CYTRX CORP
Form S-3
November 01, 2002
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As filed with the Securities and Exchange Commission on November 1, 2002

Reg. No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

CYTRX CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**58-1642750**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

CytRx Corporation
11726 San Vicente Boulevard, Suite 650
Los Angeles, California 90049
(Address, including zip code, and telephone number, including area code, of Registrant s principal executive offices)

Steven A. Kriegsman
CytRx Corporation
11726 San Vicente Boulevard., Suite 650
Los Angeles, California 90049
(310) 826-5648
(Name, address, including zip code, and telephone number, including area code, of agent for service)

With a copy to:

Sanford J. Hillsberg, Esq.
Istvan Benko, Esq.
Troy & Gould Professional Corporation
1801 Century Park East, Suite 1600
Los Angeles, California 90067
(310) 553-4441

Approximate date of commencement of proposed sale to public: As soon as practicable after this Registration Statement becomes effective.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ¨

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. þ

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. ¨

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, $.001 par value	9,496,534 shares	$0.29(1)	$2,753,994	$253.37
Common Stock, $.001 par value	1,014,677 shares(2)	$0.01(3)	$10,147	$0.93
Common Stock, $.001 par value	1,413,880 shares(2)	$1.00(3)	$1,413,880	$130.08
Common Stock, $.001 par value	250,000 shares(2)	$0.58(3)	$145,000	$13.34
Total Registration Fee				$397.72

(1) Estimated solely for the purpose of calculating the registration fee. Based, pursuant to Rule 457, on the average of the high and low sale prices of Registrant's Common Stock as reported on Nasdaq SmallCap Market on October 28, 2002. Each share of our common stock is accompanied by one share of our Series A junior participating preferred stock purchase rights that trades with the common stock. The value attributed to those rights, if any, is reflected in the market price of our common stock. Prior to the occurrence of certain events, none of which has occurred as of this date, the rights will not be exercisable or evidenced separately from the common stock.

(2) Represents shares issuable upon exercise of outstanding warrants. In accordance with Rule 416, there is also being registered hereunder such indeterminate number of additional shares of Common Stock as may become issuable upon exercise of the warrants to prevent dilution resulting from stock splits, stock dividends or similar transactions.

(3) Based, pursuant to Rule 457, on the exercise price of the warrants.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933 OR UNTIL THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

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Information contained in this prospectus is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold until the registration statement becomes effective. This prospectus is not an offer to sell and is not a solicitation of an offer to buy these securities in any state in which an offer, solicitation or sale is not permitted.

SUBJECT TO COMPLETION, NOVEMBER 1, 2002.

PROSPECTUS

12,175,091 Shares

CYTRX CORPORATION

Common Stock

All of the shares of our common stock offered hereby are being sold by the securityholders listed in this prospectus. See Selling Securityholders. Of the shares offered, 2,678,557 are issuable upon the exercise of outstanding warrants to purchase our common stock held by certain of the selling securityholders. The number of shares offered by these selling securityholders is subject to increase in certain events by reason of so-called antidilution provisions contained in the warrants held by them. The selling securityholders holding warrants must first exercise the warrants and acquire the underlying shares from us before they can resell those shares under this prospectus.

We will receive the exercise price of the warrants described in this prospectus to the extent they are exercised for cash, but we will not otherwise receive any proceeds in connection with the sale of the shares by the selling securityholders. See Use of Proceeds.

Our common stock is traded on the Nasdaq SmallCap Market under the symbol CYTR. On October 31, 2002, the last sale price for the common stock as reported on the Nasdaq SmallCap Market was $0.31.

The selling securityholders may offer the shares of common stock from time-to-time to or through brokers, dealers or other agents, or directly to other purchasers, in one or more market transactions or private transactions at prevailing market or at negotiated prices. See Plan of Distribution.

We will bear the costs and expenses of registering the shares offered by the selling securityholders. The selling securityholders will bear any commissions and discounts attributable to their sales of the shares.

