

MHR ADVISORS LLC
 Form 4
 July 08, 2011

FORM 4

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

OMB APPROVAL

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
RACHESKY MARK H MD

2. Issuer Name and Ticker or Trading Symbol
EMISPHERE TECHNOLOGIES INC [EMIS]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)

3. Date of Earliest Transaction (Month/Day/Year)
07/06/2011

Director 10% Owner
 Officer (give title below) Other (specify below)

40 WEST 57TH STREET, 24TH FLOOR

(Street)

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)
 Form filed by One Reporting Person
 Form filed by More than One Reporting Person

NEW YORK, NY 10019

(City) (State) (Zip)

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

| 1. Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | 5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Indirect Beneficial Ownership (Instr. 4) |
|---------------------------------|--------------------------------------|--|--------------------------------|---|---|--|---|
| | | | Code | V | Amount | (A) or (D) | Price |
| Common Stock ⁽¹⁾ | | | | | 5,298 | D | |
| Common Stock | 07/06/2011 | | P | | 1,220,041 | A | <u>(6)</u> 6,226,054 |
| Common Stock | 07/06/2011 | | P | | 166,299 | A | <u>(6)</u> 847,125 |
| Common Stock | 07/06/2011 | | P | | 828,032 | A | <u>(6)</u> 3,240,750 |

See footnote (2)

See footnote (3)

See footnote

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| | | | | | | | | |
|--------------|------------|---|-----------|---|------------|-----------|---|----------------------------|
| Common Stock | 07/06/2011 | P | 2,086,066 | A | <u>(6)</u> | 8,164,436 | I | (4) See footnote (5) |
|--------------|------------|---|-----------|---|------------|-----------|---|----------------------------|

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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(9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if any (Month/Day/Year) | 4. Transaction Code (Instr. 8) | 5. Number of Derivative Securities | | 6. Date Exercisable and Expiration Date (Month/Day/Year) | | 7. Title and Amount of Underlying Security (Instr. 3 and 4) |
|--|--|--------------------------------------|--|--------------------------------|--|--|--|-----------------|---|
| | | | | | Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | | Date Exercisable | Expiration Date | |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 854,029 | | 07/06/2011 | 07/06/2016 | Common Stock 854 |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 116,410 | | 07/06/2011 | 07/06/2016 | Common Stock 116 |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 579,622 | | 07/06/2011 | 07/06/2016 | Common Stock 579 |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 1,460,246 | | 07/06/2011 | 07/06/2016 | Common Stock 1,460 |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 225,543 | | 07/06/2011 | 07/06/2016 | Common Stock 225 |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 30,743 | | 07/06/2011 | 07/06/2016 | Common Stock 30, |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 153,074 | | 07/06/2011 | 07/06/2016 | Common Stock 153 |
| Warrants (right to buy) | \$ 1.09 | 07/06/2011 | | P | 385,640 | | 07/06/2011 | 07/06/2016 | Common Stock 385 |

Reporting Owners

| Reporting Owner Name / Address | Relationships | | | |
|---|---------------|-----------|---------|-------|
| | Director | 10% Owner | Officer | Other |
| RACHESKY MARK H MD 40 WEST 57TH STREET 24TH FLOOR NEW YORK, NY 10019 | X | X | | |
| MHR Capital Partners Master Account LP 40 WEST 57TH STREET 24TH FLOOR NEW YORK, NY 10019 | | X | | |
| MHR ADVISORS LLC 40 WEST 57TH STREET 24TH FLOOR NEW YORK, NY 10019 | | X | | |
| MHR Institutional Partners II LP 40 WEST 57TH STREET 24TH FLOOR NEW YORK, NY 10019 | | X | | |
| MHR Institutional Partners IIA LP 40 WEST 57TH STREET 24TH FLOOR NEW YORK, NY 10019 | | X | | |
| MHR Institutional Advisors II LLC 40 WEST 57TH STREET 24TH FLOOR NEW YORK, NY 10019 | | X | | |
| MHR FUND MANAGEMENT LLC 40 WEST 57TH STREET 24TH FLOOR NEW YORK, NY 10019 | | X | | |

Signatures

/s/ Hal Goldstein, Attorney
in Fact

07/08/2011

__Signature of Reporting Person

Date

Explanation of Responses:

* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) These are shares of restricted stock.

(2) These securities are held for the account of MHR Capital Partners Master Account LP, an Anguilla, British West Indies limited partnership ("Master Account"). MHR Advisors LLC, a Delaware limited liability company ("Advisors"), is the general partner of Master Account. Mark H. Rachesky, M.D. ("Dr. Rachesky") is the managing member of Advisors. In such capacity, Dr. Rachesky may be deemed to be the beneficial owner of the securities held for the account of Master Account. MHR Fund Management LLC ("Fund

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Management") is a Delaware limited liability company that has an investment management agreement with Master Account pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Master Account and, accordingly, Fund Management may be deemed to beneficially own the securities held for the account of Master Account.

These securities are held for the account of MHR Capital Partners (100) LP, a Delaware limited partnership ("Capital Partners (100)"). Advisors is the general partner of Capital Partners (100). Dr. Rachesky is the managing member of Advisors. In such capacity, Dr.

- (3) Rachesky may be deemed to be the beneficial owner of the securities held for the account of Capital Partners (100). Fund Management has an investment management agreement with Capital Partners (100) pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Capital Partners (100) and, accordingly, Fund Management may be deemed to beneficially own the securities held for the account of Capital Partners (100).

These securities are held for the account of MHR Institutional Partners II LP, a Delaware limited partnership ("Institutional Partners II"). MHR Institutional Advisors II LLC, a Delaware limited liability company ("Institutional Advisors II"), is the general partner of Institutional Partners II. Dr. Rachesky is the managing member of Institutional Advisors II. In such capacity, Dr. Rachesky may be

- (4) deemed to be the beneficial owner of the securities held for the account of Institutional Partners II. Fund Management has an investment management agreement with Institutional Partners II pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Institutional Partners II and, accordingly, Fund Management may be deemed to beneficially own the securities held for the account of Institutional Partners II.

These securities are held for the account of MHR Institutional Partners IIA LP, a Delaware limited partnership ("Institutional Partners IIA"). Institutional Advisors II is the general partner of Institutional Partners IIA. Dr. Rachesky is the managing member of Institutional Advisors II. In such capacity, Dr. Rachesky may be deemed to be the beneficial owner of the securities held for the account of

- (5) Institutional Partners IIA. Fund Management has an investment management agreement with Institutional Partners IIA pursuant to which it has the power to vote or direct the vote and to dispose or to direct the disposition of the securities held for the account of Institutional Partners IIA and, accordingly, Fund Management may be deemed to beneficially own the securities held for the account of Institutional Partners IIA.

The securities reported as having been acquired herein were purchased by the reporting persons as units for \$0.872 per unit. Each unit

- (6) consists of one share of common stock and one warrant to purchase 0.7 shares of common stock. Each warrant is exercisable into one share of common stock at an exercise price of \$1.09.
- (7) The securities reported as having been acquired herein were issued pursuant to that certain waiver agreement by and between the Issuer and Fund Management, as further described in that certain Schedule 13D/A filed by the Reporting Persons on July 1, 2011.
- (8) Includes the warrants described in Footnote 6 above, which contain the same terms as the warrants issued pursuant to the waiver agreement described in Footnote 7 above.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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