

# SECURITIES AND EXCHANGE COMMISSION

## FORM SC 13D/A

Schedule filed to report acquisition of beneficial ownership of 5% or more of a class of equity securities [amend]

Filing Date: **2013-01-10**  
SEC Accession No. [0001193125-13-009351](#)

([HTML Version](#) on [secdatabase.com](#))

### SUBJECT COMPANY

#### **EMISPHERE TECHNOLOGIES INC**

CIK:[805326](#) | IRS No.: [133306985](#) | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **SC 13D/A** | Act: **34** | File No.: [005-40729](#) | Film No.: [13522998](#)  
SIC: **2834** Pharmaceutical preparations

Mailing Address  
*240 CEDAR KNOLLS RD.  
SUITE 200  
CEDAR KNOLLS NJ 07927*

Business Address  
*240 CEDAR KNOLLS RD.  
SUITE 200  
CEDAR KNOLLS NJ 07927  
973-532-8000*

### FILED BY

#### **MHR FUND MANAGEMENT LLC**

CIK:[1277742](#) | IRS No.: [133902251](#) | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **SC 13D/A**

Mailing Address  
*40 WEST 57TH STREET  
24TH FLOOR  
NEW YORK NY 10019*

Business Address  
*40 WEST 57TH STREET  
24TH FLOOR  
NEW YORK NY 10019  
212.262.0005*

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**SCHEDULE 13D**

Rule 13d-101

**INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT TO § 240.13d-1(a) AND  
AMENDMENTS THERETO FILED PURSUANT TO § 240.13d-2(a)  
(Amendment No. 19)\***

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**Emisphere Technologies, Inc.**

(Name of Issuer)

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**Common Stock, Par Value \$.01 Per Share**

(Title of Class of Securities)

**291345106**

(CUSIP Number)

**Doron Lipshitz, Esq.**

**O' Melveny & Myers LLP**

**7 Times Square**

**New York, New York 10036**

**(212) 326-2000**

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

**December 31, 2012**

(Date of Event which Requires Filing of this Statement)

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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 §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box .

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**Note:** Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

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\* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

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 (“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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1	NAME OF REPORTING PERSONS  MHR CAPITAL PARTNERS MASTER ACCOUNT LP
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS (See Instructions)  N/A
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Anguilla, British West Indies
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7 SOLE VOTING POWER  10,613,079
	8 SHARED VOTING POWER  0
	9 SOLE DISPOSITIVE POWER  10,613,079
	10 SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  10,613,079
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  16.3%
14	TYPE OF REPORTING PERSON (See Instructions)  PN

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1	NAME OF REPORTING PERSONS  MHR ADVISORS LLC
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS (See Instructions)  N/A
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7 SOLE VOTING POWER  12,058,717
	8 SHARED VOTING POWER  0
	9 SOLE DISPOSITIVE POWER  12,058,717
	10 SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  12,058,717
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  18.4%
14	TYPE OF REPORTING PERSON (See Instructions)  OO

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1	NAME OF REPORTING PERSONS  MHR INSTITUTIONAL PARTNERS II LP	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS (See Instructions)  N/A	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  7,606,884
	8	SHARED VOTING POWER  0
	9	SOLE DISPOSITIVE POWER  7,606,884
	10	SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  7,606,884	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  11.7%	
14	TYPE OF REPORTING PERSON (See Instructions)  PN	

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1	NAME OF REPORTING PERSONS  MHR INSTITUTIONAL PARTNERS IIA LP	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS (See Instructions)  N/A	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  19,164,058
	8	SHARED VOTING POWER  0
	9	SOLE DISPOSITIVE POWER  19,164,058
	10	SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  19,164,058	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  26.7%	
14	TYPE OF REPORTING PERSON (See Instructions)  PN	

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1	NAME OF REPORTING PERSONS  MHR INSTITUTIONAL ADVISORS II LLC	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS (See Instructions)  N/A	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  26,770,942
	8	SHARED VOTING POWER  0
	9	SOLE DISPOSITIVE POWER  26,770,942
	10	SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  26,770,942	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  35.2%	
14	TYPE OF REPORTING PERSON (See Instructions)  OO	



