

AMERICAN TECHNOLOGY CORP /DE/
Form 10-Q/A
June 15, 2006
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q/A
(Amendment No. 1)

(Mark one)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2006

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____.

Commission File Number: 000-24248

AMERICAN TECHNOLOGY CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of

incorporation or organization)

15378 Avenue of Science, Ste 100,
San Diego, California
(Address of principal executive offices)

(858) 676-1112

(Registrant's telephone number, including area code)

87-0361799
(I.R.S. Employer Identification Number)

92128
(Zip Code)

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13114 Evening Creek Drive South, San Diego, CA 92128

(Former address, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of accelerated filer and large accelerated filer in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The number of shares of Common Stock, \$.00001 par value, outstanding on April 30, 2006 was 24,485,215

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EXPLANATORY NOTE

This Amendment No. 1 on Form 10-Q/A for American Technology Corporation for the fiscal quarter ended March 31, 2006, is being filed in connection with the following circumstances.

In the first quarter of fiscal year 2006, the composition of our reportable segments changed because the management of a particular end-customer group was transferred from the Government and Military Group to the Commercial Group. In accordance with the requirements of Statement of Financial Accounting Standards No. 131 Disclosures about Segments of an Enterprise and Related Information, our management determined that re-classifying the prior period information for comparison is required. This adjustment has no impact on the revenue or gross profits (loss) as reported for the current year business segment data. This adjustment also has no impact on our consolidated balance sheets, consolidated statements of operations, or consolidated statements of cash flows.

Further, the Company is updating the subsequent events to reflect the termination of Mr. Alan J Ballard.

Changes Reflected in this Form 10-Q/A

As a result of the reclassification, the disclosures in the following items related to the three and six months ended March 31, 2006 and 2005 have been revised:

Part I, Item 1 Consolidated Financial Statements and Notes to Consolidated Financial Statements

Note 2 Restatement of a Prior Period

Note 17 Business Segment Data

Note 18 Subsequent Events

Part I, Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations

Reclassification of Consolidated Financial Information

Results of Operations for the Three and Six Months Ended March 31, 2006 and 2005

Except in the sections identified above, this Form 10-Q/A does not reflect events occurring after the filing of the Original Form 10-Q, or modify or update those disclosures, including exhibits to the Form 10-Q affected by subsequent events. Information not affected by the restatement is unchanged and reflects the disclosures made at the time of the Original Form 10-Q. Accordingly, this Form 10-Q/A should be read in conjunction with filings made with the SEC subsequent to the filing of the Original Form 10-Q, including any amendments to those filings.

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AMERICAN TECHNOLOGY CORPORATION

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders

American Technology Corporation

We have reviewed the accompanying condensed consolidated balance sheets of American Technology Corporation (the Company) as of March 31, 2006 and the related condensed consolidated statements of operations and cash flows for the three and six-month periods ended March 31, 2006 and 2005. These interim consolidated financial statements are the responsibility of the Company's management.

We conducted our review in accordance with the standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States), the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to such condensed consolidated interim financial statements for them to be in conformity with accounting principles generally accepted in the United States of America.

We have previously audited, in accordance with the standards of Public Company Accounting Oversight Board (United States), the balance sheets of American Technology Corporation as of September 30, 2005, and the related statements of operations, shareholders' equity, and cash flows for the year then ended (not presented herein); and in our report dated December 27, 2005, we expressed an unqualified opinion on those financial statements. As of September 30, 2005, we also conducted an audit of the Company's Internal Controls. In our report dated December 27, 2005, we expressed an opinion that management's assessment did not maintain effective internal control over financial reporting as of September 30, 2005, is fairly stated, in all material respects, based on criteria established in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Also, in our opinion, because of the effect of the material weaknesses described in our opinion, American Technology Corporation did not maintain effective internal control over financial reporting as of September 30, 2005, based on criteria established in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the information set forth in the accompanying condensed balance sheet as of September 30, 2005 is fairly stated, in all material respects, in relation to the balance sheet from which it has been derived.

As discussed in Note 2 to the accompanying consolidated financial statements, the Company has restated its previously issued consolidated financial statements as of March 31, 2006 for the three and six months then ended.

Swenson Advisors, LLP

San Diego, California

June 15, 2006

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| | March 31, 2006 (Unaudited) | September 30, 2005 (Audited) |
|---|----------------------------------|---------------------------------|
| ASSETS | | |
| Current Assets: | | |
| Cash and cash equivalents | \$ 5,448,894 | \$ 10,347,779 |
| Trade accounts receivable, less allowance of \$40,000 and \$125,000 for doubtful accounts | 1,942,527 | 880,276 |
| Inventories, net of \$494,614 and \$691,206 reserve for obsolescence | 1,648,430 | 1,799,447 |
| Prepaid expenses and other | 161,228 | 201,339 |
| Total current assets | 9,201,079 | 13,228,841 |
| Equipment, net | 672,000 | 606,871 |
| Patents, net | 1,407,818 | 1,373,158 |
| Long-term deposits | 58,266 | |
| Total assets | \$ 11,339,163 | \$ 15,208,870 |
| LIABILITIES AND STOCKHOLDERS EQUITY | | |
| Current Liabilities: | | |
| Accounts payable | \$ 1,435,377 | \$ 1,985,353 |
| Accrued liabilities: | | |
| Payroll and related | 229,779 | 476,331 |
| Deferred revenue | 434,616 | 395,833 |
| Warranty reserve | 349,730 | 248,981 |
| Legal settlements | | 71,900 |
| Other | 499 | 30,003 |
| Derivative warrant instrument | | 282,000 |
| Capital lease short-term portion | 5,203 | 12,131 |
| Total current liabilities | 2,455,204 | 3,502,532 |
| Long-Term Liabilities: | | |
| Derivative warrant instrument | 1,153,300 | 1,564,000 |
| Total liabilities | 3,608,504 | 5,066,532 |
| Commitments and contingencies | | |
| Stockholders equity | | |
| Preferred stock, \$0.00001 par value; 5,000,000 shares authorized; none issued and outstanding | | |
| Common stock, \$0.00001 par value; 50,000,000 shares authorized; 24,485,215 and 24,290,840 shares issued and outstanding respectively | 245 | 243 |
| Additional paid-in capital | 62,545,421 | 61,556,295 |
| Accumulated deficit | (54,815,007) | (51,414,200) |
| Total stockholders equity | 7,730,659 | 10,142,338 |
| Total liabilities and stockholders equity | \$ 11,339,163 | \$ 15,208,870 |

