

MRD 2-1-00

FORM PTO-1619A

Expires 06/30/99
OMB 0651-0027

03-02-2000



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Submission Type



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Document ID#



Correction of PTO Error

Reel #

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Conveyance Type



Assignment



Security Agreement



License



Change of Name



Merger



Other

U.S. Government

(For Use ONLY by U.S. Government Agencies)



Departmental File



Secret File

Conveying Party(ies)



Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name (line 1)

Clarity Wireless Incorporated

11/02/98

Name (line 2)

a corporation of California

Second Party

Name (line 1)

Name (line 2)

Execution Date
Month Day Year

Receiving Party



Mark if additional names of receiving parties attached

Name (line 1)

Cisco Systems, Inc.

Name (line 2)

a corporation of California

Address (line 1)

170 West Tasman Drive

Address (line 2)

Address (line 3)

San Jose

City

CA

State/Country

95134

Zip Code

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached (Designation must be a separate document from Assignment.)

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

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Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20503

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Correspondent Name and Address

Area Code and Telephone Number (650) 926-7241

Name Anne VanBuskirk

Address (line 1) Weil, Gotshal & Manges LLP

Address (line 2) 2882 Sand Hill Rd. Ste. 280

Address (line 3) Menlo Park, CA 94025-7022

Address (line 4) anne.vanbuskirk@weil.com

Pages

Enter the total number of pages of the attached conveyance document
including any attachments.

10

Application Number(s) or Patent Number(s)

☐ Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

09435293

09411681

09435246

Patent Number(s)

If this document is being filed together with a new Patent Application, enter the date the patent application was
signed by the first named executing inventor.

Month Day Year

Patent Cooperation Treaty (PCT)

Enter PCT application number

only if a U.S. Application Number
has not been assigned.

PCT

PCT

PCT

PCT

PCT

PCT

Number of Properties

Enter the total number of properties involved.

3

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$ 120

Method of Payment:
Deposit AccountEnclosed ☒ Deposit Account ☐

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

23-0800

Authorization to charge additional fees:

Yes

☒

No

☐

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any
attached copy is a true copy of the original document. Charges to deposit account are authorized, as
indicated herein.

Anne VanBuskirk

Name of Person Signing

Signature

Date

20515161

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OF THE STATE OF CALIFORNIA

NOV -2 1998

DILL JONES, SECRETARY OF STATE

AGREEMENT OF MERGER

OF

CISCO SYSTEMS, INC.

AND

CLARITY WIRELESS INCORPORATED

This Agreement of Merger, dated as of the 2nd day of November, 1998 ("Merger Agreement"), between Cisco Systems, Inc., a California corporation ("Acquiror"), and Clarity Wireless Incorporated, a California corporation ("Target").

RECITALS

A. Target was incorporated in the State of California on December 20, 1996 and on the date hereof has 19,499,856 outstanding shares of Common Stock ("Target Common Stock" or the "Target Shares"), and no shares of Preferred Stock.

B. Acquiror and Target have entered into an Agreement and Plan of Reorganization, as amended (the "Agreement and Plan of Reorganization"), providing for certain representations, warranties, covenants and agreements in connection with the transactions contemplated hereby. This Merger Agreement and the Agreement and Plan of Reorganization are intended to be construed together to effectuate their purpose.

C. The Boards of Directors of Target and Acquiror deem it advisable and in their mutual best interests and in the best interests of the shareholders of Target, that Target be acquired by Acquiror through a merger ("Merger") of Target with and into Acquiror.

D. The Boards of Directors of Acquiror and Target and the shareholders of Target have approved the Merger.

AGREEMENTS

The parties hereto hereby agree as follows:

1. Target shall be merged with and into Acquiror, and Acquiror shall be the surviving corporation.

2. The Merger shall become effective at such time (the "Effective Time") as this Merger Agreement and the officers' certificate of Target is filed with the Secretary of State of the State of California pursuant to Section 1103 of the Corporations Code of the State of California.