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1	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)  MHRC LLC	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS*  N/A	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  12,058,717
	8	SHARED VOTING POWER  0
	9	SOLE DISPOSITIVE POWER  12,058,717
	10	SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  12,058,717	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES* <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  18.4%	
14	TYPE OF REPORTING PERSON*  OO	

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1	NAME OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)  MHRC II LLC	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC USE ONLY	
4	SOURCE OF FUNDS*  N/A	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e) <input type="checkbox"/>	
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER  26,770,942
	8	SHARED VOTING POWER  0
	9	SOLE DISPOSITIVE POWER  26,770,942
	10	SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  26,770,942	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES* <input type="checkbox"/>	
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  35.2%	
14	TYPE OF REPORTING PERSON*  OO	

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1	NAME OF REPORTING PERSONS  MHR FUND MANAGEMENT LLC
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS (See Instructions)  N/A
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7 SOLE VOTING POWER  38,829,659
	8 SHARED VOTING POWER  0
	9 SOLE DISPOSITIVE POWER  38,829,659
	10 SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  38,829,659
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  47.9%
14	TYPE OF REPORTING PERSON (See Instructions)  OO

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1	NAME OF REPORTING PERSONS  MHR HOLDINGS LLC
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS (See Instructions)  N/A
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION  Delaware
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7 SOLE VOTING POWER  38,829,659
	8 SHARED VOTING POWER  0
	9 SOLE DISPOSITIVE POWER  38,829,659
	10 SHARED DISPOSITIVE POWER  0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  38,829,659
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  47.9%
14	TYPE OF REPORTING PERSON (See Instructions)  OO

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1	NAME OF REPORTING PERSONS MARK H. RACHESKY, M.D.
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS (See Instructions) N/A
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION United States of America
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7 SOLE VOTING POWER 39,043,957
	8 SHARED VOTING POWER 0
	9 SOLE DISPOSITIVE POWER 39,043,957
	10 SHARED DISPOSITIVE POWER 0
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 39,043,957
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions) <input type="checkbox"/>
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 48.1%
14	TYPE OF REPORTING PERSON (See Instructions) IN; HC

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This statement on Schedule 13D (this “Statement”) further amends and supplements, as Amendment No. 19, the Schedule 13D filed on October 6, 2005 (the “Initial 13D”), as amended by Amendment No. 1, filed on January 17, 2006 (“Amendment No. 1”), Amendment No. 2, filed on May 11, 2006 (“Amendment No. 2”), Amendment No. 3, filed on August 20, 2007 (“Amendment No. 3”), Amendment No. 4, filed on August 24, 2007 (“Amendment No. 4”), Amendment No. 5, filed on July 2, 2008 (“Amendment No. 5”), Amendment No. 6, filed on July 2, 2009 (“Amendment No. 6”), Amendment No. 7, filed on August 21, 2009 (“Amendment No. 7”), Amendment No. 8, filed on August 25, 2009 (“Amendment No. 8”), Amendment No. 9, filed on June 9, 2010 (“Amendment No. 9”), Amendment No. 10, filed on August 2, 2010 (“Amendment No. 10”), Amendment No. 11, filed on August 27, 2010 (“Amendment No. 11”), Amendment No. 12, filed on December 22, 2010 (“Amendment No. 12”), Amendment No. 13, filed on July 1, 2011 (“Amendment No. 13”), Amendment No. 14, filed on July 8, 2011 (“Amendment No. 14”), Amendment No. 15, filed on June 5, 2012 (“Amendment No. 15”), Amendment No. 16, filed on September 27, 2012 (“Amendment No. 16”), Amendment No. 17, filed on October 9, 2012 (“Amendment No. 17”), and Amendment No. 18, filed on October 19, 2012 (“Amendment No. 18”, and, together with the Initial 13D and Amendment No. 1 through Amendment No. 17, the “Schedule 13D”) and relates to shares of common stock, par value \$0.01 per share (the “Shares”), of Emisphere Technologies, Inc. (the “Issuer”). Certain of the securities reported herein were previously reported on Schedule 13G, which was filed on April 8, 2005. Defined terms used in this Statement but not defined herein shall have the respective meanings given such terms in Amendment No. 18.

