

ISTA PHARMACEUTICALS INC  
Form DFAN14A  
March 29, 2012

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

SCHEDULE 14A  
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT  
SCHEDULE 14A INFORMATION

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 x

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
- x Soliciting Material Pursuant to §240.14a-12

ISTA PHARMACEUTICALS, INC.

(Name of Registrant as Specified in Its Charter)

BAUSCH & LOMB INCORPORATED

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- x No fee required.
- .. Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

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

(2) Aggregate number of securities to which transaction applies:

(3)

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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:

Fee paid previously with preliminary materials:

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:

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## TALKING POINTS FOR FIELD SALES & CUSTOMER-FACING COLLEAGUES

- Bausch + Lomb will be combining with ISTA Pharmaceuticals, Inc.
- In the near-term, there will be no immediate changes to our day-to-day operations. Both companies will continue to operate separately and independently as we proceed through a mandatory regulatory review process and approval by ISTA's shareholders.
- Coming together as one business will strengthen our ability to bring meaningful medical advances to physicians such as yourself and the patients you serve.
- Bausch + Lomb will gain access to ISTA's industry-proven non-steroidal as well as allergy, glaucoma and spreading agents, complementing our already robust portfolio of branded, generic and OTC products.
- Throughout this process, we will work hard to ensure that the integration will be as seamless for you as possible.
- We are committed to keeping customers informed throughout this process, where and when appropriate. If you have any questions, please do not hesitate to contact me, or your Bausch + Lomb point of contact.

## IMPORTANT ADDITIONAL INFORMATION WILL BE FILED WITH THE SEC

ISTA plans to file with the SEC and mail to its stockholders a Proxy Statement in connection with the transaction. The Proxy Statement will contain important information about ISTA, Bausch + Lomb, the transaction and related matters. Investors and security holders are urged to read the Proxy Statement carefully when it is available.

Investors and security holders will be able to obtain free copies of the Proxy Statement and other documents filed with the SEC by ISTA through the web site maintained by the SEC at [www.sec.gov](http://www.sec.gov).

In addition, investors and security holders will be able to obtain free copies of the Proxy Statement from ISTA by contacting Investor Relations at 949-789-3159 or [jherbert@istavision.com](mailto:jherbert@istavision.com).

ISTA and Bausch + Lomb and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from ISTA's stockholders with respect to the transactions contemplated by the merger agreement. Information regarding ISTA's directors and executive officers is contained in ISTA's Annual Report on Form 10-K for the year ended December 31, 2011, its proxy statement dated November 1, 2011, and its Current Report on Form 8-K filed December 6, 2011, which are filed with the SEC. As of February 24, 2012, ISTA's directors and officers beneficially owned approximately 5,481,128 shares, or 13.10%, of ISTA's common stock. Additional information regarding the interests of the participants in the solicitation of proxies in connection with the transaction will be included in the Proxy Statement.

## SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS

Statements in this document regarding the proposed transaction between Bausch + Lomb and ISTA, the expected timetable for completing the transaction, benefits and synergies of the transaction, and any other statements about Bausch + Lomb or ISTA managements' future expectations, beliefs, goals, plans or prospects constitute forward looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Any statements that

are not statements of historical fact (including statements containing the words “believes,” “plans,” “anticipates,” “expects,” estimates and similar expressions) should also be considered to be forward looking statements. There are a number of important factors that could cause actual results or events to differ materially from those indicated by such forward looking statements, including the ability to consummate the transaction, and the other factors described in ISTA’s Annual Report on Form 10-K for the year ended December 31, 2011. Bausch + Lomb and ISTA disclaim any intention or obligation to update any forward looking statements as a result of developments occurring after the date of this document.

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