An investment in the common stock involves a high degree of risk. Before purchasing any shares, you should consider carefully the risks described under Risk Factors beginning on page 3.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved the common stock or determined that this prospectus is complete or accurate. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2002

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You should rely only on the information contained or incorporated by reference in this prospectus and any supplement. We have not authorized any other person to provide you with different or additional information. If anyone provides you with different or additional information, you should not rely on it. This prospectus is not 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 or incorporated by reference in this prospectus and any supplement is accurate as of its date only. Our business, financial condition, results of operations, and prospects may have changed since that date.

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FORWARD-LOOKING STATEMENTS

In addition to the other information contained in this prospectus, investors should carefully consider the risk factors disclosed in this prospectus, including those beginning on page 3, in evaluating an investment in our common stock. This prospectus and the documents incorporated herein by reference include forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act. All statements other than statements of historical fact are forward-looking statements for purposes of these provisions, including any projections of financial items, any statements of the plans and objectives of management for future operations, any statements concerning proposed new products or services, any statements regarding future economic conditions or performance, and any statement of assumptions underlying any of the foregoing. In some cases, forward-looking statements can be identified by the use of terminology such as may, will, expects, plans, anticipates, estimates, potential, or continue or the negative thereof or other comparable terminology. Although we believe the expectations reflected in the forward-looking statements contained herein and in such incorporated documents are reasonable, there can be no assurance that such expectations or any of the forward-looking statements will prove to be correct, and actual results could differ materially from those projected or assumed in the forward-looking statements. Our future financial condition and results of operations, as well as any forward-looking statements, are subject to inherent risks and uncertainties, including but not limited to the risk factors set forth above and for the reasons described elsewhere in this prospectus. All forward-looking statements and reasons why results may differ included in this prospectus are made as of the date hereof, and we assume no obligation to update any such forward-looking statement or reason why actual results might differ.

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THE COMPANY

General

We are engaged in the development and commercialization of pharmaceutical products. Our current products are FLOCOR, an intravenous agent for treatment of sickle cell disease and other acute vaso-occlusive disorders, and TranzFect, a delivery technology for DNA and conventional-based vaccines. We are currently seeking strategic partners to complete the development of FLOCOR, and TransFect is currently being developed by our two licensees for this product. We may also seek to license our TransFect technology for development as a potential DNA-based prostate cancer adjuvant and as a potential conventional adjuvant for hepatitis B and C, flu, malaria and other viral diseases. We also have a portfolio of potential products and technologies in the areas of muscular dystrophy, cancer, spinal cord injury, vaccine delivery and gene therapy. In addition, we own minority interests in two development stage genomics companies.

Recent Developments

On July 19, 2002, we completed the acquisition of Global Genomics Capital, Inc. The acquisition of Global Genomics was accomplished through a merger of our wholly owned subsidiary, GGC Merger Corporation, with and into Global Genomics. Global Genomics was the surviving corporation in the merger and is now our wholly owned subsidiary. We have changed Global Genomics name to GGC Pharmaceuticals, Inc., but for purposes of this prospectus, we will continue to refer to the company as Global Genomics.

In the Global Genomics merger, each outstanding share of common stock of Global Genomics was converted into 0.765967 shares of our common stock. Accordingly, a total of 8,948,204 shares of our common stock, or approximately 41.7% of our common stock outstanding immediately after the merger, were issued to the common stockholders of Global Genomics, and an additional 1,014,677 shares of our common stock were reserved for issuance upon the exercise of the outstanding Global Genomics warrants that we assumed in the merger. Other than the foregoing stock, we paid no other consideration to the Global Genomics shareholders.