This Statement is being filed by the Reporting Persons to report the addition of MHRC LLC (“MHRC”) and MHRC II LLC (“MHRC II”) as Reporting Persons (as defined below) solely as a result of a transfer of Mark H. Rachesky, M.D.’s (“Dr. Rachesky”) membership interests in MHR Advisors LLC (“Advisors”) and MHR Institutional Advisors II LLC (“Institutional Advisors II”) to MHRC and MHRC II, respectively.

## **Item 2. Identity and Background**

Item 2 is hereby amended by deleting such item in its entirety and replacing it with the following:

This Statement is being filed on behalf of each of the following persons (collectively, the “Reporting Persons”):

- (i) MHR Capital Partners Master Account LP (“Master Account”);
- (ii) Advisors;
- (iii) MHR Institutional Partners II LP (“Institutional Partners II”);
- (iv) MHR Institutional Partners IIA LP (“Institutional Partners IIA”);
- (v) Institutional Advisors II;
- (vi) MHRC;
- (vii) MHRC II;
- (viii) MHR Fund Management LLC (“Fund Management”);
- (ix) MHR Holdings LLC (“MHR Holdings”); and
- (x) Dr. Rachesky.

This Statement relates to securities held for the accounts of each of Master Account, a limited partnership organized in Anguilla, British West Indies, MHR Capital Partners (100) LP (“Capital Partners (100)”), Institutional Partners II and Institutional Partners IIA, each (other than Master Account) a Delaware limited partnership. Advisors is the general partner of each of Master Account and Capital Partners (100) and, in such capacity, may be deemed to beneficially own the securities held for the accounts of each of Master Account and Capital Partners (100). Institutional Advisors II is the general partner of each of Institutional Partners II and Institutional Partners IIA and, in such capacity, may be deemed to beneficially own the securities held for the accounts of each of Institutional Partners II and Institutional Partners IIA. Fund Management is a Delaware limited liability company that is an affiliate of and has an investment management agreement with Master Account, Capital Partners (100), Institutional Partners II, Institutional Partners IIA and other affiliated entities, pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the Shares reported herein and, accordingly, Fund Management may be deemed to beneficially own the Shares reported herein which are held for the account of each of Master Account, Capital Partners (100), Institutional Partners II and Institutional Partners IIA. MHR Holdings, a Delaware limited liability company, is the managing member of Fund Management and, in such capacity, may be deemed to beneficially own any securities that are deemed to be beneficially owned by Fund Management. MHRC is the managing member of Advisors and, in such capacity, may be deemed to beneficially own the securities held for the accounts of each of Master Account and Capital Partners (100). MHRC II is the managing member of Institutional Advisors II and, in such capacity, may be deemed to beneficially own the securities held for the accounts of each of Institutional Partners II and Institutional Partners IIA.

Dr. Rachesky is the managing member of MHRC and, in such capacity, may be deemed to beneficially own the securities held for the accounts of each of Master Account and Capital Partners (100). Dr. Rachesky is the managing member of MHRC II and, in such capacity, may be deemed to beneficially own the securities held for the accounts of each of Institutional Partners II and Institutional Partners IIA. Dr. Rachesky is the managing member of MHR Holdings and, in such capacity, may be deemed to beneficially own the securities held for the accounts of each of Master Account, Capital Partners (100), Institutional Partners II and Institutional Partners IIA.

**The Reporting Persons:**

The principal business of Master Account, Institutional Partners II and Institutional Partners IIA is investment in securities. Advisors is a Delaware limited liability company and the general partner of Master Account and Capital Partners (100). The principal business of Advisors is to provide management and advisory services to Master Account and Capital Partners (100). Institutional Advisors II is a Delaware limited liability company and the general partner of each of Institutional Partners II and Institutional Partners IIA. The principal business of Institutional Advisors II is to provide management and advisory services to each of Institutional Partners II and Institutional Partners IIA. MHRC is a Delaware limited liability company and the managing member of Advisors. The principal business of MHRC is to serve as managing member of Advisors. MHRC II is a Delaware limited liability company and the managing member of Institutional Advisors II. The principal business of MHRC II is to serve as managing member of Institutional Advisors II. The principal business of Fund Management is to provide management and advisory services to each of Master Account, Capital Partners (100), Institutional Partners II and Institutional Partners IIA and other affiliated entities. MHR Holdings is a Delaware limited liability company and the managing member of Fund Management. The principal business of MHR Holdings is to act as the managing member of Fund Management.