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3. (a) At the Effective Time of the Merger (i) all shares of Target Common Stock that are owned directly or indirectly by Target, Acquiror or any other subsidiary of Acquiror shall be cancelled, and no securities of Acquiror or other consideration shall be delivered in exchange therefor, (ii) each of the issued and outstanding shares of Target Common Stock (other than shares, if any, held by persons who have not voted such shares for approval of the Merger and with respect to which such persons shall become entitled to exercise dissenters' rights in accordance with Chapter 13 of the California General Corporation Law, referred to hereinafter as "Dissenting Shares") shall be converted automatically into and exchanged for 0.1291531984 of a share of Acquiror Common Stock, provided, however, that no more than 2,518,468 shares of Common Stock of Acquiror shall be issued in such exchange (including Acquiror Common Stock reserved for issuance upon exercise of Target options assumed by Acquiror). Those shares of Acquiror Common Stock to be issued as provided in this Section 3(a) are referred to herein as the "Acquiror Shares".

(b) Following the Closing, the holders of record of Target Common Stock issued and outstanding immediately prior to the Effective Time (other than Dissenting Shares) shall be entitled to receive additional consideration in connection with the Merger as follows:

(i) If the First Product Milestone (as such term is defined in the Purchase Option Agreement dated as of July 23, 1998 (the "Purchase Option Agreement") by and among Target, Acquiror and the securityholders of Target identified therein) occurs after the Closing Date and on or before July 31, 1999, Acquiror shall issue and deliver (or cause to be issued and delivered) to each such holder that number of shares of Acquiror Common Stock equal to the product obtained by multiplying (x) the quotient determined by dividing \$20,000,000 by the average of the closing bid prices for a share of Acquiror Common Stock as quoted on the Nasdaq National Market for the ten (10) trading days immediately preceding and ending on the date on which the First Product Milestone occurs (or, if such date is not a trading day, the next preceding trading day), by (y) a fraction, the numerator of which is the total number of shares of Acquiror Common Stock into which the shares of Target Common Stock held by such holder shall have been converted pursuant to Section 3(a) by virtue of the Merger, and the denominator of which is the total number of Acquiror Shares.

(ii) If the Second Product Milestone (as such term is defined in the Purchase Option Agreement) occurs after the Closing Date and on or before November 30, 1999, Acquiror shall issue and deliver (or cause to be issued and delivered) to each such holder that number of shares of Acquiror Common Stock equal to the product obtained by multiplying (x) the quotient determined by dividing \$20,000,000 by the average of the closing bid prices for a share of Acquiror Common Stock as quoted on the Nasdaq National Market for the ten (10) trading days immediately preceding and ending on the date on which the Second Product Milestone occurs (or, if such date is not a trading day, the next preceding trading day), by (y) a fraction, the numerator of which is the total number of shares of Acquiror Common Stock into which the shares of Target Common Stock held by such holder

shall have been converted pursuant to Section 3(a) by virtue of the Merger, and the denominator of which is the total number of Acquiror Shares.

4. Any Dissenting Shares shall not be converted into Acquiror Common Stock but shall be converted into the right to receive such consideration as may be determined to be due with respect to such Dissenting Shares pursuant to Chapter 13 of the California General Corporation Law and any other applicable laws of the State of California. If after the Effective Time any Dissenting Shares shall lose their status as Dissenting Shares, then as of the occurrence of the event which causes the loss of such status, such shares shall be converted into Acquiror Common Stock in accordance with Section 3.

5. Notwithstanding any other term or provision hereof, no fractional shares of Acquiror Common Stock shall be issued, but in lieu thereof each holder of Target Shares who would otherwise, but for rounding as provided herein, be entitled to receive a fraction of a share of Acquiror Common Stock shall receive from Acquiror an amount of cash equal to the per share market value of Acquiror Common Stock (deemed to be \$59.56) multiplied by the fraction of a share of Acquiror Common Stock to which such holder would otherwise be entitled. The fractional share interests of each Target shareholder shall be aggregated, so that no Target shareholder shall receive cash in an amount greater than the value of one full share of Acquiror Common Stock.

