

EMISPHERE TECHNOLOGIES INC

Form SC 13D/A

August 15, 2017

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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. 29)*

Emisphere Technologies, Inc.

(Name of Issuer)

**Common Stock, Par Value \$.01 Per Share
(Title of Class of Securities)**

**291345106
(CUSIP Number)**

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Janet Yeung

MHR Fund Management LLC

1345 Avenue of the Americas, 42nd Floor

New York, New York 10105

(212) 262-0005

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

August 14, 2017

(Date of Event which Requires Filing of this Statement)

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 ☐.

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.

* 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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Anguilla, British West Indies

7 SOLE VOTING POWER

NUMBER OF

SHARES 22,544,146
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 22,544,146
10 SHARED DISPOSITIVE POWER
WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

22,544,146

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

29.2%

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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF

25,580,440

SHARES

8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY

0

EACH

9 SOLE DISPOSITIVE POWER

REPORTING

PERSON

25,580,440

10 SHARED DISPOSITIVE POWER

WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

25,580,440

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

32.2%

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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware
7 SOLE VOTING POWER

NUMBER OF
SHARES 19,038,877
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 19,038,877
10 SHARED DISPOSITIVE POWER
WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

19,038,877

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

24.8%

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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware
7 SOLE VOTING POWER

NUMBER OF
SHARES 47,965,212
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 47,965,212
10 SHARED DISPOSITIVE POWER
WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

47,965,212

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

47.7%

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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware
7 SOLE VOTING POWER

NUMBER OF
SHARES 67,004,089
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 67,004,089
10 SHARED DISPOSITIVE POWER
WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

67,004,089

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

57.5%

14 TYPE OF REPORTING PERSON (See Instructions)

OO

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1 NAME OF REPORTING PERSONS

MHRC LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions)

(a) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF

SHARES 25,580,440
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 25,580,440
10 SHARED DISPOSITIVE POWER
WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

25,580,440

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

32.2%

14 TYPE OF REPORTING PERSON (See Instructions)

OO

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1 NAME OF REPORTING PERSONS

MHRC II LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions)

(a) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF

SHARES 67,004,089
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 67,004,089
10 SHARED DISPOSITIVE POWER
WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

67,004,089

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

57.5%

14 TYPE OF REPORTING PERSON (See Instructions)

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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF

92,584,529

SHARES

8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY

0

EACH

9 SOLE DISPOSITIVE POWER

REPORTING

PERSON

92,584,529

10 SHARED DISPOSITIVE POWER

WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

92,584,529

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

68.6%

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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

7 SOLE VOTING POWER

NUMBER OF

92,584,529

SHARES

8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY

0

EACH

9 SOLE DISPOSITIVE POWER

REPORTING

PERSON

92,584,529

10 SHARED DISPOSITIVE POWER

WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

92,584,529

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

68.6%

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) (b)

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)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

United States of America

7 SOLE VOTING POWER

NUMBER OF

SHARES 93,073,827
8 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 0
EACH 9 SOLE DISPOSITIVE POWER

REPORTING

PERSON 93,073,827
10 SHARED DISPOSITIVE POWER
WITH

0

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11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

93,073,827

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (See Instructions)

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

68.7%

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. 29, the Schedule 13D filed on October 6, 2005 (the Initial 13D), as amended by Amendment No. 1, filed on January 18, 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), Amendment No. 18, filed on October 19, 2012 (Amendment No. 18), Amendment No. 19, filed on January 10, 2013 (Amendment 19), Amendment No. 20, filed on April 30, 2013 (Amendment No. 20), Amendment No. 21, filed on May 9, 2013 (Amendment No. 21), Amendment No. 22, filed on March 31, 2014 (Amendment No. 22), Amendment No. 23, filed on August 22, 2014 (Amendment No. 23), Amendment No. 24, filed on July 1, 2015 (Amendment No. 24), Amendment No. 25, filed on October 15, 2015 (Amendment No. 25), Amendment No. 26, filed on July 5, 2016 (Amendment No. 26), Amendment No. 27, filed on December 9, 2016 (Amendment No. 27) and Amendment No. 28, filed on July 5, 2017 (Amendment No. 28), and, together with the Initial 13D and Amendment No. 1 through Amendment No. 27, the Schedule 13D) and relates to shares of common stock, par value \$0.01 per share (the Shares), of Emisphere Technologies, Inc. (the Issuer). Except as otherwise provided, defined terms used in this Statement but not defined herein shall have the respective meanings given such terms in Amendment No. 28.

Item 4 Purpose of Transaction

The information set forth in Item 6 below and Exhibit 1 to this Statement is incorporated into this Item 4 by reference.

Item 6 Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

Item 6 is hereby amended by adding the following:

On August 14, 2017, Master Account, Capital Partners (100), Institutional Partners II and Institutional Partners IIA (collectively, the MHR Funds) entered into a letter agreement with the Issuer whereby the MHR Funds agreed to suspend certain obligations of the Issuer pursuant to the Loan Agreement, the Pledge Agreement, the Convertible Notes, the Registration Rights Agreement and the Purchase Agreement, and the Company agreed to provide certain limited information rights to the MHR Funds, in each case until such time as the Issuer once again becomes subject to the reporting requirements under the Exchange Act. In addition, the Company agreed that, upon the written request of the MHR Funds, it would re-register its shares of Common Stock under the Exchange Act and file a registration statement under the Securities Act covering the registration of all or any portion of the Issuer's securities then held by the MHR Funds. Capitalized terms used in the foregoing paragraph have the respective meanings ascribed thereto in the letter agreement, unless otherwise defined herein. The foregoing discussion of the letter agreement is qualified in its entirety by reference to the full text of the letter agreement, attached as Exhibit 1 to this Statement and incorporated into this Item 6 by reference.

Item 7 Material to Be Filed as Exhibits**Exhibit**

No.	Description
1	Letter agreement, dated as of August 14, 2017, by and among the Issuer, MHR Capital Partners Master Account LP, MHR Capital Partners (100) LP, MHR Institutional Partners II LP and MHR Institutional Partners IIA LP.

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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: August 15, 2017

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