Global Genomics is a development stage company that has been engaged principally in investing in or acquiring companies that develop and commercialize healthcare products driven by genomics technologies. Global Genomics primary assets are a 40% equity interest in Blizzard Genomics, Inc. and a 5% equity interest in Psynomics, Inc. Blizzard Genomics is developing instrumentation, software and consumable supplies for the growing genomics industry. Blizzard Genomics is the exclusive sublicensee of a technology that it believes allows for cheaper, faster and more portable analysis of DNA, through the use of its own readers and DNA chips, as compared to other currently available technology. Blizzard Genomics has plans to commercially launch its first chip reader later this year, with the commercial launch of its second T-Chip technology product planned for the second half of next year. Psynomics is an early stage psychiatric genomics company. Psynomics short-term goal is to identify the genes that cause common neuropsychiatric diseases, such as bipolar disorder, schizophrenia and depression and to develop diagnostic tests for these diseases. Psynomics long-term goal is to provide the tools to the pharmaceutical industry to develop novel drug and gene therapy products for neuropsychiatric diseases. We do not currently intend to allocate additional capital to Global Genomics for it to make further investments in its two existing portfolio companies or in new companies.

At the time of the Global Genomics merger, there were no material relationships between Global Genomics or any of its shareholders or affiliates and us, except that on July 16, 2002, Global Genomics three designees to our Board of Directors, Steven A. Kriegsman, Louis J. Ignarro, Ph.D. and Joseph Rubinfeld, Ph.D., were elected directors and Steven A. Kriegsman became our Chief Executive Officer. Mr. Kriegsman was Global Genomics Chairman and Dr. Ignarro was a director of Global Genomics at that time. On the date of the Merger, the controlling shareholder of Global Genomics was Steven A. Kriegsman, who beneficially owned, on a fully diluted basis, approximately 41.3% of Global Genomics equity interest.

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The shares of our common stock that we issued in the merger with Global Genomics or that we will issue upon exercise of warrants issued by Global Genomics that we assumed in the merger were not registered under the Securities Act. As a result, resale of these shares is restricted under the Securities Act. However, pursuant to a registration rights agreement that we signed with the former shareholders of Global Genomics, we agreed under certain circumstances to register these shares. This prospectus is part of the registration statement that we filed as a result of our agreement to register these shares, and this prospectus also covers the resale of certain other shares of our common stock that we have issued to third parties.

RISK FACTORS

You should carefully consider the following risks before deciding to purchase shares of our common stock. If any of the following risks actually occur, the trading price of our common stock could decline, and you could lose all or part of your investment. You should also refer to the other information in this prospectus and the information incorporated into this registration statement by reference, including our financial statements and the related notes.

We Have Operated at a Loss and Will Likely Continue to Operate at a Loss For the Foreseeable Future

We have incurred significant losses over the past five calendar years and for the first half of 2002, primarily as the result of our expenditures for research and development on our products and for general and administrative expenses and our lack of significant revenues. As a result primarily of certain nonrecurring expenses incurred in completing the merger with Global Genomics, we anticipate having a significant operating loss for the third quarter of 2002. We are likely to continue thereafter to incur operating losses until such time, if ever, as we generate significant recurring revenues. Unless we are able to acquire products from third parties that are already being marketed and that can be profitably marketed by us, it will take an extended period of time for us to generate recurring revenues. We anticipate that it will take at least several years before the development of any of our licensed or other current potential products is completed, FDA marketing approvals are obtained and commercial sales of any of these products can begin.

We Have No Source of Significant Recurring Revenues, Which May Make Us Dependent on Financing to Sustain Our Operations

Although we generated $3,751,000 in revenues from milestone payments from our licensees during 2001 and $1,000,000 (on an unaudited basis) from these sources during the six months ended June 30, 2002, we do not have any significant sources of recurring operating revenues. We will not have significant recurring operating revenues until at least one of the following occurs:

- one or more of our currently licensed products is commercialized by our licensees that generates royalty income for us
- we are able to enter into license or other arrangements with third parties who are then able to complete the development and commercialize one or more of our other products that are currently under development
- we are able to acquire products from third parties that are already being marketed or are approved for marketing

We are likely to incur negative cash from operations until such time, if ever, as we can generate significant recurring revenues. Should we be unable to generate these recurring revenues by late 2003, it is likely that we will become dependent on obtaining financing from third parties to maintain our operations. We have no commitments from third parties to provide us with any debt or equity financing, except for an equity line of credit that is only available to us under certain conditions that we may be unable or unwilling to satisfy and that expires in early 2003. Accordingly, financing may be unavailable to us or only available on terms that

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substantially dilute our existing shareholders. A lack of needed financing could force us to reduce the scope of or terminate our operations.