6. The conversion of Target Common Stock into Acquiror Common Stock as provided by this Merger Agreement shall occur automatically at the Effective Time of the Merger without action by the holders thereof. Each holder of Target Common Stock shall thereupon be entitled to receive shares of Acquiror Common Stock in accordance with the Agreement and Plan of Reorganization.

7. At the Effective Time of the Merger, the separate existence of Target shall cease, and Acquiror shall succeed, without other transfer, to all of the rights and properties of Target and shall be subject to all the debts and liabilities thereof in the same manner as if Acquiror had itself incurred them. All rights of creditors and all liens upon the property of each corporation shall be preserved unimpaired, provided that such liens upon property of Target shall be limited to the property affected thereby immediately prior to the Effective Time of the Merger.

8. This Merger Agreement is intended as a plan of reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended.

9. (a) The Amended and Restated Articles of Incorporation of Acquiror in effect immediately prior to the Effective Time shall be the Amended and Restated Articles of Incorporation of the Surviving Corporation unless and until thereafter amended.

(b) The Bylaws of Acquiror in effect immediately prior to the

Effective Time shall be the Bylaws of the Surviving Corporation unless and until amended or repealed as provided by applicable law, the Articles of Incorporation of the Surviving Corporation and such Bylaws.

(c) The directors and officers of Acquiror immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation.

10. (a) Notwithstanding the approval of this Merger Agreement by the shareholders of Target, this Merger Agreement may be terminated at any time prior to the Effective Time of the Merger by mutual agreement of the Boards of Directors of Acquiror and Target.

(b) Notwithstanding the approval of this Merger Agreement by the shareholders of Target, this Merger Agreement shall terminate forthwith in the event that the Agreement and Plan of Reorganization shall be terminated as provided therein.

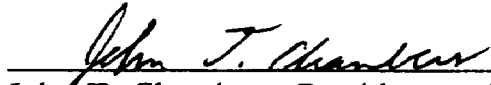
(c) In the event of the termination of this Merger Agreement as provided above, this Merger Agreement shall forthwith become void and there shall be no liability on the part of Target or Acquiror or their respective officers or directors, except as otherwise provided in the Agreement and Plan of Reorganization.

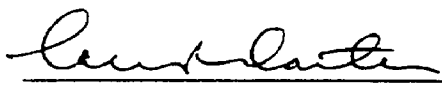
(d) This Merger Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one agreement.

(e) This Merger Agreement may be amended by the parties hereto any time before or after approval hereof by the shareholders of Target, but, after such approval, no amendments shall be made which by law require the further approval of such shareholders without obtaining such approval. This Merger Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Merger Agreement as of the date first written above.

CISCO SYSTEMS, INC.

By: 
07 John T. Chambers, President and Chief Executive Officer

By: 
07 Larry R. Carter, Vice President, Chief Financial Officer and Secretary

CLARITY WIRELESS INCORPORATED

By: _____
Gregory G. Raleigh, President

By: _____
David R. Johnson, Secretary

[SIGNATURE PAGE TO AGREEMENT OF MERGER]

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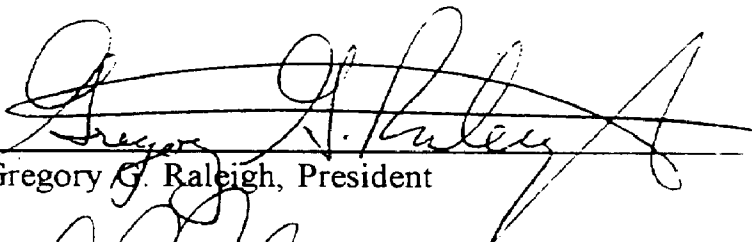
IN WITNESS WHEREOF, the parties have executed this Merger Agreement as of the date first written above.

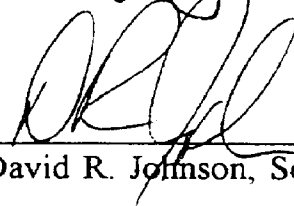
CISCO SYSTEMS, INC.

