In addition, UBS beneficially owns up to 2,050 shares of non-voting Series C Convertible Preferred Stock or 315,385 shares of Series D Non-Voting Convertible Preferred Stock or any combination thereof up to a maximum aggregate purchase price of \$2,050,000 and 282,353 shares of Series D Non-Voting Convertible Preferred Stock, such shares are issuable upon exercise of the respective warrants. Upon issuance, such shares would currently be convertible into 315,385 shares and 282,353 shares, respectively, of Common Stock, subject to anti-dilution adjustments. UBS also beneficially owns 40,000 shares of Common Stock issuable pursuant to a stock option agreement. UBS, therefore, is the beneficial owner of shares of Common Stock and capital stock convertible into, on an aggregate basis, approximately 19.4% of the issued and outstanding shares of Common Stock of the Company (based on 11,430,066 shares outstanding as of March 10, 2004 plus shares of Common Stock issuable upon the conversion and exercise of the reported securities).

Pursuant to the terms of the Certificate of Incorporation of the Company, the conversion price of the Preferred Stock had initially been equal to the lesser of (i) 10% above the 20-day average bid price immediately prior to July 23, 1998 and (ii) 10% above the 20-day average bid price immediately prior

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to October 21, 1998, but in no event was the initial conversion price to be less than \$8.50 per share. In accordance with the initial terms of the Preferred Stock in connection with the sale of the Series B Preferred Stock, the conversion price on the Preferred Stock was reduced from its initial conversion price of \$8.50 per share to \$8.14 per share. Pursuant to the terms of the Certificate of Incorporation, the conversion price of the Series B Preferred Stock is initially \$6.50 per share. The Warrant has an exercise price of \$1,000 for the purchase of Series C Preferred Stock and \$6.50 for the purchase of Series D Preferred Stock and the Financing Warrant has an exercise price of \$4.25 for the purchase of Series D Preferred Stock. Of the vested options, 25,000 options have an exercise price of \$7.81 per share, 5,000 options have an exercise price of \$10.75 per share, 5,000 options have an exercise price of \$7.20 per share and 5,000 options have an exercise price of \$9.31 per share. All of the vested

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options are exercisable at any time. Prior to exercise, neither the warrants nor the options are accorded any voting rights.

By virtue of the fact that UBS AG owns 100% of Holdings, which owns 100% of UBS Capital II LLC, UBS AG and Holdings are each the beneficial owner of all such stock. UBS AG and Holdings each disclaim beneficial ownership of any equity securities of the Company.

b. By virtue of the Proxy granted to Buyer pursuant to the Voting Agreement, all as described in Item 4 above, the Buyer may be deemed to share the power to vote or direct the vote of the securities identified in paragraph (a) above with UBS in accordance with the terms of the Voting Agreement, to the extent such shares have the power to vote, under the circumstances described in the Certificates of Designation; subject to the restrictions contained in the Voting Agreement with respect to the transfer of the Company's securities, UBS has the sole power to dispose or direct the disposition of all shares identified in paragraph (a) above. The information required by Item 2 with respect to Buyer can be found in the Schedule 13D filed by Buyer.

c. Except as described herein, the Reporting Persons have not effected any transaction in the securities of the Company during the past 60 days.

d. Not applicable.

e. Not applicable.

ITEM 6 CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO THE COMMON STOCK OF THE ISSUER

The word "herein" in the first sentence of the second paragraph of Item 6 is hereby deleted and replaced with the words "in the Schedule 13D, as amended".

7. MATERIAL TO BE FILED AS EXHIBITS

- | | |
|-----------|--|
| Exhibit 1 | Information relating to the members of the Board of Directors and executive officers of UBS AG (incorporated by reference to Exhibit 1 of Amendment No. 2 to Schedule 13D of the registrant filed on March 3, 2005). |
| Exhibit 2 | Stock Purchase Agreement, dated as of July 23, 1998, between Orphan Medical, Inc. and UBS Capital II LLC (incorporated by reference to Exhibit 10.48 filed with |

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the Form 10-Q of Orphan Medical, Inc. filed on July 31, 1998).

Exhibit 3 Stock Purchase Agreement, dated as of August 2, 1999, between Orphan Medical, Inc. and UBS Capital II LLC (incorporated by reference to Exhibit 2 of Amendment No. 1 to Schedule 13D of the registrant filed on August 20, 1999).

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Exhibit 4 Certificate of Designation of Orphan Medical, Inc. (incorporated by reference to Exhibit 3.11 filed with the Form 10-Q of Orphan Medical, Inc. filed on July 30, 1998).

Exhibit 5 Certificate of Designation of Orphan Medical, Inc. (incorporated by reference to Exhibit 7 of Amendment No. 1 to Schedule 13D of the registrant filed on August 20, 1999).

Exhibit 6 Warrant to purchase shares of Series C Convertible Preferred Stock or Series D Non-Voting Preferred Stock dated August 2, 1999 (incorporated by reference to Exhibit 4 of Amendment No. 1 to Schedule 13D of the registrant filed on August 20, 1999).

Exhibit 7 Warrant to purchase shares of Series D Non-Voting Preferred Stock dated August 2, 1999 (incorporated by reference to Exhibit 5 of Amendment No. 1 to Schedule 13D of the registrant filed on August 20, 1999).

Exhibit 8 Agreement, between Orphan Medical, Inc. and UBS Capital II LLC, dated as of December 7, 2001 (incorporated by reference to Exhibit 10.61 filed with the Form 10-K of Orphan Medical, Inc. filed on April 1, 2002).

Exhibit 9 Merger Agreement, dated as of April 18, 2005, among Orphan Medical, Inc., Jazz Pharmaceuticals, Inc. and Twist Merger Sub, Inc. (incorporated by reference to Exhibit 2.1 filed with the Current Report on Form 8-K of Orphan Medical, Inc. filed on April 20, 2005).

Exhibit 10 Voting Agreement, dated as of April 18, 2005, among Orphan Medical, Inc., Jazz Pharmaceuticals, Inc., Twist Merger Sub, Inc., UBS Capital II LLC and each stockholder of the Company signatory thereto (incorporated by reference to Exhibit 10.1 filed with the Current Report on Form 8-K of Orphan Medical, Inc. filed on April 20, 2005).

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SIGNATURE

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

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Dated as of April 28, 2005

UBS CAPITAL II LLC

By: /s/ Louis R. Eber

Name: Louis R. Eber
Title: Managing Director

By: /s/ Sandra Ward Costin

Name: Sandra Ward Costin
Title: Executive Director

UBS CAPITAL HOLDINGS LLC

By: /s/ Louis R. Eber

Name: Louis R. Eber
Title: Managing Director

By: /s/ Sandra Ward Costin

Name: Sandra Ward Costin
Title: Executive Director

UBS AG

By: /s/ Per Dyrvik

Name: Per Dyrvik
Title: Managing Director

By: /s/ Regina Dolan

Name: Regina Dolan
Title: Managing Director and
Chief Financial Officer

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