We Are Changing Our Business Strategy, Which Will Require Us to Find and Rely Upon Third Parties for the Development of Our Products and to Provide Us With Products

We are modifying our prior business strategy of internally developing FLOCOR and our other potential products not yet licensed to third parties. We will now seek to enter into strategic alliances, license agreements or other collaborative arrangements with larger pharmaceutical companies that will provide for those companies to be responsible for the development and marketing of our products. There can be no assurance that our products will have sufficient potential commercial value to enable us to secure these arrangements with suitable companies on attractive terms or at all. If we enter into these arrangements, we will be dependent upon the timeliness and effectiveness of the development and marketing efforts of our contractual partners. If these companies do not allocate sufficient personnel and resources to these efforts or encounter difficulties in complying with applicable FDA requirements, the timing of receipt or amount of revenues from these arrangements may be materially and adversely affected. By entering into these arrangements rather than completing the development and then marketing these products on our own, we may suffer a reduction in the ultimate overall profitability for us of these products.

We will also seek to acquire products from third parties that already are being marketed. We have not yet identified any of these products. It may be difficult for us to acquire these types of products with our limited financial resources, and we may incur substantial shareholder dilution if we acquire these products with our securities. We do not have any prior experience in acquiring or marketing products and may need to find third parties to market these products for us.

Our Limited Financial Resources May Adversely Impact Our Ability to Execute Certain Strategic Initiatives

On June 30, 2002 we had (on an unaudited basis) approximately $4,300,000 in cash and cash equivalents and approximately $3,800,000 in working capital. As a result of payments made by us in July 2002 in connection with our merger with Global Genomics, our remaining cash and cash equivalents and working capital were significantly reduced at that time from our June 30, 2002 levels. As of September 30, 2002 we had (on an unaudited basis) approximately $2,100,000 in cash and cash equivalents and approximately $1,900,000 in working capital.

Our recently modified product development strategy calls for seeking strategic alliances, licensing agreements or other collaborative arrangements with larger pharmaceutical companies to complete the development of FLOCOR and our other potential products, and we will not continue any further FLOCOR development work on our own in the meantime. We also will seek to acquire products from third parties that already are being marketed or are approved for marketing. Although we believe this strategy will enhance our ability to achieve profitability, our lack of substantial available funds may make it difficult for us to acquire new products or to adopt other strategic initiatives in the future, such as acquiring or developing a marketing organization for our products or resuming internal development work on our products.

Our Recent Acquisition of Global Genomics May Place Additional Financial and Operational Burdens on Us

In July 2002, we acquired Global Genomics through a merger. Global Genomics is a development stage company that, to date, has not generated any operating revenue, does not expect to generate any revenues in the foreseeable future and has operated at a loss since its organization in May 2000. We have moved our headquarters in connection with the merger to Los Angeles, California while we continue to incur a substantial lease expense for our prior headquarters in Norcross, Georgia. We may be unable to substantially mitigate the future rental expense for our prior headquarters by subleasing this space.

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Although a majority of the members of our board of directors were directors prior to our merger with Global Genomics, all of our operating officers resigned as a part of the merger. This change in personnel may place additional administrative burdens on our management in conducting our operations.

If Our Products Are Not Successfully Developed and Approved by the FDA, We May Be Forced to Reduce or Terminate Our Operations

Each of our products is in the development stage and must be approved by the FDA or similar foreign governmental agencies before they can be marketed. The process for obtaining FDA approval is both time-consuming and costly, with no certainty of a successful outcome. This process typically includes the conduct of extensive pre-clinical and clinical testing, which may take longer or cost more than we or our licensees currently anticipate due to numerous factors such as:

difficulty in securing centers to conduct trials

difficulty in enrolling patients in conformity with required protocols or projected timelines

unexpected adverse reactions by patients in trials

difficulty in obtaining clinical supplies of the product

changes in the FDA s requirements for our testing during the course of that testing

inability to generate statistically significant data confirming the efficacy of the product being tested