By: _____
John T. Chambers, President and Chief Executive Officer

By: _____
Larry R. Carter, Vice President, Chief Financial Officer and Secretary

CLARITY WIRELESS INCORPORATED

By: _____

Gregory G. Raleigh, President

By: _____

David R. Johnson, Secretary

[SIGNATURE PAGE TO AGREEMENT OF MERGER]

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OFFICERS' CERTIFICATE

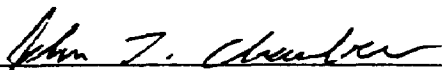
The undersigned, John T. Chambers and Larry R. Carter, hereby certify on behalf of Cisco Systems, Inc., a California corporation ("Acquiror"), that Mr. Chambers is the duly elected President and Chief Executive Officer and Mr. Carter is the duly elected Vice President, Chief Financial Officer and Secretary, of Acquiror and they further certify on behalf of Acquiror that:


1. That they are the duly elected, acting and qualified President and Secretary, respectively, of Acquiror.
2. There are two authorized classes of shares, consisting of 2,700,000,000 shares of Common Stock, of which 1,569,284,000 shares were issued and outstanding as of September 23, 1998 (after giving effect to a stock split which became effective as of September 15, 1998), and 5,000,000 shares of Preferred Stock, none of which are issued and outstanding.
3. The Agreement of Merger in the form attached was approved by the Board of Directors of Acquiror in accordance with the California Corporations Code.
4. No vote of the shareholders of Acquiror was required pursuant to Section 1201(b) of the California General Corporation Law.

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Each of the undersigned declares under penalty of perjury that the statements contained in the foregoing certificate are true of their own knowledge. Executed in San Jose, California on November 2, 1998.


John T. Chambers, President and Chief
Executive Officer


Larry R. Carter, Vice President, Chief
Financial Officer and Secretary

OFFICERS' CERTIFICATE

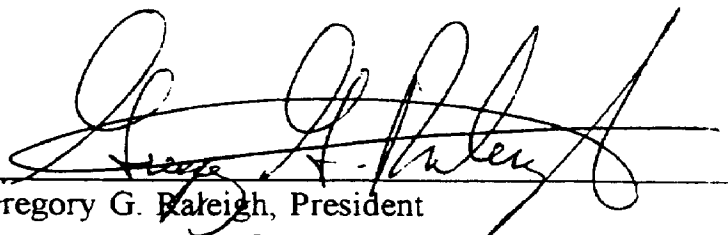
Gregory G. Raleigh, President, and David R. Johnson, Secretary, of Clarity Wireless Incorporated, a corporation duly organized and existing under the laws of the State of California (the "Corporation"), do hereby certify:

1. That they are the duly elected, acting and qualified President and the Secretary, respectively, of the Corporation.
2. There are two authorized classes of shares, consisting of 40,000,000 shares of Common Stock and 10,000,000 shares of Preferred Stock. There were 19,499,856 shares of Common Stock and no shares of Preferred Stock outstanding and entitled to vote on the Agreement of Merger in the form attached.
3. The Agreement of Merger in the form attached was duly approved by the board of directors of the Corporation in accordance with the California Corporations Code
4. Approval of the Agreement of Merger by the holders of at least a majority of the outstanding shares of Common Stock was required. The percentage of the outstanding shares of each class of the Corporation's shares entitled to vote on the Agreement of Merger which voted to approve the Agreement of Merger equaled or exceeded the vote required.

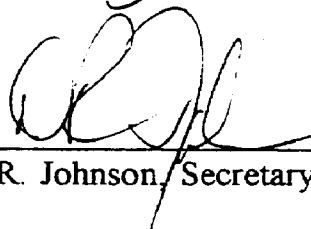
Each of the undersigned declares under penalty of perjury that the statements

contained in the foregoing certificate are true of their own knowledge. Executed in

BELMONT, California, on November 2, 1998.



Gregory G. Raleigh, President



David R. Johnson, Secretary

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RECORDED: 01/31/2000

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