

ART TECHNOLOGY GROUP INC

Form DEF 14A

April 21, 2008

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

**SCHEDULE 14A  
(Rule 14a-101)**

**INFORMATION REQUIRED IN PROXY STATEMENT**

**SCHEDULE 14A INFORMATION**

**PROXY STATEMENT PURSUANT TO SECTION 14(A) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission  
only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to Rule 14a-11(c) or Rule 14a-12

ART TECHNOLOGY GROUP, INC.  
(Name of Registrant as Specified in Its Charter)

Not Applicable

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials.

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(1) Amount previously paid:

(2) Form, Schedule or Registration Statement no.:

(3) Filing Party:

(4) Date Filed:

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**ART TECHNOLOGY GROUP, INC.  
ONE MAIN STREET  
CAMBRIDGE, MASSACHUSETTS 02142**

Dear Stockholder:

I am pleased to invite you to attend the 2008 Annual Meeting of Stockholders of Art Technology Group, Inc. on May 22, 2008. We will hold the meeting at 10:00 a.m., Eastern time, at the offices of Foley Hoag LLP, 155 Seaport Boulevard, Boston, Massachusetts. Annual meetings play an important role in maintaining communications and understanding among our management, board of directors and stockholders, and I hope that you will be able to join us.

On the pages following this letter you will find the Notice of Annual Meeting of Stockholders, which lists the matters to be considered at the meeting, and the proxy statement, which describes the matters listed in the Notice. We have also enclosed our 2007 Annual Report to Stockholders.

If you were a stockholder of record as of the close of business on March 31, 2008, the record date for voting at the meeting, we have enclosed your proxy card, which allows you to vote on the matters considered at the meeting. Simply mark, sign and date your proxy card, and then mail the completed proxy card to our transfer agent, Computershare Trust Company, N.A., in the enclosed postage-paid envelope. You may also submit your proxy electronically via the Internet or by telephone as described on the enclosed proxy card. You may attend the meeting and vote in person even if you have sent in a proxy card or submitted your proxy electronically.

If your shares are held in street name, that is, in the name of a bank, broker or other holder of record, you will receive instructions from the holder of record that you must follow in order for your shares to be voted.

Sincerely yours,

Robert D. Burke  
*Chief Executive Officer and President*

**THE ABILITY TO HAVE YOUR VOTE COUNTED AT THE MEETING IS AN  
IMPORTANT STOCKHOLDER RIGHT, AND I HOPE YOU WILL CAST  
YOUR VOTE IN PERSON OR BY PROXY REGARDLESS  
OF THE NUMBER OF SHARES YOU HOLD.**

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**ART TECHNOLOGY GROUP, INC.  
One Main Street  
Cambridge, Massachusetts 02142**

**Notice of 2008 Annual Meeting of Stockholders**

Time and Date	10:00 a.m., Eastern time, on May 22, 2008
Place	Foley Hoag LLP 155 Seaport Boulevard Boston, Massachusetts
Items of Business	<p>At the meeting, we will ask you and our other stockholders to:</p> <p>(1) Elect Michael A. Brochu, Robert D. Burke and Mary E. Makela as Class III directors of the Company to serve until the 2011 Annual Meeting or until their successors are elected and qualified.</p> <p>(2) Approve the further amendment and restatement of our Amended and Restated 1996 Stock Option Plan.</p> <p>(3) Ratify the appointment by our audit committee of Ernst &amp; Young LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2008.</p> <p>(4) Transact any other business properly presented at the meeting.</p>
Record Date	You may vote if you were a stockholder of record at the close of business on March 31, 2008.
Proxy Voting	It is important that your shares be represented and voted at the meeting. Whether or not you plan to attend the meeting, please mark, sign, date and promptly mail your proxy card to our transfer agent, Computershare Trust Company, N.A., in the enclosed postage-paid envelope. Alternatively, you may submit your proxy via the Internet or by telephone by following the directions on the enclosed proxy card. You may revoke your proxy at any time before its exercise at the meeting. You may revoke electronic votes by using the same method as your original vote and making any changes you deem necessary.