In December 1999, we reported results from our Phase III clinical trial of FLOCOR for treatment of sickle cell disease patients experiencing an acute vaso-occlusive crisis (a blockage of blood flow caused by deformed or sickled red blood cells). Overall, the study did not achieve the statistical target for its primary objective, which was to decrease the length of vaso-occlusive crisis for the study population as a whole. To generate sufficient data to seek FDA approval for FLOCOR will require additional clinical studies, which will entail substantial time and expense. We do not intend to conduct or fund these tests ourselves but will seek a strategic alliance partner or licensee for this purpose. The failure of our prior Phase III trial to generate sufficient data could make it more difficult for us to secure a strategic alliance partner or licensee for this product.

If Blizzard Genomics Fails to Successfully Commercialize Its Products, the Value of Our Assets Will Be Adversely Impacted

Blizzard Genomics, Inc., which is Global Genomics principal portfolio company, has not yet commercialized any of its products. Although Blizzard Genomics plans to introduce its first product, the I-Scan Imager, a low cost DNA chip reader, before the end of 2002 and its second product, its T-Chip technology, in the second half of 2003, it may experience delays in completing the development of or commercially launching these products. We do not intend to provide any of the additional financing that Blizzard Genomics will require to complete the development and commercial launch of these products, and Blizzard Genomics may be unable to obtain such financing from other third parties at all or only on terms that could be highly dilutive to our ownership interest in that company. These products are likely to face intense market competition from existing products or technologies and products or technologies that are developed in the future. Blizzard Genomics is the licensee of several U.S. patents, and is seeking additional patent protection for its products and technologies. There can be no assurance, however, that the company will be able to secure sufficient patent coverage for its products and technologies. The failure of Blizzard Genomics to successfully commercialize its products would require us to write down or write off on our balance sheet the substantial carrying value of Global Genomics investment in that company as part of our assets, which would have a materially adverse effect on our stockholders equity.

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We Are Dependent Upon a Limited Operational Management Team and Need to Recruit a Chief Financial Officer and Perhaps Other Personnel to Effectively Operate

Our current management team is limited to Steven A. Kriegsman, our Chief Executive Officer and interim Chief Financial Officer, and Kathryn H. Hernandez, our Corporate Secretary. We are, therefore, very dependent on the availability and quality of the efforts of Mr. Kriegsman in managing our company. We will need to recruit a permanent Chief Financial Officer and may need to recruit other personnel in order to effectively operate the company and carry out our business plan. As provided by the terms of our merger with Global Genomics, we will seek to hire a full-time Chief Executive Officer to replace Mr. Kriegsman, whose employment agreement expires in July 2003. There can be no assurance that Mr. Kriegsman will be willing to continue to serve as our Chief Executive Officer if we have not found his replacement before expiration of his current employment agreement.

We Are Subject to Intense Competition That Could Materially Impact Our Operating Results

We and our strategic partners or licensees may be unable to compete successfully against our current or future competitors. The pharmaceutical, biopharmaceutical and biotechnology industry is characterized by intense competition and rapid and significant technological advancements. Many companies, research institutions and universities are working in a number of areas similar to our primary fields of interest to develop new products. There also is intense competition among companies seeking to acquire products that already are being marketed. Many of the companies with which we compete have or are likely to have substantially greater research and product development capabilities and financial, technical, scientific, manufacturing, marketing, distribution and other resources than at least some of our present or future strategic partners or licensees.

