

12-07-2000



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11.16.00

**RECORDATION FORM COVER SHEET
PATENTS ONLY**

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

New

Resubmission (Non-Recordation)
Document ID#

Correction of PTO Error
Reel # Frame #

Corrective Document
Reel # Frame #

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

Name (line 1) Execution Date Month Day Year

Name (line 2)

Second Party

Name (line 1) Execution Date Month Day Year

Name (line 2)

Receiving Party

Mark if additional names of receiving parties attached

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.)

Name (line 1)

Name (line 2)

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

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)

12/06/2000 DBYRNE 00000128 60202895
01 FC:581 80.00 OF

FOR OFFICE USE ONLY

Correspondent Name and Address

Area Code and Telephone Number

404-572-3491

Name Annabelle Robertson

Address (line 1) King & Spalding

Address (line 2) 191 Peachtree Street

Address (line 3) Atlanta, GA 30303-1763

Address (line 4)

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

12

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)

Patent Number(s)

60/202,895						
09/469,586						

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.

2

Fee Amount

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

80.00

Method of Payment:
Deposit Account

Enclosed Deposit Account

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

Deposit Account Number:

#

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.

Annabelle Robertson

Annabelle Robertson
Signature

11/13/00

Name of Person Signing

Signature

Date

Secretary of State

Corporations Division

315 West Tower

#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

DOCKET NUMBER : 003130857
CONTROL NUMBER : 0002933
DATE INC/AUTH/FILED: 01/18/2000
JURISDICTION : GEORGIA
PRINT DATE : 11/08/2000
FORM NUMBER : 215

KING & SPALDING
ANNABELLE ROBERTSON
191 PEACHTREE ST
ATLANTA, GA 303031763

CERTIFIED COPY

I, Cathy Cox, the Secretary of State of the State of Georgia, do hereby certify under the seal of my office that the attached documents are true and correct copies of documents filed under the name of

SECUREWORKS, INC.
A DOMESTIC PROFIT CORPORATION

Said entity was formed in the jurisdiction set forth above and has filed in the Office of Secretary of State on the date set forth above its certificate of limited partnership, articles of incorporation, articles of association, articles of organization or application for certificate of authority to transact business in Georgia.

This certificate is issued pursuant to Title 14 of the Official Code of Georgia Annotated and is prima-facie evidence of the existence or nonexistence of the facts stated herein.



A handwritten signature in black ink, appearing to read "Cathy Cox".

Cathy Cox
Secretary of State

PATENT
REEL: 011299 FRAME: 0221

Secretary of State

Corporations Division

315 West Tower

#2 Martin Luther King, Jr. Dr.

Atlanta, Georgia 30334-1530

DOCKET NUMBER : 000520303
CONTROL NUMBER: 0002933
EFFECTIVE DATE: 01/27/2000
REFERENCE : 0077
PRINT DATE : 01/27/2000
FORM NUMBER : 412

SUTHERLAND, ASBILL & BRENNAN
KENNETH F. ANTLEY
999 PEACHTREE ST., STE 2300
ATLANTA, GEORGIA 30309

CERTIFICATE OF MERGER AND NAME CHANGE

I, Cathy Cox, the Secretary of State of the State of Georgia, do hereby issue this certificate pursuant to Title 14 of the Official Code of Georgia annotated certifying that articles or a certificate of merger and fees have been filed regarding the merger of the below entities, effective as of the date shown above. Attached is a true and correct copy of the said filing

Surviving Entity:

SECUREWORKS I, INC.

A Georgia corporation

Changing its name to:

SECUREWORKS, INC.

Nonsurviving Entity/Entities:

SECUREWORKS I, LLC

A limited liability company



A handwritten signature in black ink, appearing to read 'Cathy Cox', is written over the printed name.

Cathy Cox
Secretary of State

PATENT
REEL: 011299 FRAME: 0222

DULY EXECUTED and delivered, under seal, by duly authorized officers of the
Surviving Corporation on January 27, 2000.

(Corporate Seal)

SECUREWORKS, INC.

