

ART TECHNOLOGY GROUP INC

Form S-8

June 12, 2003

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As filed with the Securities and Exchange Commission on June 12, 2003

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-8

**REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933**

ART TECHNOLOGY GROUP, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

04-3141918
(I.R.S. Employer
Identification Number)

25 First Street
Cambridge, Massachusetts
(Address of principal executive
offices)

02141
(Zip Code)

AMENDED AND RESTATED 1999 OUTSIDE DIRECTOR STOCK OPTION PLAN

(Full Title of the Plan)

ROBERT D. BURKE
CHIEF EXECUTIVE OFFICER
ART TECHNOLOGY GROUP, INC.
25 FIRST STREET
CAMBRIDGE, MASSACHUSETTS 02141

(Name and Address of Agent For Service)

(617) 386-1000
(Telephone Number, Including Area Code, of Agent For Service)

CALCULATION OF REGISTRATION FEE

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| Title of Securities to be Registered | Amount to be Registered (2) | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---------------------------------------------------------|----------------------------------------|------------------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------|
| Common Stock, \$0.01 par value per share (1) | 500,000 shares | \$ 1.81(3) | \$905,000(3) | \$ 73.22 |

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- (1) Including the associated Preferred Stock Purchase Rights.
- (2) In accordance with Rule 416 under the Securities Act of 1933, as amended, this registration statement shall be deemed to cover any additional securities that may from time to time be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.
- (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of the Securities Act of 1933, as amended, and based upon the average of the high and low prices of the Registrant's Common Stock as reported on the Nasdaq National Market on June 9, 2003.

In addition, pursuant to Rule 416 (c) under the Securities Act of 1933, this registration statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan(s) described herein.

STATEMENT OF INCORPORATION BY REFERENCE

This registration statement on Form S-8 is filed to register the offer and sale of an additional 500,000 shares of the Registrant's common stock, \$0.01 par value per share, to be issued under the Registrant's 1999 Amended and Restated Outside Director Stock Option Plan. This registration statement incorporates by reference the contents of the registration statement on Form S-8, File No. 333-83327, filed by the Registrant on July 21, 1999, relating to the Registrant's Amended and Restated 1999 Outside Director Stock Purchase Plan.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Hale and Dorr LLP has opined as to the legality of the securities being offered by this registration statement.

ITEM 8. EXHIBITS.

The Exhibit Index immediately preceding the exhibits is incorporated herein by reference.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Cambridge, Massachusetts, on this 11th day of June, 2003.

ART TECHNOLOGY GROUP, INC.

(Registrant)

By: /s/ Robert D. Burke

Robert D. Burke
*Chief Executive Officer
and President*

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We, the undersigned officers and directors of Art Technology Group, Inc. hereby severally constitute and appoint Robert D. Burke, Michael A. Pellini and Edward Terino, and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, the registration statement on Form S-8 filed herewith and any and all subsequent amendments to said registration statement, and generally to do all such things in our names and on our behalf in our capacities as officers and directors to enable Art Technology Group, Inc. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys, or any of them, to said registration statement and any and all amendments thereto.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

| NAME | TITLE | DATE |
|------------------------|----------------------------------------------------------------------------------------------------------|---------------|
| /s/ Robert D. Burke | Director, Chief Executive Officer and President <i>(Principal Executive Officer)</i> | June 11, 2003 |
| Robert D. Burke | | |
| /s/ Edward Terino | Senior Vice President and Chief Financial Officer <i>(Principal Financial and Accounting Officer)</i> | June 11, 2003 |
| Edward Terino | | |
| /s/ Paul G. Shorthose | Chairman of the Board | June 11, 2003 |
| Paul G. Shorthose | | |
| /s/ John R. Held | Director | June 11, 2003 |
| John R. Held | | |
| /s/ Irene H. Lang | Director | June 11, 2003 |
| Irene H. Lang | | |
| /s/ Mary Makela | Director | June 11, 2003 |
| Mary E. Makela | | |
| /s/ Thomas N. Matlack | Director | June 11, 2003 |
| Thomas N. Matlack | | |
| /s/ Phyllis S. Swersky | Director | June 11, 2003 |
| Phyllis S. Swersky | | |

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INDEX TO EXHIBITS

| NUMBER | DESCRIPTION |
|---------------|-------------------------------------------------------------------------------------------------------------------------------|
| 4.1 | Amended and Restated Certificate of Incorporation of the Registrant, as amended |
| 4.2(1) | Amended and Restated By-Laws of the Registrant |
| 4.3(2) | Rights Agreement between Registrant and Equiserve Trust Company, N.A., as rights agent |
| 5 | Opinion of Hale and Dorr LLP, counsel to the Registrant |
| 10.1 | Amended and Restated 1999 Outside Director Stock Option Plan of the Registrant |
| 23.1 | Consent of Hale and Dorr LLP (included in Exhibit 5) |
| 23.2 | Consent of Ernst & Young LLP |
| 23.3 | Notice Regarding Consent of Arthur Andersen LLP |
| 24 | Power of attorney (included on the signature pages of this registration statement) |
| (1) | Incorporated herein by reference to the Exhibits to the Registrant's Registration Statement on Form S-3 (File No. 333-64698). |
| (2) | Incorporated herein by reference to the Exhibits to the Registrant's Current Report on Form 8-K filed on October 2, 2001. |