

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

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FILER

ECLIPSE SURGICAL TECHNOLOGIES INC

CIK: **863680** | IRS No.: **770223740** | State of Incorpor.: **CA** | Fiscal Year End: **1231**

Type: **8-K** | Act: **34** | File No.: **000-28288** | Film No.: **99574832**

SIC: **3842** Orthopedic, prosthetic & surgical appliances & supplies

Mailing Address

559 WEDDELL AVE
SUNNYVALE CA 94089

Business Address

559 WEDDELL AVE
SUNNYVALE CA 94089
4087470120

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)

March 17, 1999

Eclipse Surgical Technologies, Inc.

(Exact name of registrant as specified in its charter)

California

(State or other jurisdiction of incorporation)

<TABLE>

<S>

0-28288

<C>

77-0223740

(Commission File No.)-----
(IRS Employer Identification Number)

</TABLE>

1049 Kiel Court
Sunnyvale, California 94089

(Address of Principal Executive Offices)

(408) 548-2100

(Registrant's Telephone Number, Including Area Code)

ITEM 2. ACQUISITION

Pursuant to an Agreement and Plan of Reorganization dated as of October 21, 1998, as amended, by and among Eclipse Surgical Technologies, Inc. ("Eclipse"), RW Acquisition Corporation, a Delaware corporation and wholly-owned subsidiary of Eclipse ("Merger Sub"), and CardioGenesis Corporation, a Delaware corporation ("CardioGenesis"), and the related Certificate of Merger executed by Merger Sub

and CardioGenesis which was filed with the Delaware Secretary of State on March 17, 1999, Merger Sub merged with and into CardioGenesis and CardioGenesis became a wholly-owned subsidiary of Eclipse (the "Merger"). The Merger closed on March 17, 1999. As a result of the Merger, each outstanding share of CardioGenesis Common Stock will be exchanged for 0.80 of a share of Eclipse Common Stock. No fractional shares will be issued and, in lieu thereof, the holder will be paid cash equal to the fraction (after aggregating all fractional shares held by such holder) times \$12.6875.

An aggregate of approximately 9,928,040 shares of Common Stock have been issued by Eclipse in the Merger, and options and rights to purchase an aggregate of approximately 1,739,000 additional shares of Eclipse Common Stock have been assumed by Eclipse in the Merger. Based on the closing price of Eclipse Common Stock on the Nasdaq National Market on March 16, 1999, the value of the shares of Common Stock issuable by Eclipse in the Merger was approximately \$148 million. The merger consideration was negotiated between the parties.

CardioGenesis Corporation develops, manufactures and markets proprietary systems including disposable products, to perform intraoperative transmyocardial revascularization (ITMR), catheter-based percutaneous myocardial revascularization (PMR), and thoracoscopic transmyocardial revascularization (TTMR), to treat patients afflicted with debilitating angina. Following the Merger, CardioGenesis will continue its operations as a wholly-owned subsidiary of Eclipse.

ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial Statements of Business Acquired. The following documents and information previously filed with the Securities and Exchange Commission by CardioGenesis are hereby incorporated by reference:

(1) CardioGenesis' Annual Report on Form 10-K for the fiscal year ended December 31, 1997, filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

(2) CardioGenesis' Quarterly Reports on Forms 10-Q for the fiscal quarters ended September 30, 1998, June 30, 1998, and March 31, 1998, filed pursuant to Section 13(a) or 15(d) of the Exchange Act.

(b) Pro Forma Financial Information. The Company's Registration Statement on Form S-4 (File No. 333-72063), as declared effective on February 9, 1999, which includes unaudited pro

forma combined condensed financial statements which present the pro forma combined condensed financial position and results of operations of the Registrant and CardioGenesis as of and for the nine month period ended September 30, 1998, is incorporated by reference herein.

(c) Exhibits

- 2.1* Agreement and Plan of Reorganization dated as of October 21, 1998 by and among Eclipse, RW Acquisition Corporation and CardioGenesis Corporation.
- 2.2* Amendment Number 1 to Reorganization Agreement, dated as of February 8, 1999, among Eclipse Surgical Technologies, Inc., RW Acquisition Corporation and CardioGenesis Corporation.
- 2.3 Certificate of Merger between RW Acquisition Corporation and CardioGenesis Corporation.