By Order of the Board of Directors,

Julie M.B. Bradley  
*Secretary*

Cambridge, Massachusetts  
April 21, 2008

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**PROXY STATEMENT  
For the  
ART TECHNOLOGY GROUP, INC.  
2008 ANNUAL MEETING OF STOCKHOLDERS**

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**INFORMATION ABOUT THE MEETING**

**This Proxy Statement**

We have sent you this proxy statement and the enclosed proxy card because our board of directors is soliciting your proxy to vote at our 2008 Annual Meeting of Stockholders or any adjournment or postponement of the meeting. The meeting will be held at 10:00 a.m., Eastern time, on Thursday, May 22, 2008, at the offices of Foley Hoag LLP, 155 Seaport Boulevard, Boston, Massachusetts.

THIS PROXY STATEMENT summarizes information about the proposals to be considered at the meeting and other information you may find useful in determining how to vote.

THE PROXY CARD is the means by which you actually authorize another person to vote your shares in accordance with the instructions.

Our directors, officers and employees may solicit proxies in person or by telephone, mail, electronic mail, the Internet, facsimile or telegram. We will pay the expenses of soliciting proxies, although we will not pay additional compensation to these individuals for soliciting proxies. We will request banks, brokers and other nominees holding shares for a beneficial owner to forward copies of the proxy materials to those beneficial owners and to request instructions for voting those shares. We will reimburse these banks, brokers and other nominees for their related reasonable expenses. We have not retained the services of any proxy solicitation firm to assist us in soliciting proxies.

We are mailing this proxy statement and the enclosed proxy card to stockholders for the first time on or about April 23, 2008. In this mailing, we are also sending you a copy of our 2007 Annual Report to Stockholders, which includes our annual report on Form 10-K for the year ended December 31, 2007.

**Who May Vote**

Holders of record of our common stock at the close of business on March 31, 2008 are entitled to one vote per share on each matter properly brought before the meeting. The proxy card states the number of shares you are entitled to vote.

A list of stockholders entitled to vote will be available at the meeting. In addition, you may contact our Secretary at Art Technology Group, Inc., One Main Street, Cambridge, Massachusetts, 02142, to make arrangements to review a copy of the stockholder list at our offices before the meeting, between the hours of 8:30 a.m. and 5:30 p.m., Eastern time, on any business day from May 12, 2008 up to the time of the meeting.

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### How to Vote

You may vote your shares at the meeting in person or by proxy:

*Stockholder of record: Shares registered in your name.* If you are a stockholder of record, that is, your shares are registered in your own name, not in street name by a bank or brokerage firm, then you can vote in any one of the following four ways:

1. You may vote by mail. To vote by mail, you mark, sign and date the enclosed proxy card and then mail the proxy card to our transfer agent, Computershare Trust Company, N.A. in the enclosed postage-prepaid envelope. The persons named in the proxy card will vote the shares you own in accordance with your instructions on the proxy card you mail. If you return the proxy card but do not give any instructions on one or more of the matters described in this proxy statement, then the persons named in the proxy card will vote your shares in accordance with the recommendations of our board of directors. Our board of directors recommends that you vote ***FOR*** each of the nominees listed in Proposal One and that you vote ***FOR*** Proposals Two and Three.
2. You may vote over the Internet. If you have Internet access, then you may authorize the voting of your shares by following the Vote-by-Internet instructions set forth on the enclosed proxy card.
3. You may vote by telephone. You may authorize the voting of your shares by following the Vote-by-Telephone instructions set forth on the enclosed proxy card.
4. You may vote in person. If you attend the meeting, then you may vote by delivering your completed proxy card in person or by completing a ballot at the meeting. Ballots will be available at the meeting.

*Beneficial owner: Shares held in street name.* If the shares you own are held in street name by a bank or brokerage firm, then your bank or brokerage firm, as the record holder of your shares, is required to vote your shares according to your instructions. In order to vote your shares, you will need to follow the directions your bank or brokerage firm provides to you. Many banks and brokerage firms also offer the option of voting over the Internet or by telephone, instructions for which would be provided by your bank or brokerage firm on your voting instruction form. Under the rules that govern banks and brokerage firms, if you do not give instructions to your bank or brokerage firm, it will still be able to vote your shares with respect to certain discretionary items, but will not be allowed to vote your shares with respect to certain non-discretionary items. For example, the election of directors is considered to be a discretionary item on which banks and brokerage firms may vote. In the case of non-discretionary items, the shares will be treated as broker non-votes. *Broker non-votes* are shares that are held in street name by a bank or brokerage firm that indicates on its proxy that it does not have discretionary authority to vote on a particular matter.