By:

Joan Wilbanks
Joan Wilbanks
President and CEO

Attest:

Kenneth F. Bentley

Ass't. Secretary

* * * * *

SECRETARY OF STATE
JAN 27 11 43 AM '00

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PATENT
REEL: 011299 FRAME: 0223

EXHIBIT A

PLAN AND AGREEMENT OF MERGER

THIS PLAN AND AGREEMENT OF MERGER is made and entered into this 26th day of January, 2000, by and between SECUREWORKS, LLC, a Georgia limited liability company, and SECUREWORKS I, INC., a Georgia corporation (SecureWorks, LLC and SecureWorks I, Inc. being hereinafter sometimes referred to herein, collectively, as the "Constituent Entities") and by which SecureWorks, LLC and SecureWorks I, Inc., in consideration of the mutual promises and the terms and conditions set forth below (the mutuality, adequacy and sufficiency of which are hereby acknowledged), hereby agree as follows with respect to the merger of SecureWorks, LLC with and into SecureWorks I, Inc. (the "Merger"):

RECITALS:

This merger is made in accordance with Section 14-2-1301, *et seq.*, of the Georgia Business Corporation Code, as amended (the "GBCC") and Section 14-11-901, *et seq.*, of the Georgia Limited Liability Company Act, as amended (the "GLLCA"), which authorize the merger of a Georgia limited liability company with and into a Georgia corporation. The Board of Directors of SecureWorks I, Inc., and the Board of Managers of SecureWorks, LLC have determined that it is advisable and for the benefit of each of the Constituent Entities that the Constituent Entities be merged, with a Georgia corporation named SecureWorks, Inc. remaining as the surviving entity (the "Surviving Corporation"), and have adopted this Plan and Agreement of Merger, and the shareholders of SecureWorks I, Inc. and the members of SecureWorks, LLC have approved the Merger and this Plan and Agreement of Merger.

It is the intention of SecureWorks I, Inc. and SecureWorks, LLC that the Merger, together with the related transfer of cash by Noro-Moseley Partners IV, L.P. and other investors to the Surviving Corporation in exchange for Preferred Stock, Series A, and Preferred Stock, Series B, as evidenced by that certain Stock Purchase Agreement, dated January 27, 2000, and certain Subscription Agreements, dated January 27, 2000, constitute an integrated transaction which qualifies for nonrecognition treatment pursuant to Section 351 of the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, in consideration of the premises and of the agreements, covenants, and provisions hereinafter contained, the Constituent Entities have agreed, and hereby agree, as follows:

ARTICLE I. MERGER

The terms of the merger are:

(a) The Constituent Entities shall make appropriate filings with the Secretary of the State of Georgia.

(b) SecureWorks, LLC shall be merged into SecureWorks I, Inc. at the Effective Time, as defined below, in accordance with the statutory procedures set forth in the GBCC and the GLLCA.

(c) SecureWorks I, Inc. shall be the surviving business entity and continue to exist as a corporation created and governed by the laws of Georgia under the name of SecureWorks, Inc. The identity, existence, purposes, powers, franchises, rights and immunities of the Surviving Corporation shall continue unaffected and unimpaired by the merger.

(d) The separate existence of SecureWorks, LLC, except insofar as specifically otherwise provided by law, shall cease at the Effective Time, whereupon the Constituent Entities shall become a single corporation, and the membership interests of SecureWorks, LLC shall be converted as provided in this Plan and Agreement of Merger.

(e) The identity, existence, purposes, powers, franchises, rights and immunities of SecureWorks, LLC shall be merged into SecureWorks I, Inc. and the Surviving Corporation shall be fully vested therewith, to the extent permitted by Georgia law.

(f) All rights of creditors and all liens upon any property of SecureWorks, LLC shall be preserved unimpaired, and all debts, liabilities, and duties of SecureWorks, LLC shall be enforceable against the Surviving Corporation.

(g) The assets, liabilities and net worth accounts of SecureWorks, LLC shall be taken up on the books of the Surviving Corporation as of the Effective Time in the amounts at which they shall then be carried on the books of the Surviving Corporation, subject to such adjustments or eliminations of items as may be appropriate in giving effect to the merger.

(h) All corporate acts, plans, policies, approvals and authorizations of SecureWorks, LLC or its managers, members, officers, agents, and committees, which were valid and effective immediately prior to the Effective Time, shall be assumed and taken for all purposes as the acts, plans, policies, approvals, and authorizations of the Surviving Corporation, and shall be as effective and binding thereon as the same were with respect to SecureWorks, LLC.

(i) The name of the surviving corporation shall be "SECUREWORKS, INC."

ARTICLE 2. SERVICE OF PROCESS: REGISTERED AGENT

The Surviving Corporation may be sued and served with process in any proceeding for the enforcement of any obligation of SecureWorks, LLC. The registered office of the Surviving

Corporation is Sutherland Asbill & Brennan LLP, 999 Peachtree Street, N.E., Atlanta, Fulton County, Georgia. The name of its registered agent at such address is Kenneth F. Antley.