Current information concerning the identity and background of the officer of Advisors, Institutional Advisors II, MHRC, MHRC II, Fund Management and MHR Holdings is set forth in Annex A hereto which is incorporated herein by reference in response to this Item 2. Dr. Rachesky is the managing member of each of MHRC, MHRC II and MHR Holdings. The principal occupation of Dr. Rachesky, a United States citizen, is investment management.

Each Reporting Person’s principal business address is 40 West 57th Street, 24th Floor, New York, N.Y. 10019.



During the past five years, none of the Reporting Persons and, to the best of the Reporting Persons' knowledge, no other person identified in response to this Item 2 has been (a) convicted in a criminal proceeding or (b) been a party to any civil proceeding of a judicial or administrative body as a result of which he or it has been subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws, or finding any violation with respect to such laws.

**Item 5. Interest in Securities of the Issuer**

Item 5 is hereby amended by deleting such item in its entirety and replacing it with the following:

The percentages set forth in this Statement are based on information contained in the Issuer' s Form 10-Q for the quarterly period ended September 30, 2012, which disclosed that there were 60,687,478 Shares outstanding as of November 1, 2012.

All percentages of beneficial ownership presented herein are calculated after giving effect to the issuance of the Shares pursuant to exercise or vesting of Warrants, restricted stock or stock options currently owned by the Reporting Persons, and assuming such Reporting Person' s Convertible Notes were converted into Shares as of such date.

(a) (i) Master Account may be deemed the beneficial owner of 10,613,079 Shares (approximately 16.3% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of (A) 6,226,054 Shares held for the account of Master Account, (B) 2,704,898 Shares that can be obtained by Master Account upon exercise of warrants to acquire Shares and (C) 1,682,127 Shares that can be obtained by Master Account upon the conversion of the Convertible Notes.

(ii) Capital Partners (100) may be deemed the beneficial owner of 1,445,638 Shares (approximately 2.4% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of (A) 847,125 Shares held for the account of Capital Partners (100), (B) 368,479 Shares that can be obtained by Capital Partners (100) upon exercise of warrants to acquire Shares and (C) 230,034 Shares that can be obtained by Capital Partners (100) upon the conversion of the Convertible Notes.

(iii) Advisors may be deemed the beneficial owner of 12,058,717 Shares (approximately 18.4% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of (A) (1) 6,226,054 Shares held for the account of Master Account, (2) 2,704,898 Shares that can be obtained by Master Account upon exercise of warrants to acquire Shares and (3) 1,682,127 Shares that can be obtained by Master Account upon the conversion of the Convertible Notes, and (B) (1) 847,125 Shares held for the account of Capital Partners (100), (2) 368,479 Shares that can be obtained by Capital Partners (100) upon exercise of warrants to acquire Shares and (3) 230,034 Shares that can be obtained by Capital Partners (100) upon the conversion of Convertible Notes.

(iv) Institutional Partners II may be deemed the beneficial owner of 7,606,884 Shares (approximately 11.7% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of (A) 3,240,750 Shares held for the account of Institutional Partners II, (B) 2,535,842 Shares that can be obtained by Institutional Partners II upon the exercise of warrants to acquire Shares and (C) 1,830,292 Shares that can be obtained by Institutional Partners II upon the conversion of the Convertible Notes.

(v) Institutional Partners IIA may be deemed the beneficial owner of 19,164,058 Shares (approximately 26.7% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of (A) 8,164,436 Shares held for the account of

Institutional Partners IIA, (B) 6,388,557 Shares that can be obtained by Institutional Partners IIA upon the exercise of warrants to acquire Shares and (C) 4,611,065 Shares that can be obtained by Institutional Partners IIA upon the conversion of the Convertible Notes.

