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

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FORM 8-K  
CURRENT REPORT  
Pursuant to Section 13 or 15(d) of  
The Securities Exchange Act of 1934

Date of report (date of earliest event reported): OCTOBER 28, 2003

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VIVUS, INC.

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(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

COMMISSION FILE NUMBER: 0-23490

DELAWARE

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(STATE OR OTHER JURISDICTION OF  
INCORPORATION OR ORGANIZATION)

94-3136179

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(I.R.S. EMPLOYER  
IDENTIFICATION NUMBER)

1172 CASTRO STREET  
MOUNTAIN VIEW, CA

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94040

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(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES) (ZIP CODE)

(650) 934-5200

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(REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE)

N/A

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(FORMER NAME, FORMER ADDRESS AND FORMER FISCAL YEAR,  
IF CHANGED SINCE LAST REPORT)

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ITEM 5. OTHER EVENTS.

On October 28, 2003, the Company issued a press release announcing resolution of its arbitration claim against Janssen Pharmaceutica International with the American Arbitration Association related to payments owing to the Company under a previously terminated distribution agreement between the companies. The arbitration panel awarded the Company \$4.0 million. The Company also revised its financial statements for the third quarter ended September 30, 2003 based on the resolution of the arbitration.

ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS.

(c) Exhibits.

EXHIBIT  
NUMBER

DESCRIPTION

EXHIBIT NUMBER	DESCRIPTION
99.1	Press Release dated October 28, 2003 announcing resolution of its arbitration claim against Janssen Pharmaceutica International with the American Arbitration Association related to payments owing to the Company under a previously terminated distribution agreement between the companies and revised financial statements for the third quarter ended September 30, 2003 based on the resolution of the arbitration.

ITEM 12. RESULTS OF OPERATIONS AND FINANCIAL CONDITION.

The Company revised its September 30, 2003 financial statements based on the resolution of its arbitration claim against Janssen Pharmaceutica International with the American Arbitration Association. A press release issued by the Company dated October 28, 2003 has been attached as Exhibit 99.1 hereto.

SIGNATURES

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

Date: October 28, 2003

VIVUS, Inc.

/s/ Larry J. Strauss

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Larry J. Strauss  
Vice President and Chief Financial Officer

/s/ Leland F. Wilson

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Leland F. Wilson  
President and Chief Executive Officer

VIVUS, INC.

INDEX TO EXHIBITS The  
following exhibits are filed herewith:

EXHIBIT  
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DESCRIPTION  
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99.1	Press Release dated October 28, 2003 announcing resolution of its arbitration claim against Janssen Pharmaceutica International with the American Arbitration Association related to payments owing to the Company under a previously terminated distribution agreement between the companies and revised financial statements for the third quarter ended September 30, 2003 based on the resolution of the arbitration.
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VIVUS  
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For More Information:

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(650) 934-5240 or weisgerber@vivus.com

Media: Nathan Kaiser  
(415) 318-4235 or kaisern@fleishman.com

FOR IMMEDIATE RELEASE

VIVUS AWARDED \$4.0 MILLION IN JANSSEN ARBITRATION

REVISED 2003 THIRD QUARTER FINANCIAL RESULTS

MOUNTAIN VIEW, CALIF. (OCTOBER 28, 2003) -- VIVUS, INC. (NASDAQ NM: VVUS), today announced resolution of its arbitration claim against Janssen Pharmaceutica International (Janssen) with the American Arbitration Association related to payments owing to VIVUS under a previously terminated distribution agreement between the companies. The arbitration panel awarded VIVUS \$4.0 million. The award consisted of \$3.7 million for manufactured inventory and lost profits, and \$323,000 for legal fees and other related expenses. The Company is awaiting payment from Janssen.

"Although this arbitration process was a lengthy one, we feel vindicated in our pursuit of a fair settlement for the Company," said Leland Wilson President and CEO of VIVUS. "The Company will use these funds to augment our clinical development efforts for Phase 3 trials for ALISTA and Phase 2 trials for TA-1790."

REVISED FINANCIAL RESULTS

For the three months ended September 30, 2003, VIVUS reports revised net income of \$3.9 million, \$0.10 net income per share, compared to a previously reported net loss of (\$1.5) million, (\$0.04) net loss per share.

Total revenue for the three months and nine months ended September 30, 2003 increased by a total \$5.0 million when compared to the revenue figures previously reported by the Company prior to receiving the award. \$3.7 million of the additional revenue represents amounts due from Janssen under the award. The remaining \$1.3 million results from recognizing Janssen related revenue that was previously deferred pending the outcome of the arbitration.

Total operating expenses for the three months ended September 30, 2003 decreased \$323,000 from the previously reported figures due to the final arbitration award including reimbursement of legal fees and other expenses related to the arbitration.