* Incorporated by reference to exhibits to Eclipse's Registration Statement on Form S-4 (file no. 333-72063) filed with the Securities and Exchange Commission on February 9, 1999.

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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.

Date: March 26, 1999

ECLIPSE SURGICAL TECHNOLOGIES, INC.

By: /s/ Allen W. Hill

Name: Allen W. Hill

Title: Chief Executive Officer

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INDEX TO EXHIBITS

<TABLE>
<CAPTION>
EXHIBIT
NUMBER

DESCRIPTION

<S>	<C>
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CERTIFICATE OF MERGER
 MERGING
 RW ACQUISITION CORPORATION,
 a Delaware corporation
 WITH AND INTO
 CARDIOGENESIS CORPORATION
 a Delaware corporation

Pursuant to Section 251 of the General Corporation Law of the State of Delaware

RW Acquisition Corporation, a Delaware corporation ("Merger Sub"), and
 Cardiogenesis Corporation, a Delaware corporation ("Cardiogenesis"), DO HEREBY
 CERTIFY AS FOLLOWS:

FIRST: That the constituent corporations to the merger certified here
 are Merger Sub and Cardiogenesis. Merger Sub was incorporated on October 16,
 1998 pursuant to the Delaware General Corporation Law (the "Delaware Law"), and
 Cardiogenesis was incorporated on April 11, 1996 pursuant to the Delaware Law.

SECOND: That an Agreement and Plan of Reorganization (the
 "Reorganization Agreement") dated as of October 21, 1998 by and among Eclipse
 Surgical Technologies, Inc., a California corporation, Merger Sub and
 Cardiogenesis, setting forth the terms and conditions of the merger of Merger
 Sub with and into Cardiogenesis (the "Merger"), has been approved, adopted,
 certified, executed and acknowledged by each of the constituent corporations in
 accordance with Section 251 of the Delaware Law.

THIRD: That Cardiogenesis shall be the surviving corporation in the
 merger (the "Surviving Corporation") and the name of the Surviving Corporation
 shall be Cardiogenesis Corporation.

FOURTH: That pursuant to the Reorganization Agreement, the Restated
 Certificate of Incorporation of the Surviving Corporation is amended to read in
 its entirety as set forth in Exhibit A attached hereto.

FIFTH: That an executed copy of the Reorganization Agreement is on file
 at the office of the Surviving Corporation at the following address:

Cardiogenesis Corporation
 540 Oakmead Parkway
 Sunnyvale, California 94086

SIXTH: That an executed copy of the Reorganization Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: That the Merger shall become effective upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, each of Merger Sub and Cardiogenesis has caused this Certificate of Merger to be executed in its corporate name as of this 17th day of March, 1999.

CARDIOGENESIS CORPORATION
a Delaware corporation

By: /s/ Allen W. Hill

Allen W. Hill
President & Chief Executive Officer

RW ACQUISITION CORPORATION
a Delaware corporation

By: /s/ Douglas Murphy-Chutorian

Douglas Murphy-Chutorian
Chief Executive Officer

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EXHIBIT A

RESTATED CERTIFICATE OF INCORPORATION

OF

CARDIOGENESIS CORPORATION

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RESTATED CERTIFICATE OF INCORPORATION
OF
CARDIOGENESIS CORPORATION

FIRST. The name of the corporation is CARDIOGENESIS CORPORATION.

SECOND. The address of the corporation's registered office in the State of Delaware is 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The name of the registered agent at such address is The Corporation Trust Company.

THIRD. The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH. The total number of shares which the corporation shall have authority to issue is 1,000 shares of capital stock, and the par value of each share is \$0.001 per share.

FIFTH. The Board of Directors of the corporation is expressly authorized to adopt, amend or repeal the by-laws of the corporation, but the stockholders may make additional by-laws and may alter or repeal any by-law whether adopted by them or otherwise.

SIXTH. Elections of directors need not be by written ballot except and to the extent provided in the by-laws of the corporation.

SEVENTH. (a) To the fullest extent permitted by law, no director of the corporation shall be personally liable for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the Delaware General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

(b) Neither any amendment nor repeal of this Article Seventh, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article Seventh, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.