(vi) Institutional Advisors II may be deemed the beneficial owner of 26,770,942 Shares (approximately 35.2% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of (A) (1) 3,240,750 Shares held for the account of Institutional Partners II, (2) 2,535,842 Shares that can be obtained by Institutional Partners II upon the exercise of warrants to acquire Shares and (3) 1,830,292 Shares that can be obtained by Institutional Partners II upon the conversion of the Convertible Notes, and (B) (1) 8,164,436 Shares held for the account of Institutional Partners IIA, (2) 6,388,557 Shares that can be obtained by Institutional Partners IIA upon the exercise of warrants to acquire Shares and (3) 4,611,065 Shares that can be obtained by Institutional Partners IIA upon the conversion of the Convertible Notes.

(vii) MHRC may be deemed the beneficial owner of 12,058,717 Shares (approximately 18.4% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of all of the Shares otherwise described in Item 5(a)(iii) by virtue of MHRC' s position as the managing member of Advisors.

(viii) MHRC II may be deemed the beneficial owner of 26,770,942 Shares (approximately 35.2% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of all of the Shares otherwise described in Item 5(a)(vi) by virtue of MHRC II' s position as the managing member of Institutional Advisors II.

(ix) Fund Management may be deemed the beneficial owner of 38,829,659 Shares (approximately 47.9% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of all of the Shares otherwise described in this Item 5(a) by virtue of Fund Management' s investment management agreement with Master Account, Capital Partners (100), Institutional Partners II and Institutional Partners IIA.

(x) MHR Holdings may be deemed to be the beneficial owner of 38,829,659 Shares (approximately 47.9% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of all of the Shares otherwise described in this Item 5 by virtue of MHR Holdings' position as the managing member of Fund Management.

(xi) Dr. Rachesky may be deemed the beneficial owner of 39,043,957 Shares (approximately 48.1% of the total number of Shares outstanding, calculated in accordance with Rule 13d-3(d)(1)(i) under the Act). This number consists of (A) all of the Shares otherwise described in this Item 5(a) by virtue of Dr. Rachesky' s position as the managing member of each of MHRC, MHRC II and MHR Holdings, (B) 14,000 Shares that can be obtained upon the exercise of certain options to purchase Shares, (C) 195,000 Shares that can be obtained upon the exercise of certain non-qualified stock options to purchase Shares and (D) 5,298 Shares held for his own account.

(b) (i) Master Account may be deemed to have (x) the sole power to direct the disposition of 10,613,079 Shares which may be deemed to be beneficially owned by Master Account as described above, and (y) the sole power to direct the voting of 10,613,079 Shares which may be deemed to be beneficially owned by Master Account as described above.

(ii) Capital Partners (100) may be deemed to have (x) the sole power to direct the disposition of 1,445,638 Shares which may be deemed to be beneficially owned by Capital Partners (100) as described above, and (y) the sole power to direct the voting of 1,445,638 Shares which may be deemed to be beneficially owned by Capital Partners (100) as described above.

(iii) Advisors may be deemed to have (x) the sole power to direct the disposition of 12,058,717 Shares which may be deemed to be beneficially owned by Advisors as described above, and (y) the sole power to direct the voting of 12,058,717 Shares which may be deemed to be beneficially owned by Advisors as described above.

(iv) Institutional Partners II may be deemed to have (x) the sole power to direct the disposition of 7,606,884 Shares which may be deemed to be beneficially owned by Institutional Partners II as described above, and (y) the sole power to direct the voting of 7,606,884 Shares which may be deemed to be beneficially owned by Institutional Partners II as described above.

(v) Institutional Partners IIA may be deemed to have (x) the sole power to direct the disposition of 19,164,058 Shares which may be deemed to be beneficially owned by Institutional Partners IIA as described above, and (y) the sole power to direct the voting of 19,164,058 Shares which may be deemed to be beneficially owned by Institutional Partners IIA as described above.