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If you wish to come to the meeting to personally vote your shares held in street name, then you will need to obtain a proxy card from the holder of record of your shares (*i.e.*, your bank or brokerage firm).

Even if you complete and return a proxy card or submit your proxy electronically, you may revoke it at any time before it is exercised by taking one of the following actions:

send written notice to our Secretary at our address, which you can find at the top of the first page of this proxy statement;

send us another signed proxy with a later date;

log on to the Internet the same way you did originally and change your votes;

call the telephone number listed on the proxy card; or

attend the meeting, notify our Secretary that you are present, and then vote by ballot.

## **Quorum Required to Transact Business**

At the close of business on March 31, 2008, 128,746,546 shares of our common stock were outstanding. Our by-laws require that a majority of the shares of our common stock outstanding on that date be represented, in person or by proxy, at the meeting in order to constitute the quorum we need to transact business. We will count abstentions and broker non-votes in determining whether a quorum exists. *Broker non-votes* are shares that are held in street name by a bank or brokerage firm that indicates on its proxy that it does not have discretionary authority to vote on a particular matter.

## **DISCUSSION OF PROPOSALS**

### **Proposal One: Election of Class III Directors**

The first proposal on the agenda for the meeting is the election of three Class III directors for a three-year term beginning at the meeting and ending at our 2011 Annual Meeting of Stockholders or until their successors are elected and qualified. Upon the recommendation of the Nominating and Governance Committee, the board has nominated Michael A. Brochu, Robert D. Burke and Mary E. Makela, the current Class III directors, for re-election. Brief biographies of Messrs. Brochu and Burke and Ms. Makela follow.

#### *Michael A. Brochu*

Mr. Brochu has served as a director since November 2004, when he was added to our board in connection with our acquisition of Primus Knowledge Solutions, Inc. From November 1997 until our acquisition of Primus in November 2004, Mr. Brochu served as the President, Chief Executive Officer, and Chairman of the Board of Primus. Beginning in December 2003, Mr. Brochu served as a director of Loudeye Corp., and beginning in February 2005, Mr. Brochu served as President and Chief Executive Officer of

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Loudeye Corp. In October 2006, Loudeye Corp. was acquired by Nokia Corp. and Mr. Brochu left Nokia Corp. in December 2006. Since June 2007, Mr. Brochu has been President, Chief Executive Officer, and a director of Global Market Insite. Mr. Brochu is 54 years old.

*Robert D. Burke*

Mr. Burke has served as our Chief Executive Officer and President and as a director since December 2002. From November 2000 through November 2002, Mr. Burke served as Chief Executive Officer of Quidnunc Group Ltd., a customer solutions and services company. From June 1999 through October 2000, Mr. Burke served as President, Worldwide Services Division of ePresence, Inc., formerly Banyan Systems, Inc., an online security and identity management company. Mr. Burke is 53 years old.

*Mary E. Makela*

Ms. Makela has served as a director since July 2002. Since 1994, Ms. Makela has provided management consulting services to Chief Executive Officers, and various for profit and non-profit boards of directors. Ms. Makela formerly served as President of Cognos Corporation and President and Chief Executive Officer of IMC Systems. Ms. Makela is 65 years old.

We expect that Messrs. Brochu and Burke and Ms. Makela will be able to serve if elected. If any of them is not able to serve, proxies may be voted for a substitute nominee. You can find more information about Messrs. Brochu and Burke, Ms. Makela and our other directors, including brief biographies and information about their compensation and stock ownership, in the sections of this proxy statement entitled **INFORMATION ABOUT DIRECTORS AND EXECUTIVE OFFICERS**, **COMPENSATION OF OUR EXECUTIVE OFFICERS AND DIRECTORS** and **INFORMATION ABOUT STOCK OWNERSHIP**.

The nominees receiving the greatest number of votes cast will be elected as directors. We will not count abstentions when we tabulate votes cast for the director election. Brokers have discretionary voting power with respect to director elections.

**Our board of directors recommends that you vote FOR the election of Messrs. Brochu and Burke and Ms. Makela.**

**Proposal Two: Approve the Further Amendment and Restatement of the Amended and Restated 1996 Stock Option Plan.**

The board of directors believes that it would be in the best interests of our stockholders to further amend and restate our Amended and Restated 1996 Stock Option Plan (the 1996 Plan ), including to increase the number of shares of common stock authorized for issuance pursuant to awards under the 1996 Plan from 25,600,000 to 32,000,000 shares.