As a result, these competitors may:

- Succeed in developing competitive products earlier than we or our strategic partners or licensees
- Obtain approvals for such products from the FDA or other regulatory agencies more rapidly than we or our strategic partners or licensees do
- Obtain patents that block or otherwise inhibit the development and commercialization of our product candidates
- Develop treatments or cures that are safer or more effective than those we propose for our products
- Devote greater resources to marketing or selling their products
- Introduce or adapt more quickly to new technologies or scientific advances
- Introduce products that make the continued development of our product candidates uneconomical
- Withstand price competition more successfully than our strategic partners or licensees can
- More effectively negotiate third-party strategic alliances or licensing arrangements
- Take advantage of product acquisition or other opportunities more readily than we can

We Depend on a Limited Number of Suppliers for an Adequate Supply of Materials, Which May Negatively Affect Our Ability to Manufacture Our Products

We require three suppliers of materials or services to manufacture FLOCOR. These consist of a supplier of poloxamer 188, which is the raw material used to manufacture FLOCOR (the raw drug substance), and a manufacturer who can refine the raw drug substance to our specifications (the purified drug substance), and a

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manufacturer who can mix the purified drug substance with other inactive ingredients in a sterile environment to produce the final dosage form of FLOCOR. Our inability to maintain relationships with those suppliers or the inability of any licensee of FLOCOR to maintain these relationships or provide other suitable manufacturing relationships could result in lengthy delays in the FDA and other regulatory agencies approval processes, causing us or our licensee to incur substantial unanticipated costs and delays or an inability to produce, market and distribute our product. Organichem, Corp., which is to provide us with commercial supplies of FLOCOR purified drug substance, has advised us that it does not intend to renew our agreement when it expires in December 2003. If Organichem were to renew a previous assertion by it that we were in breach of this agreement and terminate it prior to December 2003, we could be required to accelerate the write-off of certain of our depreciable assets associated with this contract (which were valued at approximately $1,300,000 as of June 30, 2002).

We May Incur Substantial Costs from Future Clinical Testing or Product Liability Claims

If any of our products are alleged to be defective, they may expose us to claims for personal injury by patients in clinical trials of our products or by patients using our commercially marketed products. Even if the commercialization of one or more of our products is approved by the FDA, users may claim that such products caused unintended adverse effects. We currently carry product liability insurance covering the use of our products in human clinical trials and anticipate that any licensee or other third party who develops or markets any of our products will carry liability insurance covering the clinical testing or marketing of those products. However, if someone asserts a claim against us and the amount of such claim exceeds our policy limits or is not covered by our policy, such successful claim may exceed our financial resources and cause us to discontinue operations. Even if claims asserted against us are unsuccessful, they may divert management s attention from our operations and we may have to incur substantial costs to defend such claims.

Our Common Stock May Be Delisted From Nasdaq, Which Could Adversely Affect the Trading Market For and Value of Our Common Stock

Our ability to continue to have our common stock listed on the Nasdaq SmallCap Market depends on our satisfying applicable Nasdaq listing criteria. We have been unable to maintain compliance with Nasdaq s $1 minimum closing bid requirement and failed to come back into compliance with this requirement by Nasdaq s original deadline of August 13, 2002. This deadline was then extended by Nasdaq until February 10, 2003 pursuant to Nasdaq s rule affording additional time to comply for those companies who otherwise satisfy Nasdaq s core initial listing requirements (including shareholders equity of at least $5,000,000). Failure by us to comply with the minimum bid requirement by February 10, 2003 will make our common stock subject to delisting from the Nasdaq Small Cap Market. If our common stock is delisted from the Nasdaq Small Cap Market, an active trading market for our common stock may cease to exist and the delisting could materially and adversely impact the market value of our common stock.

It Will Be Difficult For Us To Manage Our Operations If We Are Regulated As An Investment Company In The Future

The Investment Company Act of 1940 regulates certain companies that own investment securities with a value greater than 40% of the total assets of that company. In the Global Geonomics merger, we acquired a 40% equity interest in Blizzard Genomics, Inc. Depending on the future operations of Blizzard Genomics and on possible future changes in Blizzard Genomics capital structure, our ownership interest in Blizzard Genomics could cause us to become subject to the provisions of the Investment Company Act. Our Board of Directors has determined that, should we become subject to these provisions, we will either (i) seek an order from the SEC exempting us from these provisions, or (ii) attempt to restructure our business in a manner that would relieve us from these provisions The regulatory requirements for investment companies are extremely restrictive and would materially and adversely affect our ability to manage and operate our business and could materially and adversely affect our financial condition. Although it is our intention to remain an operating company that is not subject to the Investment Company Act, no assurance can be given that we will not become subject to the provisions of that act.