(vi) Institutional Advisors II may be deemed to have (x) the sole power to direct the disposition of 26,770,942 Shares which may be deemed to be beneficially owned by Institutional Advisors II as described above, and (y) the sole power to direct the voting of 26,770,942 Shares which may be deemed to be beneficially owned by Institutional Advisors II as described above.

(vii) MHRC may be deemed to have (x) the sole power to direct the disposition of the 12,058,717 Shares which may be deemed to be beneficially owned by MHRC described above, and (y) the sole power to direct the voting of 12,058,717 Shares which may be deemed to be beneficially owned by MHRC as described above.

(viii) MHRC II may be deemed to have (x) the sole power to direct the disposition of the 26,770,942 Shares which may be deemed to be beneficially owned by MHRC II as described above, and (y) the sole power to direct the voting of 26,770,942 Shares which may be deemed to be beneficially owned by MHRC II as described above.

(ix) Fund Management may be deemed to have (x) the sole power to direct the disposition of the 38,829,659 Shares which may be deemed to be beneficially owned by Fund Management as described above, and (y) the sole power to direct the voting of 38,829,659 Shares which may be deemed to be beneficially owned by Fund Management as described above.

(x) MHR Holdings may be deemed to have (x) the sole power to direct the disposition of 38,829,659 Shares which may be deemed to be beneficially owned by MHR Holdings as described above, and (y) the sole power to direct the voting of 38,829,659 Shares which may be deemed to be beneficially owned by MHR Holdings as described above.

(xi) Dr. Rachesky may be deemed to have (x) the sole power to direct the disposition of the 39,043,957 Shares which may be deemed to be beneficially owned by Dr. Rachesky as described above, and (y) the sole power to direct the voting of 39,043,957 Shares which may be deemed to be beneficially owned by Dr. Rachesky as described above.

(c) As reported on a Form 4 filed January 3, 2013, on December 31, 2012, Master Account, Capital Partners (100), Institutional Partners II and Institutional Partners IIA received additional Convertible Notes as paid-in-kind interest on the Convertible Notes already held by such Reporting Persons. Such additional Convertible Notes are convertible into 97,941 Shares (in the case of Master Account), 13,393 Shares (in the case of Capital Partners (100)), 106,568 Shares (in the case of Institutional Partners II) and 268,476 Shares in the case of Institutional Partners IIA.

(d) (i) The partners of Master Account, including Advisors, have the right to participate in the receipt of dividends from, or proceeds from the sale of, the securities held for the account of Master Account in accordance with their partnership interests in Master Account.

(ii) The partners of Capital Partners (100), including Advisors, have the right to participate in the receipt of dividends from, or proceeds from the sale of, the securities held for the account of Capital Partners (100) in accordance with their partnership interests in Capital Partners (100).

(iii) The partners of Institutional Partners II, including Institutional Advisors II, have the right to participate in the receipt of dividends from, or proceeds from the sale of, the securities held for the account of Institutional Partners II in accordance with their partnership interests in Institutional Partners II.

(iv) The partners of Institutional Partners IIA, including Institutional Advisors II, have the right to participate in the receipt of dividends from, or proceeds from the sale of, the securities held for the account of Institutional Partners IIA in accordance with their partnership interests in Institutional Partners IIA.

(e) Not applicable.

**Item 7. Materials to Be Filed as Exhibits**

<u>Exhibit No.</u>	<u>Description</u>
1	Joint Filing Agreement, dated as of January 10, 2013, by and among MHR Capital Partners Master Account LP, MHR Advisors LLC, MHR Institutional Partners II LP, MHR Institutional Partners IIA LP, MHR Institutional Advisors II LLC, MHRC LLC, MHRC II LLC, MHR Fund Management LLC, MHR Holdings LLC, and Dr. Rachesky.

SIGNATURES

After reasonable inquiry and to the best of my knowledge and belief, the undersigned certifies that the information set forth in this Statement is true, complete and correct.