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***Reasons Underlying Proposal Two***

Our board believes that the strength of our company depends, in large part, upon our ability to attract and retain qualified, high-performing employees and managers. Equity awards provide our employees and managers with a financial stake in our success, can serve to be an effective retention tool that encourages and rewards performance, and are an important part of the incentives that we can provide. Qualified individuals expect and require public companies to provide equity incentive awards in connection with employment, and such equity compensation aligns the interests of the company's executives and employees with stockholders' interests.

On April 17, 2008, our board of directors voted to amend and restate our 1996 Plan to increase the number of shares authorized for issuance under our 1996 Plan from 25,600,000 shares to 32,000,000 shares. In addition, our board of directors voted to amend and restate our 1996 Plan to provide that shares that are subject to stock-settled share appreciation rights that were not issued upon the net settlement of such awards, as well as shares delivered to or withheld by us to pay withholding taxes related to a stock option or stock appreciation right award, will not be available for reissuance under the 1996 Plan. These two amendments were the only changes made to the 1996 Plan.

Before adopting the amendment to the 1996 Plan described above, our board of directors reviewed management's projections of the awards that we will likely issue under our 1996 Plan for compensating new hires and existing executive officers, outside directors, and other key employees in the remainder of fiscal year 2008 and fiscal years 2009 and 2010. Based on these projections, we expect that the pool of available shares remaining under our 1996 Plan will be exhausted before the end of our fiscal year ending December 31, 2010. These projections may be affected by any acquisitions that we make. We believe that unless this pool of shares is increased, our ability to attract, retain, and motivate our management and other employees will be impaired.

As of March 31, 2008, the number of shares of common stock available for issuance pursuant to future awards under our 1996 Plan, without regard to the proposed amendment described herein, was 1,164,390, which is approximately .90% of our total issued and outstanding shares of common stock. In addition, we grant awards under our Primus Knowledge Solutions, Inc. 1999 Stock Incentive Compensation Plan (the "1999 Plan"). As of March 31, 2008, the number of shares of common stock available for issuance pursuant to future awards under our 1999 Plan was 914,138, which is approximately .70% of our total issued and outstanding shares of common stock.

In 2007, we granted awards that reduced the number of shares available under our 1996 Plan by 3,030,548 shares and under our 1999 Plan by 1,287,750 shares, resulting in a reduction of 4,318,298 shares available under the two plans. In 2007, awards counting as 708,929 shares against the 1996 Plan limit and 430,753 shares against the 1999 Plan limit were forfeited, resulting in an increase of 1,139,682 shares available under the two plans. From January 1 to March 31, 2008, we granted awards that reduced the number of shares available under our 1996 Plan by 3,208,048 shares and under our 1999 Plan by 413,750 shares, resulting in reduction of 3,621,798 shares available under the two plans. For the three months ended March 31, 2008, awards counting as 420,308 shares against the 1996 Plan limit and 140,971 shares against the 1999 Plan limit were forfeited, resulting in an increase of 561,279 shares available under the two plans.

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Other than stock options and stock appreciation rights, awards under the 1996 Plan reduce the number of shares available under the 1996 Plan by 1.24 shares for each share subject to the award.

***Other reasons to seek stockholder approval***

Stockholder approval of the proposed increase to the maximum number of shares of our common stock issuable under our 1996 Plan would also have certain tax benefits. Our 1996 Plan allows us to award incentive stock options, which receive favorable tax treatment under the Internal Revenue Code. The stock option grants under our 1996 Plan that are enabled by the proposed increase of the maximum number of shares available for issuance under the plan cannot qualify as incentive stock options unless the increase is approved by our stockholders.

Additionally, our 1996 Plan is also specifically designed to preserve our ability to deduct the compensation we pay certain executive officers for income tax purposes. Section 162(m) of the Internal Revenue Code generally prevents us from deducting more than \$1.0 million in compensation each year for each of our five most highly compensated executive officers. Compensation treated as qualified performance-based compensation under Section 162(m) is not subject to this limitation. Awards granted under our 1996 Plan that are enabled by the proposed increase of the maximum number of shares available for issuance under the plan may be treated as qualified performance-based compensation only if the increase is approved by a majority vote of our stockholders.