See accompanying notes to interim consolidated financial statements.

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AMERICAN TECHNOLOGY CORPORATION
CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)

| | For the three months ended March 31, | | For the six months ended March 31, | |
|---|---|----------------|---------------------------------------|----------------|
| | 2006 | 2005 | 2006 | 2005 |
| Revenues: | | | | |
| Product sales | \$ 1,361,244 | \$ 2,814,293 | \$ 3,201,213 | \$ 7,161,206 |
| Contract and license | 104,384 | 3,100 | 163,793 | 65,100 |
| Total revenues | 1,465,628 | 2,817,393 | 3,365,006 | 7,226,306 |
| Cost of revenues | 1,277,415 | 1,490,848 | 2,112,656 | 3,057,253 |
| Gross profit | 188,213 | 1,326,545 | 1,252,350 | 4,169,053 |
| Operating expenses: | | | | |
| Selling, general and administrative | 2,047,085 | 2,043,938 | 4,422,207 | 3,986,788 |
| Research and development | 502,217 | 1,465,609 | 1,068,210 | 2,940,587 |
| Total operating expenses | 2,549,302 | 3,509,547 | 5,490,417 | 6,927,375 |
| Loss from operations | (2,361,089) | (2,183,002) | (4,238,067) | (2,758,322) |
| Other income (expense): | | | | |
| Interest income | 70,480 | 18,407 | 145,103 | 29,348 |
| Interest expense | (183) | (130,631) | (543) | (142,961) |
| Unrealized gain (loss) on derivative revaluation | (339,500) | 682,210 | 692,700 | (267,931) |
| Total other income (expense) | (269,203) | 569,986 | 837,260 | (381,544) |
| Net loss | (2,630,292) | (1,613,016) | (3,400,807) | (3,139,866) |
| Dividend requirements on convertible preferred stock | | 1,518,651 | | 1,796,426 |
| Net loss available to common stockholders | \$ (2,630,292) | \$ (3,131,667) | \$ (3,400,807) | \$ (4,936,292) |
| Net loss per share of common stock basic and diluted | \$ (0.11) | \$ (0.15) | \$ (0.14) | \$ (0.24) |
| Average weighted number of common shares outstanding | 24,382,731 | 20,665,004 | 24,342,884 | 20,234,075 |

See accompanying notes to interim consolidated financial statements.

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AMERICAN TECHNOLOGY CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited)

| | For the six months ended March 31, | |
|---|---------------------------------------|----------------|
| | 2006 | 2005 |
| Increase (Decrease) in Cash Operating Activities: | | |
| Net loss | \$ (3,400,807) | \$ (3,139,866) |
| Adjustments to reconcile net loss to net cash used in operations: | | |
| Depreciation and amortization | 225,229 | 212,050 |
| Provision for doubtful accounts | (85,000) | |
| Warranty provision | 155,774 | (76,723) |
| Inventory obsolescence | (196,592) | 239,986 |
| Loss on disposition of asset | 52,070 | |
| Share based compensation expense | 378,188 | 270,043 |
| Write-off of abandoned patents | 20,386 | |
| Unrealized (loss)/gain on derivative revaluation | (692,700) | 267,931 |
| Amortization of debt discount | | 98,793 |
| Changes in assets and liabilities: | | |
| Trade accounts receivable | (977,251) | 432,244 |
| Inventories | 347,609 | (493,601) |
| Prepaid expenses and other | 40,111 | (29,773) |
| Accounts payable | (549,976) | 205,935 |
| Warranty reserve | (55,025) | (16,357) |
| Accrued liabilities | (309,174) | 317,254 |
| Net cash used in operating activities | (5,047,158) | (1,712,084) |
| Investing Activities: | | |
| Purchase of equipment | (279,397) | (355,995) |
| Patent costs paid | (118,076) | (144,420) |
| Long-term deposits | (58,266) | |
| Net cash used in investing activities | (455,739) | (500,415) |
| Financing Activities: | | |
| Payments on capital lease | (6,928) | (6,264) |
| Proceeds from issuance of unsecured promissory notes | | 2,000,000 |
| Proceeds from exercise of common stock warrants | | 1,661,277 |
| Proceeds from exercise of stock options | 610,940 | 643,802 |
| Offering Costs Paid | | (102,875) |
| Net cash provided by financing activities | 604,012 | 4,195,940 |
| Net decrease in cash | (4,898,885) | |