

MATRIA HEALTHCARE INC

Form 425

January 28, 2008

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

**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): January 28, 2008
INVERNESS MEDICAL INNOVATIONS, INC.**

(Exact name of registrant as specified in charter)

Delaware
(State or Other
Jurisdiction
of Incorporation)

1-16789
(Commission File Number)

04-3565120
(IRS Employer
Identification No.)

51 Sawyer Road, Suite 200, Waltham, Massachusetts 02453

(Address of Principal Executive Offices) (Zip Code)

(781) 647-3900

(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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On January 28, 2008, Inverness Medical Innovations, Inc. (*Inverness*) issued a press release announcing that it had executed a definitive merger agreement (the *Merger Agreement*) pursuant to which Inverness will acquire Matria Healthcare, Inc. (*Matria*) through a merger transaction (the *Merger*). A copy of the press release is attached hereto as Exhibit 99.1 and incorporated herein by reference.

The completion of the Merger is subject to various closing conditions, including obtaining the approval of Matria shareholders and filings under the Hart-Scott-Rodino Antitrust Improvements Act.

At the effective time of the Merger (the *Effective Time*), by virtue of the Merger and without any action on the part of the holders of any capital stock of Matria, each share of common stock of Matria issued and outstanding immediately prior to the Effective Time will be converted into the right to receive: (i) \$32.50 in newly created convertible perpetual preferred stock of Inverness (each full share, an *Inverness Preferred Share*), and (ii) \$6.50 in cash (the *Cash Portion*), and together with the Inverness Preferred Shares in the preceding clause, the *Merger Consideration*). At any time prior to the closing date of the Merger, Inverness may elect, in its sole discretion, to pay the aggregate Merger consideration (which, shall include the Cash Portion and the Inverness Preferred Shares) as \$39.00 in cash, without interest. A description of the terms of the Inverness Preferred Shares is attached as Exhibit 99.2 hereto. The parties to the Merger Agreement have agreed to prepare and file documents with the Securities and Exchange Commission (see *Additional Information and Where to Find It* below) and a Certificate of Designations of Series B Convertible Perpetual Preferred Stock of Inverness Medical Innovations, Inc. (the *Certificate of Designations*) with the Secretary of State of the State of Delaware. These documents will contain the complete terms of the Inverness Preferred Shares.

Item 9.01 Financial Statements and Exhibits.**(d) Exhibits.**

| Exhibit No. | Description |
|--------------------|---|
| 99.1 | Press Release, dated January 28, 2008 |
| 99.2 | Description of the terms of the Inverness Preferred Shares. The parties to the Merger Agreement have agreed to prepare and file certain documents with the Securities and Exchange Commission and the Secretary of State of the State of Delaware that will set forth the full terms of the Inverness Preferred Shares. See <i>Additional Information and Where to Find It</i> below. |

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Cautionary Note Regarding Forward Looking Statements

This Current Report on Form 8-K may contain forward-looking statements within the meaning of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, and is subject to the safe harbors created therein. These statements include, but are not limited to, those regarding the consummation of the Merger and the potential issuance of convertible perpetual preferred stock as Merger consideration. These statements are subject to risks and uncertainties that could cause actual results and events to differ materially from those expressed in the forward-looking statements. These risks and uncertainties include, among others, the risk that the Merger does not close, including the risk that required shareholder and regulatory approvals for the Merger may not be obtained; the risk that the Internal Revenue Service may determine that the Merger or related transactions do not qualify as a reorganization for federal income tax purposes; diversion of management's attention away from other business concerns; the risks associated with the development, generally, of the combined company's overall strategic objectives; the ability of the combined company to build additional value in its business; the existence of unanticipated technical, commercial or other setbacks related to the combined company's products and services; and the other risks set forth in Inverness and Matria's most recent Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q filed with the Securities and Exchange Commission. The combined company may not successfully integrate the operations of Inverness and Matria in a timely manner, or at all, and the combined company may not realize the anticipated benefits or synergies of the Merger. Inverness undertakes no obligation to update any forward-looking statements to reflect new information, events, or circumstances occurring after the date of this Current Report on Form 8-K.

Additional Information and Where To Find It

Inverness plans to file with the SEC a registration statement on Form S-4 in connection with the proposed transaction, which will include Matria's proxy statement and Inverness' prospectus for the proposed transaction. **THE REGISTRATION STATEMENT AND THE DEFINITIVE PROXY STATEMENT/PROSPECTUS WILL CONTAIN IMPORTANT INFORMATION ABOUT INVERNESS, MATRIA, THE TRANSACTION AND RELATED MATTERS. INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE REGISTRATION STATEMENT AND THE DEFINITIVE PROXY STATEMENT/PROSPECTUS CAREFULLY WHEN THEY ARE AVAILABLE.** Free copies of the registration statement and the proxy statement/prospectus and other documents filed with the SEC by Inverness and Matria can be obtained through the web site maintained by the SEC at www.sec.gov. In addition, free copies of the registration statement and the proxy statement/prospectus will be available from Inverness by contacting Shareholder Relations at (781) 647-3900 or jon.russell@invmed.com or from Matria by contacting Investor Relations at (770) 767-4500 or investor_relations@matria.com or by directing a request when such a filing is made to Matria Healthcare, Inc., 1850 Parkway Place, Marietta, GA 30067, Attention: Secretary.

Inverness, Matria and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from the shareholders of Matria in connection with the proposed transaction. Information regarding the special interests of these directors and executive officers in the proposed transaction will be included in the definitive proxy statement/prospectus

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described above. Additional information regarding Matria's directors and executive officers is also included in Matria's proxy statement for its 2007 Annual Meeting of Stockholders, which was filed with the SEC on or about April 30, 2007. This proxy statement is available free of charge at the SEC's web site at www.sec.gov and from Matria by contacting them as described above.

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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 hereunto duly authorized.

INVERNESS MEDICAL INNOVATIONS,
INC.

Date: January 28, 2008

By: /s/ David Teitel
David Teitel
Chief Financial Officer