Finally, as an issuer listed on the Nasdaq Global Market, we are required by the rules of the Nasdaq Stock Market to seek stockholder approval of any material amendment to any stock option or purchase plan or other equity compensation arrangement under which our executive officers, non-employee directors, or other employees may acquire shares of our common stock.

***Description of the Amended and Restated 1996 Stock Option Plan***

The following is a brief summary of the 1996 Plan as amended and restated by our Board of Directors on April 17, 2008. The following summary is qualified in its entirety by reference to the 1996 Plan attached as Appendix A to this proxy statement.

***Types of Awards***

The 1996 Plan authorizes the following types of awards:

*Incentive Stock Options* the grant of options to purchase common stock intended to qualify as incentive stock options under Section 422 of the Internal Revenue Code of 1986;

*Non-qualified Stock Options* the grant of options that do not qualify as incentive stock options;

*Stock Appreciation Rights* awards entitling the holder on exercise to receive an amount determined in whole or in part by reference to the appreciation of our common stock;

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*Restricted Stock* direct grants or sales of common stock subject to transfer or other restrictions or conditions determined by the board of directors at the date of grant which count as 1.24 shares per share granted against the 1996 Plan limit;

*Performance Share Awards* grants of common stock subject to the attainment of certain performance goals which count as 1.24 shares per share granted against the 1996 Plan limit; and

*Other Stock-based Awards* other awards that are valued in whole or in part by reference to, or are otherwise based on, shares of common stock or other property, including, for example, restricted stock unit awards, which count as 1.24 shares per share granted against the 1996 Plan limit.

*Incentive Stock Options and Non-Qualified Stock Options.* Optionees receive the right to purchase a specified number of shares of common stock at a specified option price and subject to such other terms and conditions as are specified in connection with the option grant. Options must be granted at an exercise price at least equal to the fair market value of the common stock on the date of grant. The 1996 Plan permits the following forms of payment of the exercise price of options:

payment by cash, check or in connection with a cashless exercise through a broker,

payment by reduction of the number of shares to be issued,

surrender to us of shares of common stock, subject to specific exceptions,

delivery to us of a promissory note,

any other lawful means that the board of directors determines is acceptable, or

any combination of these forms of payment.

*Stock Appreciation Rights.* A stock appreciation right or SAR is an award entitling the holder on exercise to receive an amount in cash or our common stock or a combination thereof, such form to be determined by the board of directors, determined in whole or in part by reference to appreciation, from and after the date of grant, in the fair market value of a share of common stock.

*Restricted Stock Awards.* Restricted stock awards entitle recipients to acquire shares of common stock, subject to our right to repurchase all or part of such shares from the recipient at their issue price or other stated or formula price, or to require forfeiture of such shares if issued at no cost, in the event that the conditions specified in the applicable award are not satisfied prior to the end of the applicable restriction period established for such award.

*Performance Share Awards.* The board of directors or an authorized committee of the board may grant performance accelerated restricted stock awards, or PARS, that provide for time vesting with acceleration of vesting if certain performance criteria are met. In addition to PARS, the board, or an authorized committee of the board, may grant restricted stock awards that vest solely upon satisfaction of certain performance criteria. The performance criteria for each restricted stock

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award that vests solely upon performance criteria will be based on one or more of the following measures:

earnings per share,  
return on average equity or average assets with respect to a pre-determined peer group,  
earnings,  
earnings growth,  
revenues,  
expenses,  
stock price,  
market share,  
return on sales, assets, equity or investment,  
regulatory compliance,  
improvement of financial ratings,  
achievement of balance sheet or income statement objectives,  
total stockholder return,  
net operating profit after tax,  
pre-tax or after-tax income,  
cash flow, or  
such other objective goals established by the board.

The board, or an authorized committee of the board, may determine that special one-time or extraordinary gains, losses, or expenses should or should not be included in the calculation of such measures. The board believes that disclosure of further detail concerning the performance criteria may be confidential commercial or business information, the disclosure of which would adversely affect us.

*Other Stock-Based Awards.* Under the 1996 Plan, the board of directors has the right to grant other awards based upon the common stock having such terms and conditions as the board may determine, including the grant of shares based upon certain conditions and the grant of securities convertible into common stock. These include restricted stock unit awards, which entitle the recipient to receive shares of common stock to be delivered in the future subject to such terms and conditions on the delivery of the shares as the board of directors may determine. As described in Compensation Discussion and Analysis, we began using restricted stock unit awards in fiscal 2007 as our primary form of equity compensation for employees. In some cases, we issue restricted stock unit awards with simple service-based vesting and at other times we have issued



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restricted stock unit awards with performance-based vesting, using similar criteria to those that described above for performance share awards.