Date: January 10, 2013

MHR CAPITAL PARTNERS MASTER ACCOUNT LP

By: MHR Advisors LLC,  
its General Partner

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR ADVISORS LLC

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR INSTITUTIONAL PARTNERS II LP

By: MHR Institutional Advisors II LLC,  
its General Partner

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR INSTITUTIONAL PARTNERS IIA LP

By: MHR Institutional Advisors II LLC,  
its General Partner

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR INSTITUTIONAL ADVISORS II LLC

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHRC LLC

By: /s/ Janet Yeung  
Name: Janet Yeung

Title: Authorized Signatory

MHRC II LLC

By: /s/ Janet Yeung

Name: Janet Yeung

Title: Authorized Signatory

MHR FUND MANAGEMENT LLC

By: /s/ Janet Yeung

Name: Janet Yeung

Title: Authorized Signatory

MHR HOLDINGS LLC

By: /s/ Janet Yeung

Name: Janet Yeung

Title: Authorized Signatory

MARK H. RACHESKY, M.D.

/s/ Janet Yeung, Attorney in Fact

**Annex A**

<u>Reporting Person</u>	<u>Name/Citizenship</u>	<u>Principal Occupation</u>	<u>Business Address</u>
MHR Holdings	Mark H. Rachesky, M.D. (United States)	President and Managing Member	40 West 57 <sup>th</sup> Street 24 <sup>th</sup> Floor New York, NY 10019
Fund Management	Mark H. Rachesky, M.D. (United States)	President	40 West 57 <sup>th</sup> Street 24 <sup>th</sup> Floor New York, NY 10019
MHRC	Mark H. Rachesky, M.D. (United States)	Managing Member	40 West 57 <sup>th</sup> Street 24 <sup>th</sup> Floor New York, NY 10019
MHRC II	Mark H. Rachesky, M.D. (United States)	Managing Member	40 West 57 <sup>th</sup> Street 24 <sup>th</sup> Floor New York, NY 10019
Institutional Advisors II	Mark H. Rachesky, M.D. (United States)	President	40 West 57 <sup>th</sup> Street 24 <sup>th</sup> Floor New York, NY 10019
Advisors	Mark H. Rachesky, M.D. (United States)	President	40 West 57 <sup>th</sup> Street 24 <sup>th</sup> Floor New York, NY 10019



**Exhibit Index**

<b>Exhibit No.</b>	<b>Description</b>
1	Joint Filing Agreement, dated as of January 10, 2013, by and among MHR Capital Partners Master Account LP, MHR Advisors LLC, MHR Institutional Partners II LP, MHR Institutional Partners IIA LP, MHR Institutional Advisors II LLC, MHRC LLC, MHRC II LLC, MHR Fund Management LLC, MHR Holdings LLC, and Dr. Rachesky.

**Exhibit 1**

**JOINT FILING AGREEMENT**

The undersigned hereby agree that this Statement on Schedule 13D with respect to the Shares of Emisphere Technologies, Inc., dated as of January 10, 2013, is, and any amendments thereto (including amendments on Schedule 13G) signed by each of the undersigned shall be, filed on behalf of each of us pursuant to and in accordance with the provisions of Rule 13d-1(k) under the Securities Exchange Act of 1934.

Date: January 10, 2013

MHR CAPITAL PARTNERS MASTER ACCOUNT LP  
By: MHR Advisors LLC,  
its General Partner

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR ADVISORS LLC

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR INSTITUTIONAL PARTNERS II LP  
By: MHR Institutional Advisors II LLC,  
its General Partner

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR INSTITUTIONAL PARTNERS IIA LP  
By: MHR Institutional Advisors II LLC,  
its General Partner

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

MHR INSTITUTIONAL ADVISORS II LLC

By: /s/ Janet Yeung  
Name: Janet Yeung  
Title: Authorized Signatory

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MHRC LLC

By: /s/ Janet Yeung

Name: Janet Yeung

Title: Authorized Signatory

MHRC II LLC

By: /s/ Janet Yeung

Name: Janet Yeung

Title: Authorized Signatory

MHR FUND MANAGEMENT LLC

By: /s/ Janet Yeung

Name: Janet Yeung

Title: Authorized Signatory

MHR HOLDINGS LLC

By: /s/ Janet Yeung

Name: Janet Yeung

Title: Authorized Signatory

MARK H. RACHESKY, M.D.

By: /s/ Janet Yeung, Attorney in Fact