ARTICLE 3. MANNER AND BASIS OF CONVERTING SHARES

The mode of carrying the merger into effect and the manner and basis of converting membership interests of SecureWorks, LLC into shares of the Surviving Corporation shall be as follows:

(a) **Membership Interests of SecureWorks, LLC.** It is the intent of the Constituent Entities that the merger not effect the ultimate percentage ownership of the Surviving Corporation. At the Effective Time, (i) the issued and outstanding shares of common stock of SecureWorks I, Inc. shall be deemed to be no longer issued and outstanding but shall revert to the status of authorized but unissued shares, regardless of whether stock certificates for such shares are surrendered, and (ii) each membership unit in SecureWorks, LLC owned by Joan Wilbanks and Mike Pearson shall thereupon be converted into twenty-five hundredths (0.25) of a share of common stock of the Surviving Corporation and each membership unit in SecureWorks, LLC owned by Mark Froehlich and D. Bruce Hunter (together with the membership units owned by Joan Wilbanks and Mike Pearson, the "Membership Interests") shall thereupon be converted into twenty-five hundredths (0.25) of a share of preferred stock, Series B, of the Surviving Corporation (together with the shares of common stock to be owned by Joan Wilbanks and Mike Pearson, the "Shares"), subject to the provisions with respect to fractional shares set forth in subsection 3(b) of this Plan and Agreement of Merger.

(b) **No Fractional Shares.** No fraction of a share shall be issued, but in lieu of such, each holder of Membership Interests who would otherwise have been entitled to a fraction of a share shall be entitled to cash payments based upon a value of \$0.387645 per share.

(c) **Membership Interest Certificates.** Following the Effective Time, the holders of the Membership Interests may surrender to the Surviving Corporation's transfer agent the certificates (if any) representing the same, along with a duly executed letter of transmittal in a form to be provided by the Surviving Corporation's transfer agent. Upon surrender of the certificates (if any) representing the Membership Interests, the Surviving Corporation shall deliver to the holders of Membership Interests share certificates in the names of such holders, representing the Shares for which such holders' Membership Interests shall have been converted as described above.

(d) **Deemed SecureWorks, Inc. Shareholders.** Subject to subsection (g) below with respect to dissenting Membership Interest holders, at the Effective Time, the members of SecureWorks, LLC, shall thereupon be deemed to be shareholders of the Surviving Corporation to the extent of the number of Shares to which they are entitled pursuant to this Plan, whether or not certificates (if any) for the Membership Interests are surrendered as provided in this Plan. Until surrendered as provided above, each certificate (if any) representing the Membership Interests shall

be deemed, for all corporate purposes (including without limitation the payment of any dividends), to evidence ownership of the number of Shares which the holder of such certificate (if any) has become entitled to receive pursuant to this Plan.

(e) SecureWorks I, Inc. Shares. Intentionally deleted.

(f) Warrants and Options. All warrants, options, and other rights for the purchase or acquisition of Membership Interests in SecureWorks, LLC which are outstanding immediately prior to the Effective Time shall continue without impairment or alteration following the Effective Time as outstanding warrants, options, or other rights for the purchase or other acquisition of the number of shares of common stock of the Surviving Corporation that the holder of any such warrant, option, or other right would have been entitled to receive in the Merger if such holder exercised the warrant, option, or other right immediately prior to the Effective Time, except that the warrants for Membership Interests owned by Mark Froehlich and D. Bruce Hunter shall be converted into options for shares of preferred stock, Series B, of the Surviving Corporation.

(g) Dissenting Membership Interest Holders. Notwithstanding the other provisions of this Plan and Agreement of Merger, the Membership Interests with respect to which a member of SecureWorks, LLC has made a proper demand in accordance with GLLCA Article 10 shall not be converted into Shares in the Merger, unless the holder of such Membership Interests shall have failed to perfect or shall have waived, rescinded or otherwise lost (in each such instance to the reasonable satisfaction of the Surviving Corporation) his or her status as a "dissenter" pursuant to GLLCA Article 10 prior to the Effective Time.

ARTICLE 4. ORGANIZATION

The organization of the Surviving Corporation at and after the Effective Time shall be determined in part as follows:

(a) Articles of Incorporation.

(1) Amendment. Article I of the articles of incorporation of SecureWorks I, Inc. is amended, effective at the Effective Time, as follows:

The name of the corporation is "SecureWorks, Inc."

(2) Otherwise. The articles of incorporation of SecureWorks I, Inc., as in effect immediately prior to the Effective Time except as amended as provided in subsection (1) above, shall continue to be the Surviving Corporation's articles of incorporation at and after the Effective Time until amended in accordance with applicable law.

(b) Bylaws.

(1) Amendment. Article 1, section (d) of the bylaws of SecureWorks I, Inc. is amended, effective at the Effective Time, as follows:

"Corporation" means the Georgia corporation named SecureWorks, Inc.