*Eligibility to Receive Awards*

Our employees, officers, directors, consultants and advisors and employees, officers, directors, consultants and advisors of our subsidiaries and other business ventures in which we have a controlling interest are eligible to be granted awards under the 1996 Plan. Under present law, however, incentive stock options may only be granted to our employees and employees of our subsidiaries. The maximum number of shares with respect to which awards may be granted to any participant under the 1996 Plan may not exceed 1,000,000 shares per calendar year.

*Plan Benefits*

As of March 31, 2008, approximately 467 employees and directors were eligible to receive awards under the 1996 Plan. This includes our five named executive officers and seven non-employee directors. The granting of awards under the 1996 Plan is discretionary, and we cannot now determine the number or type of awards to be granted in the future to any particular person or group.

*Administration*

The 1996 Plan is administered by the board of directors. The board has the authority to adopt, amend and repeal the administrative rules, guidelines and practices relating to the 1996 Plan and to interpret the provisions of the 1996 Plan. Pursuant to the terms of the 1996 Plan, the board may delegate authority under the plan to one or more committees or subcommittees of the board. The board has authorized the Compensation Committee to administer certain aspects of the 1996 Plan, including the granting of options and other equity awards to executive officers, and the Compensation Committee has granted Mr. Burke the authority to grant options and other equity awards, subject to limitations set by the Compensation Committee.

Subject to any applicable limitations contained in the 1996 Plan, the board, the Compensation Committee, or any other committee to whom the board delegates authority, as the case may be, selects the recipients of awards and determines:

the number of shares of common stock covered by options and the dates upon which such options become exercisable,

the exercise price of options (which cannot be less than fair market value),

the duration of options (which cannot be longer than ten years), and

the number of shares of common stock subject to any restricted stock or other stock-based awards and the terms and conditions of such awards, including conditions for repurchase, issue price and repurchase price.

The board is required to make appropriate adjustments in connection with the 1996 Plan and any outstanding awards to reflect stock splits, stock dividends, recapitalizations, spin-offs and other

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similar changes in capitalization. The 1996 Plan also contains provisions addressing the consequences of any reorganization event, which is defined as

any merger or consolidation of us with or into another entity as a result of which all of our common stock is converted into or exchanged for the right to receive cash, securities or other property,

any exchange of all of our common stock for cash, securities or other property pursuant to a share exchange transaction, or

our liquidation or dissolution.

If any award expires or is terminated, surrendered, canceled or forfeited, the unused shares of common stock covered by such award will again be available for grant under the 1996 Plan, subject, however, in the case of incentive stock options, to any limitations under the Internal Revenue Code of 1986.

*Amendment or Termination*

No award may be granted under the 1996 Plan after December 31, 2013, but awards previously granted may extend beyond that date. The board of directors may at any time amend, suspend or terminate the 1996 Plan, except that no award designated as subject to Section 162(m) of the Internal Revenue Code of 1986 by the board after the date of such amendment shall become exercisable, realizable or vested, to the extent such amendment was required to grant such award, unless and until such amendment shall have been approved by our stockholders.

If the amendment of the 1996 Plan is approved by our stockholders, the additional 6,400,000 shares of our common stock authorized by the amendment will become available to us under the plan starting with the date of such approval. If our stockholders do not approve the amendment, the 1996 Plan will remain in effect with 25,600,000 shares of our common stock authorized under the 1996 Plan.

*Tax Withholding*

Participants under the 1996 Plan are responsible for paying to us or for making arrangements satisfactory to us regarding payment of any federal, state, or local taxes of any kind required by law to be withheld with respect to income from the value of an award or of any stock or amounts received under an award. Participants may elect to have tax withholding obligations satisfied either by authorizing us to withhold from shares of common stock to be issued pursuant to any award a number of shares with an aggregate fair market value that would satisfy the minimum withholding amount due, or transferring to us shares of common stock owned by the participant with an aggregate fair market value that would satisfy the withholding amount due.

