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MYLAN LABORATORIES INC
Form DFAN14A
December 06, 2004

SCHEDULE 14A
Proxy Statement Pursuant to Section 14(a)
of the Securities Exchange Act of 1934 (Amendment No. __)

Filed by the Registrant ☐

Filed by a Party other than the Registrant ☒

Check the appropriate box:

- ☐ Preliminary Proxy Statement
☐ Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
☐ Definitive Proxy Statement
☐ Definitive Additional Materials
☒ Soliciting Material Pursuant to ss. 240.14a-12

Mylan Laboratories Inc.

(Name of Registrant as Specified In Its Charter)

Carl C. Icahn,
Barberry Corp., Hopper Investments LLC and
High River Limited Partnership

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (check the appropriate box):

- ☒ No fee required.
☐ Fee computed on table below per Exchange Act Rule 14a-6(i)(4) and 0-11.

1) Title of each class of securities to which transaction applies:

2) Aggregate number of securities to which transaction applies:

3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

4) Proposed maximum aggregate value of transaction:

5) Total fee paid:

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[] Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

Carl Icahn's letter to the Editor of the New York Times was published on December 5, 2004 and is attached hereto.

SECURITY HOLDERS ARE ADVISED TO READ THE PROXY STATEMENT AND OTHER DOCUMENTS RELATED TO SOLICITATION OF PROXIES BY MR. ICAHN AND HIS AFFILIATES FROM THE STOCKHOLDERS OF MYLAN LABORATORIES INC. FOR USE AT ITS SPECIAL MEETING WHEN AND IF THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. WHEN COMPLETED, A DEFINITIVE PROXY STATEMENT AND A FORM OF PROXY WILL BE MAILED TO STOCKHOLDERS OF MYLAN LABORATORIES INC. AND WILL BE AVAILABLE AT NO CHARGE AT THE SECURITIES AND EXCHANGE COMMISSION'S WEBSITE AT [HTTP://WWW.SEC.GOV](http://www.sec.gov). INFORMATION RELATING TO THE PARTICIPANTS IN A PROXY SOLICITATION IS CONTAINED IN THE SCHEDULE 14A FILED BY MR. ICAHN AND HIS AFFILIATES WITH THE SECURITIES AND EXCHANGE COMMISSION ON OCTOBER 14, 2004 WITH RESPECT TO MYLAN LABORATORIES INC. THAT SCHEDULE 14A IS CURRENTLY AVAILABLE AT NO CHARGE ON THE SECURITIES AND EXCHANGE COMMISSION'S WEBSITE.

The Investment
And the Follow-Through

To the Editor:

Re "For a Takeover Artist, One Bluff Too Many?" (DealBook, Nov. 28), about my bid for Mylan Laboratories, which is aiming to buy King Pharmaceuticals:

In the column, Andrew Ross Sorkin states that I have made a fortune "threatening to take over companies and then rarely going through with the proposition." The facts prove this statement to be ridiculous. I have never made a bid for a company and not followed through with a binding offer when given the customary due diligence.

During the last three years alone, after making bids, we have purchased outright or purchased control in XO Communications, for \$500 million; Allegiance

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Telecom, for \$670 million; Philip Services, for \$170 million; the TransTexas Gas Corporation; and Panaco Inc. Additionally, we have purchased many other companies during the last two decades.

The column further stated: "A bevy of hedge funds, led by Perry Capital and Citadel, which had bought King shares in the hope that the deal with Mylan is completed, have started buying shares of Mylan to help push the deal through. But to protect themselves, some of these investors have begun using sophisticated swap trades with banks so that they have no exposure to Mylan's stock price. This way, the investors have voting power, but no real economic interest in Mylan."

Mr. Sorkin describes the actions by these hedge funds as a "fairly innovative maneuver."

On Monday, Perry Capital disclosed in a filing with the Securities and Exchange Commission that it has hedged its Mylan shares, apparently confirming earlier reports that Perry may have had no economic interest in Mylan, merely the right to vote those shares. If this is true, in our opinion, this so-called innovative maneuver is co-opting the election process and robbing shareholders of the right to have a meaningful vote.

Corporate democracy is a cornerstone of our capitalist system. A few hedge funds should not be permitted to destroy it in order to make a few extra bucks.

Carl Icahn
New York, Nov. 30