

Edgar Filing: AMERICAN TECHNOLOGY CORP /DE/ - Form NT 10-Q

AMERICAN TECHNOLOGY CORP /DE/
Form NT 10-Q
February 10, 2005

SEC File Number 000-24248
CUSIP Number 030145205

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON D.C. 20549

FORM 12b-25

NOTIFICATION OF LATE FILING

(Check One):

☐ Form 10-K ☐ Form 11-K ☐ Form 20-F ☒ Form 10-Q
☐ Form N-SAR ☐ Form N-CAR

For Period Ended: December 31, 2004

☐ Transition Report on Form 10-K ☐ Transition Report on Form 10-Q
☐ Transition Report on Form 20-F ☐ Transition Report on Form N-SAR
☐ Transition Report on Form 11-K

For the Transition Period Ended: _____

Nothing in this form shall be construed to imply that the Commission has verified any information contained herein.

If the notification relates to a portion of the filing checked above, identify the item(s) to which the notification relates: NOT APPLICABLE

PART I
REGISTRANT INFORMATION

Full name of registrant: AMERICAN TECHNOLOGY CORPORATION

Former name if applicable: NOT APPLICABLE

Address of principal executive office (Street and number):
13114 Evening Creek Drive South

City, state and zip code: San Diego, California 92128

PART II
RULE 12b-25(b) AND (c)

If the subject report could not be filed without unreasonable effort or expense and the registrant seeks relief pursuant to Rule 12b-25(b), the following should be completed.

(Check box if appropriate.)

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- (a) The reasons described in reasonable detail in Part III of this form could not be eliminated without unreasonable effort or expense;
- ☒ (b) The subject annual report, semi-annual report, transition report on Form 10-K, 20-F, 11-K, Form N-SAR or Form N-CAR, or portion thereof will be filed on or before the 15th calendar day following the prescribed due date; or the subject quarterly report or transition report on Form 10-Q, or portion thereof will be filed on or before the fifth calendar day following the prescribed due date; and
- (c) The accountant's statement or other exhibit required by Rule 12b-25(c) has been attached if applicable.

PART III NARRATIVE

State below in reasonable detail the reasons why Form 10-K, 11-K, 20-F, 10-Q, N-SAR, N-CAR or the transition report portion thereof could not be filed within the prescribed time period.

The Company was unable to file its Form 10-Q for the period ended December 31, 2004 within the prescribed time. During the quarter ended December 31, 2004, the Company entered into a committed equity financing facility for up to \$25 million in financing with Kingsbridge Capital Limited, and granted Kingsbridge a warrant exercisable for 275,000 shares of common stock at \$8.60 per share (the "Kingsbridge Transaction"). The Company needs additional time to complete its accounting for the Kingsbridge Transaction. The process of compiling and disseminating the information required to be included in the Form 10-Q for the period ended December 31, 2004 reflecting the Kingsbridge Transaction could not be completed without incurring unreasonable effort and expense. The Company expects to file the report as soon as possible, and in any event on or before February 14, 2005.

PART IV OTHER INFORMATION

(1) Name and telephone number of person to contact in regard to this notification: Michael A. Russell (858) 679-2114

(2) Have all other periodic reports required under Section 13 or 15(d) of the Securities Exchange Act of 1934 or Section 30 of the Investment Company Act of 1940 during the preceding 12 months or for such shorter period that the Registrant was required to file such report(s) been filed? If the answer is no, identify report(s).

☒ Yes ☐ No

(3) Is it anticipated that any significant change in results of operations from the corresponding period for the last fiscal year will be reflected by the earnings statements to be included in the subject report or portion thereof?

☒ Yes ☐ No

If so: attach an explanation of the anticipated change, both narratively and quantitatively, and, if appropriate, state the reasons why a reasonable estimate of the results cannot be made.

We anticipate reporting a net loss of \$1,526,850 for the three month

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period ending December 31, 2004 versus a net loss of \$1,136,427 for the three month period ending December 31, 2003. An increase in revenues of \$3,634,135 in the current period was offset in part by an increase in operating expenses of \$1,935,245. Included in the net loss is a non-cash derivative revaluation expense of \$950,141 associated with the increase in value of a warrant issued to Kingsbridge Capital during the quarter.

AMERICAN TECHNOLOGY CORPORATION

(Name of Registrant as Specified in Charter)

Has caused this notification to be signed on its behalf by the undersigned thereunto duly authorized.

Date: February 10, 2005

By: /s/ Michael A. Russell

MICHAEL A. RUSSELL
CHIEF FINANCIAL OFFICER

Instruction. The form may be signed by an executive officer of the registrant or by any other duly authorized representative. The name and title of the person signing the form shall be typed or printed beneath the signature. If the statement is signed on behalf of the registrant by an authorized representative (other than an executive officer), evidence of the representative's authority to sign on behalf of the registrant shall be filed with the form.