*Federal Income Tax Consequences*

The following generally summarizes the United States federal income tax consequences that generally will arise with respect to awards granted under the 1996 Plan. This summary is based on

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the tax laws in effect as of the date of this proxy statement. Changes to these laws could alter the tax consequences described below.

*Incentive Stock Options.* A participant will not recognize income upon the grant of an incentive stock option. Also, except as described below, a participant will not recognize income upon exercise of an incentive stock option if the participant has been employed by us or our corporate parent or 50% or more-owned corporate subsidiary at all times beginning with the option grant date and ending three months before the date the participant exercises the option. If the participant has not been so employed during that time, then the participant will be taxed as described below under the caption *Non-Qualified Stock Options*. The exercise of an incentive stock option may subject the participant to the alternative minimum tax.

A participant will recognize income upon the sale of the stock acquired under an incentive stock option if sales proceeds exceed the exercise price. The type of income will depend on when the participant sells the stock. If a participant sells the stock more than two years after the option was granted and more than one year after the option was exercised, then all of the profit will be long-term capital gain. If a participant sells the stock prior to satisfying these waiting periods, then the participant will have engaged in a disqualifying disposition and a portion of the profit will be ordinary income and a portion may be capital gain. The difference between the lesser of the value of the shares at the date of exercise or at the date of sale and the exercise price of the incentive stock option will be taxable as ordinary income, and the excess gain, if any, will be taxable as capital gain. This capital gain will be long-term if the participant has held the stock for more than one year and otherwise will be short-term. If a participant sells the stock at a loss (sales proceeds are less than the exercise price) then the loss will be a capital loss. This capital loss will be long-term if the participant held the stock for more than one year and otherwise will be short-term.

*Non-Qualified Stock Options.* A participant will not recognize income upon the grant of a nonstatutory stock option. A participant will recognize compensation income upon the exercise of a nonstatutory stock option equal to the value of the stock on the day the participant exercised the option less the exercise price. Upon sale of the stock, the participant will have capital gain or loss equal to the difference between the sales proceeds and the value of the stock on the day the option was exercised. This capital gain or loss will be long-term if the participant has held the stock for more than one year and otherwise will be short-term.

*Restricted Stock Awards.* A participant will not recognize income upon the grant of restricted stock unless an election under Section 83(b) of the Internal Revenue Code of 1986 is made within 30 days of the date of grant. If a timely 83(b) election is made, then a participant will recognize compensation income equal to the value of the stock less the purchase price. When the stock is sold, the participant will have capital gain or loss equal to the difference between the sales proceeds and the value of the stock on the date of grant. For a participant who has made an 83(b) election, the gain or loss will be long term if the participant held the stock for more than one year after the receipt of the stock. If the participant does not make an 83(b) election, then when the stock vests the participant will recognize compensation income equal to the value of the stock on the vesting date less the purchase price. When the stock is sold, the participant will have capital gain or loss equal to the sales proceeds less the value of the stock on the vesting date. For a

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participant who has not made an 83(b) election, any capital gain or loss will be long-term if the participant held the stock for more than one year after the vesting date and otherwise will be short-term.

*Restricted Stock Units.* A participant will not recognize income upon the grant of a restricted stock unit award. Upon receipt of shares of common stock issued when the restricted stock units vest, the participant will recognize ordinary income in an amount equal to the fair market value of the shares. Upon the subsequent disposal of the shares received pursuant to a restricted stock unit award, the participant will recognize capital gain or loss, as the case may be, in the amount of the difference between the price received in exchange for the shares and the fair market value of the shares at the time the participant received them. The gain or loss will be long-term capital gain if more than one year has passed since the participant received the shares.

*Stock Appreciation Rights, Performance Share Awards and Other Stock-Based Awards.* The tax consequences associated with any other stock-based award granted under the 1996 Plan will vary depending on the specific terms of such award. Among the relevant factors are whether or not the award has a readily ascertainable fair market value, whether or not the award is subject to forfeiture provisions or restrictions on transfer, the nature of the property to be received by the participant under the award and the participant's holding period and tax basis for the award or underlying common stock.

*Tax Consequences to Us.* There will be no tax consequences to us except that we will be entitled to a deduction when a participant has compensation income. Any such deduction will be subject to the limitations of Section 162(m) of the Internal Revenue Code of 1986.