(2) Otherwise. The bylaws of SecureWorks I, Inc., as in effect immediately prior to the Effective Time except as amended as provided in subsection (1) above, shall continue to be the Surviving Corporation's bylaws at and after the Effective Time until amended in accordance with applicable law.

(c) Directors and Officers. The persons who are the directors and officers of SecureWorks I, Inc. as in effect immediately prior to the Effective Time, shall continue to be the directors and officers of the Surviving Corporation at and after the Effective Time, until changed in accordance with the Bylaws of the Surviving Corporation and applicable law.

ARTICLE 5. EFFECTIVE TIME

The merger shall become effective at the time and on the date the Articles of Merger are filed with the Georgia Secretary of State (the "Effective Time"). If at any time before the Effective Time a Constituent Entity notifies another of its election to cancel the merger, by delivering written notice thereof, this Agreement and Plan of Merger shall be null and void, the merger shall not become effective, and SecureWorks I, Inc. shall file no Articles of Merger with the Georgia Secretary of State, or if any such Articles of Merger shall have been filed, the Surviving Corporation shall take any necessary steps to rescind such filing.

ARTICLE 6. AMENDMENT

This Plan may be supplemented or amended in any manner at any time and from time to time prior to the Effective Time by the mutual consent of the Constituent Entities without any action by the shareholders of SecureWorks I, Inc. or the members of SecureWorks, LLC; provided that any amendment, modification or supplement to this Plan after its approval by the members of SecureWorks, LLC but prior to the Effective Time shall require the approval of the members of SecureWorks, LLC unless the amendment, modification or supplement to this Plan (i) does not alter (a) the amount or kind of shares to be received thereunder in exchange for Membership Interests, or (b) any term of the Articles of Incorporation of the Surviving Corporation, and (ii) does not alter any of the terms and conditions of this Plan in a manner that would adversely affect the holders of Membership Interests. This Plan may be terminated and the Merger abandoned at any time prior to

the filing of the Articles of Merger with the Secretary of State of the State of Georgia by action taken by the respective Boards of Directors and Board of Managers of the Constituent Entities.

ARTICLE 7. FURTHER ASSURANCES

Upon the execution of this Plan and Agreement of Merger and thereafter, the Constituent Entities each agree to do such things as may be reasonably requested by the other in order more effectively to consummate or document the transactions contemplated by this Plan and Agreement of Merger. If at any time SecureWorks I, Inc. shall consider or be advised that any further assignments or assurances or any things are necessary or desirable to vest in the Surviving Corporation, in accordance with the terms of this Plan and Agreement of Merger, the title of any property or rights of SecureWorks, LLC, then the last acting officer or manager of SecureWorks, LLC or the corresponding officer or director of the Surviving Corporation shall execute and make all such proper assignments and assurances and do all things necessary or proper to vest title in such property or rights in the Surviving Corporation, or otherwise to carry out the purposes of this Plan and Agreement of Merger or the Merger.

ARTICLE 8. MISCELLANEOUS

Number; Gender; Captions; Certain Definitions. Whenever the context so requires, the singular number includes the plural, the plural includes the singular, and the gender of any pronoun includes the other genders. Titles and captions of or in this Plan and Agreement of Merger are inserted only as a matter of convenience and for reference and in no way affect the scope of this Plan and Agreement of Merger or the intent of its provisions. The parties agree: (a) that "applicable law" means all provisions of any constitution, statute, law, rule, regulation, decision, order, decree, judgment, release, license, permit, stipulation or other official pronouncement enacted, promulgated or issued by any governmental authority or arbitrator or arbitration panel; (b) that "governmental authority" means any legislative, executive, judicial, quasi-judicial or other public authority, agency, department, bureau, division, unit, court or other public body, person or entity; and (c) that "including" and other words or phrases of inclusion, if any, shall not be construed as terms of limitation, so that references to "included" matters shall be regarded as non-exclusive, non-characterizing illustrations.

Governing Law. This Plan and Agreement of Merger is governed by, and shall be construed and enforced in accordance with, the laws of the State of Georgia.

Copies. This Plan and Agreement of Merger may be executed in two or more copies, each of which shall be deemed an original, and it shall not be necessary in making proof of this Plan and Agreement of Merger or its terms to produce or account for more than one of such copies.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement and Plan of Merger to be duly executed as of the day and year first above written.

SECUREWORKS, LLC

By: [Signature]
Name: Jody Wilbanks
Title: COO/SNS

[SEAL]

Attest:

By: [Signature]
Name: KENNETH F. ANTLEY
ASSISTANT Secretary

SECUREWORKS I, INC.

By: [Signature]
Name: Jody Wilbanks
Title: COO/SNS

[CORPORATE SEAL]

Attest:

By: [Signature]
Name: KENNETH F. ANTLEY
ASSISTANT Secretary