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Our Anti-Takeover Provisions May Discourage Others From Acquiring Us and Adversely Affect Shareholder Value

We have a shareholder rights plan and provisions in our bylaws that may discourage or prevent a person or group from acquiring us without our board of directors approval. The intent of the shareholder rights plan and our bylaw provisions is to protect our shareholders interests by encouraging anyone seeking control of our company to negotiate with our board of directors.

We have a classified board of directors, which requires that at least two stockholder meetings, instead of one, will be required to effect a change in the majority control of our board of directors. This provision applies to every election of directors, not just an election occurring after a change in control. The classification of our board increases the amount of time it takes to change majority control of our board of directors and may cause our potential purchasers to lose interest in the potential purchase of us, regardless of whether our purchase would be beneficial to us or our stockholders.

Our bylaws provide that directors may only be removed for cause by the affirmative vote of the holders of at least a majority of the outstanding shares of our capital stock then entitled to vote at an election of directors. This provision prevents stockholders from removing any incumbent director without cause.

Our bylaws also provide that a stockholder must give us at least 120 days notice of a proposal or director nomination that such stockholder desires to present at any annual meeting or special meeting of stockholders. Such provision prevents a stockholder from making a proposal or director nomination at a stockholder meeting without us having advance notice of that proposal or director nomination. This could make a change in control more difficult by providing our directors with more time to prepare an opposition to a proposed change in control.

Our Outstanding Options and Warrants and the Registration of Our Shares Issued in the Global Genomics Merger May Adversely Affect the Trading Price of Our Common Stock

As of September 30, 2002, there were outstanding stock options and warrants to purchase 6,873,044 shares of our common stock at exercise prices ranging from $0.01 to $7.75 per share. Our outstanding options and warrants could adversely affect our ability to obtain future financing or engage in certain mergers or other transactions, since the holders of options and warrants can be expected to exercise them at a time when we may be able to obtain additional capital through a new offering of securities on terms more favorable to us than the terms of outstanding options and warrants. For the life of the options and warrants, the holders have the opportunity to profit from a rise in the market price of our common stock without assuming the risk of ownership. To the extent the trading price of our common stock at the time of exercise of any such options or warrants exceeds the exercise price, such exercise will also have a dilutive effect to our stockholders.

This prospectus covers all 8,948,204 of the shares of our common stock that we issued in connection with the Global Genomics merger and all 1,014,677 shares of our common stock issuable upon exercise of warrants assumed by us in connection with the Global Genomics merger, as well as the resale of 548,330 other shares that we have issued and warrants to purchase 1,522,492 shares that are otherwise outstanding. All of these warrants are exercisable at a prices ranging from $0.01 to $1.00 per share, or by means of a cash-less exercise. Both the availability for public resale of these shares and the actual exercise and resale of these shares could adversely affect the trading price of our common stock.

We May Experience Volatility in Our Stock Price, Which May Adversely Affect the Trading Price of Our Common Stock

The market price of our common stock has experienced significant volatility in the past and may continue to experience significant volatility from time to time. Our stock price has ranged from $0.27 to $6.44 over the past five years. Factors such as the following may affect such volatility:

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our quarterly operating results

announcements of regulatory developments or technological innovations by us or our competitors

government regulation of drug pricing

developments in patent or other technology ownership rights

public concern regarding the safety of our products

Other factors which may affect our stock price are general changes in the economy, financial markets or the pharmaceutical or biotechnology industries.

USE OF PROCEEDS

We will bear the costs and expenses of registering the shares offered by the selling securityholders. Other than the exercise of the warrants described herein (to the extent they may be exercised), we will not receive any of the proceeds from the sale of the shares offered by the selling securityholders. The holders of the warrants are not obligated to exercise the warrants, and there can be no assurance that they will choose to do so. The warrants may be exercised pursuant to the cash-less exercise provisions contained therein, or may be exercised for cash. If all of the warrants are exercised in full for cash, we will receive approximately $1,428,000 upon exercise.