The affirmative vote of the holders of a majority of the common stock voting on the matter, in person or by proxy, is necessary to approve the amendment and restatement of the 1996 Plan. Abstentions and broker non-votes will not be included in calculating the number of votes cast on the proposal.

***Our board believes that stockholder approval of the amendment and restatement of the Amended and Restated 1996 Stock Option Plan is in the best interest of our company and our stockholders and therefore recommends that stockholders vote FOR this proposal.***

**Proposal Three: Ratification of Appointment of Independent Registered Public Accounting Firm**

Under rules of the Securities and Exchange Commission, or SEC, and the Nasdaq Stock Market, appointment of our independent registered public accountants is the direct responsibility of our Audit Committee. Although ratification of this appointment by our stockholders is not required by law, our board of directors believes that seeking stockholder ratification is a good practice, which provides stockholders an avenue to express their views on this important matter.

Our Audit Committee has reappointed Ernst & Young LLP as our independent registered public accounting firm for the year ending December 31, 2008. Our board of directors recommends that stockholders vote to ratify the appointment. If this proposal is not approved by our

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stockholders, our Audit Committee will reconsider its selection of Ernst & Young, although it may elect to continue to retain Ernst & Young. In any case, our Audit Committee may, in its discretion, appoint new independent registered public accountants at any time during the year if it believes that such change would be in our best interest and the best interest of our stockholders.

Representatives of Ernst & Young are expected to be present at the 2008 Annual Meeting of Stockholders to make any desired statements or to respond to appropriate questions.

The affirmative vote of the holders of a majority of the common stock voting on the matter, in person or by proxy, is necessary to ratify the selection by the Audit Committee of our board of directors of Ernst & Young as our independent registered public accounting firm for the year ending December 31, 2008. Abstentions and broker non-votes will not be included in calculating the number of votes cast on the proposal.

*Our board of directors recommends that you vote **FOR** the proposal to ratify the appointment by our audit committee of Ernst & Young LLP as our independent registered public accounting firm for the year ending December 31, 2008.*

**Other Matters**

Our board is not aware of any other matters that are expected to come before the meeting other than those referred to in this proxy statement. If any other matter should properly come before the meeting, the persons named in the accompanying proxy card intend to vote the proxies in accordance with their best judgment.

**Submission of Future Stockholder Proposals**

Under SEC rules, a stockholder who intends to present a proposal, including the nomination of a director, at our 2009 Annual Meeting of Stockholders, and who wishes the proposal to be included in the proxy statement for that meeting, must submit the proposal in writing to our Secretary at One Main Street, Cambridge, Massachusetts 02142, no later than December 13, 2008. SEC rules set standards for the types of stockholder proposals and the information that must be provided by the stockholder making the request.

A stockholder may also submit a proposal to be considered at our 2009 Annual Meeting of Stockholders pursuant to our by-laws, which provide that the proposal must be received by our Secretary not less than sixty days nor more than ninety days before that meeting. This notice must include the information required by the provisions of our by-laws, a copy of which may be obtained by writing to our Secretary at the address specified above. We have yet to set a date for our 2009 Annual Meeting. If the 2009 Annual Meeting were to be held on May 22, 2009, the anniversary of the 2008 Annual Meeting, then the deadline for delivery of a stockholder proposal pursuant to our by-laws would be March 20, 2009. If you submit a proposal in compliance with our by-laws but after December 13, 2008, then, at our discretion, we may exclude the proposal from the proxy statement for the 2009 Annual Meeting.

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**INFORMATION ABOUT  
OUR DIRECTORS AND EXECUTIVE OFFICERS**

**Background Information about Directors Continuing in Office**

Under our by-laws, our board of directors has the authority to fix the number of directors, and our board is divided into three classes serving for staggered three-year terms. We currently have eight directors: Two Class I directors whose terms will expire at our 2009 Annual Meeting of Stockholders, three Class II directors whose terms will expire at our 2010 Annual Meeting of Stockholders, and three Class III directors whose terms will expire at our upcoming 2008 Annual Meeting of Stockholders. Brief biographies of our Class I and Class II directors who will be continuing in office follow.

**Class I Directors**

*John R. Held*

Mr. Held has been a director since July 2002. Mr. Held formerly served as both the President and Chief Executive Officer of Chipcom, Inc. and served in a variety of management positions during his 14-year tenure at Genrad, Inc. Mr. Held is also a director of BNS Holding, Inc. Mr. Held is 69 years old.