For the nine months ended September 30, 2003, VIVUS reports a revised net loss of (\$2.2) million, (\$0.06) net loss per share, compared to a previously reported net loss of (\$7.6) million, (\$0.22) net loss per share.

Accounts receivable as of September 30, 2003 was \$5.9 million, an increase of \$4.0 million compared to previously reported accounts receivable of \$1.9 million.

Cash, cash equivalents and available-for-sale securities was not affected by the arbitration panel award.

ABOUT VIVUS

VIVUS, Inc., (Nasdaq NM: VVUS) is a pharmaceutical company engaged in the development of innovative therapies for the treatment of quality-of-life disorders in men and women, with a focus on sexual dysfunction. Current

development programs target Female Sexual Dysfunction (FSD), Erectile Dysfunction (ED) and Premature Ejaculation (PE). VIVUS developed and markets in the U.S. MUSE(R) (alprostadil) and ACTIS(R), two innovations in the treatment of erectile dysfunction, and has partnered with Meda AB (Stockholm: MEDAa.ST) for the international marketing and distribution of its male transurethral ED products. In Canada, VIVUS has partnered exclusively with Paladin Labs (TSE: PLB) to market and distribute MUSE. For more information, please visit the Company's Web site at: [www.vivus.com](http://www.vivus.com).

Financial Tables Follow

VIVUS, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(in thousands, except per share amounts)

	THREE MONTHS ENDED		NINE MONTHS ENDED	
	SEPTEMBER 30 2003	SEPTEMBER 30 2002	SEPTEMBER 30 2003	SEPTEMBER 30 2002
	(unaudited)	(unaudited)	(unaudited)	(unaudited)
Revenue				
US product, net	\$ 4,071	\$ 3,375	\$ 10,150	\$ 13,436
International product	1,426	155	3,264	1,024
Other revenue	5,033	--	5,033	--
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Total revenue	10,530	3,530	18,447	14,460
Cost of goods sold	3,002	2,292	8,210	7,196
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Gross profit	7,528	1,238	10,237	7,264
	-----	-----	-----	-----
Operating expenses:				
Research and development	1,821	2,707	5,951	9,460
Selling, general and administrative	2,255	2,607	7,319	8,007
	-----	-----	-----	-----
Total operating expenses	4,076	5,314	13,270	17,467
	-----	-----	-----	-----
Income (loss) from operations	3,452	(4,076)	(3,033)	(10,203)
Interest and other income	202	354	571	1,015
	-----	-----	-----	-----
Income (loss) before benefit for income taxes	3,654	(3,722)	(2,462)	(9,188)
Benefit for income taxes	219	--	219	268
	-----	-----	-----	-----
Net income (loss)	\$ 3,873	\$ (3,722)	\$ (2,243)	\$ (8,920)
	=====	=====	=====	=====
Net income (loss) per share:				
Basic	\$ 0.10	\$ (0.11)	\$ (0.06)	\$ (0.27)
Diluted	\$ 0.10	\$ (0.11)	\$ (0.06)	\$ (0.27)
Shares used in per share computation				
Basic	37,653	32,950	35,263	32,882
Diluted	38,064	32,950	35,263	32,882

VIVUS, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(in thousands, except per share amount)

	SEPTEMBER 30 2003 ----- (unaudited)	DECEMBER 31 2002* -----
Current assets:		
Cash and cash equivalents	\$ 7,671	\$ 12,296
Available-for-sale securities	13,626	11,206
Accounts receivable	5,935	3,592
Inventories	1,320	1,358
Prepaid expenses and other assets	1,624	1,497
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Total current assets	30,176	29,949
Property and equipment	8,637	10,084
Restricted cash	3,324	3,324
Available-for-sale securities, non-current	19,670	6,324
	-----	-----
Total assets	\$ 61,807 =====	\$ 49,681 =====
Current liabilities:		
Accounts payable	\$ 1,636	\$ 1,866
Accrued and other liabilities	7,207	9,109
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Total current liabilities	8,843	10,975
Accrued and other long-term liabilities	4,208	4,321
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Total liabilities	13,051 -----	15,296 -----
Stockholders' equity:		
Common stock; \$.001 par value; shares authorized 200,000; shares outstanding - September 30, 2003 37,653; December 31, 2002 32,999;	38	33
Additional paid-in capital	151,791	135,005
Accumulated other comprehensive income	104	281
Accumulated deficit	(103,177)	(100,934)
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Total stockholders' equity	48,756	34,385
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Total liabilities and stockholder's equity	\$ 61,807 =====	\$ 49,681 =====

\* The Condensed Consolidated Balance Sheet at December 31, 2002 has been derived from the Company's audited financial statements at that date.