The Company intends to use any proceeds it receives from the exercise of the warrants for working capital and general corporate purposes.

SELLING SECURITYHOLDERS

Selling Securityholder Table

The following table sets forth certain information regarding the beneficial ownership of our common stock by the selling securityholders as of September 30, 2002. To our knowledge, each of the selling securityholders has sole voting and investment power with respect to the shares of common stock shown, subject to applicable community property laws. For purposes of the following table we have assumed that the selling securityholders will sell all the shares of our common stock being offered in this prospectus.

In connection with the merger with Global Genomics, the shareholders of Global Genomics agreed that 5% of the shares of CytRx common stock that they were entitled to receive in the merger (including shares issuable upon the exercise of warrants) would be held by us in escrow to satisfy any indemnification claims that we might make against Global Genomics pursuant to the merger agreement. Accordingly, 5% of the total shares issued or issuable to each Global Genomics shareholder in the merger have been deposited into escrow and, therefore, cannot be sold until released from escrow. Under the terms of the escrow, any shares not returned to us may be released after July 20, 2003. The number of shares of our common stock beneficially owned by certain of the selling securityholders listed in the following table includes the shares that are held in escrow even though those shares cannot be sold until such shares are released after July 20, 2003. In the event that we make an indemnification claim against Global Genomics, the number of shares owned by the former Global Genomics shareholders would be reduced by the number of shares that are cancelled through the escrow. Accordingly, the actual number of shares that the selling securityholders may be entitled to sell under this prospectus could be less than the number of shares listed below.

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	Beneficial Ownership Before Offering(1)			Beneficial Ownership After Offering(1)(3)	
	Number of Shares	Percent(2)	Number of Shares Being Offered	Number of Shares	Percent(2)
Steven A. Kriegsman & Marina Kriegsman Jt. Ten WROS	4,113,016(4)	18.20%	4,113,016	0	*
B.S. Jr. Corp	811,925	3.67%	811,925	0	*
Michael R. Hayden	306,386	1.38%	306,386	0	*
Clifford H. Pearson and Nancy G. Pearson, as Trustees of the Pearson Family Trust, dated July 3, 1991	355,024(5)	1.60%	355,024	0	*
Steve K. Wasserman and Linda S. Wasserman, as Trustees of the Wasserman Family Trust, dated May 6, 1993	297,578(6)	1.34%	297,578	0	*
David B. Casselman and Pamela I. Casselman, as Trustees of the Casselman Family Trust dated August 5, 1996	297,578(7)	1.34%	297,578	0	*
Leonard J. Comden and Susan E. Comden, as Trustees of the LSC Family Trust, dated May 17, 1996	99,193(8)	*	99,193	0	*
Leonard Ruiz Jr.	478,730(9)	2.15%	478,730	0	*
Elliott J. Cody	333,195(10)	1.49%	333,195	0	*
Wasserman, Comden, Casselman & Pearson L.L.P.	287,662(17)	1.30%	287,662	0	*
Beth Genovese	30,639	*	30,639	0	*
Donald Kreiss	19,149	*	19,149	0	*
Dean Ader	26,809	*	26,809	0	*
Sara Binder	103,406	*	103,406	0	*
Dikran Bilemjian	7,660	*	7,660	0	*
Louis Ignarro	91,916	*	91,916	0	*
Cheryl Vigna	7,660	*	7,660	0	*
Robert Friedland	57,448	*	57,448	0	*
Al Talbot	57,448	*	57,448	0	*
Irwin J. Gruvernan	57,448	*	57,448	0	*
Marvin R. Selter IRA Rollover	153,193	*	153,193	0	*
Selter Family Trust U/T/D 4-8-75	204,258	*	204,258	0	*
Eric and Lynn Selter Charitable Remainder Unitrust	76,597	*	76,597		