

FORM PTO-1619A
OMB 0651-0027

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Attorney Docket No: 03660.G000

Conveyance Type

Assignment Security Agreement

License Change of Name

Merger Other Agreement Of Merger

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 (1st party) <u>TradingDynamics, Inc.</u>	Execution Date
Name (2nd party) _____	Month Day Year
Name (3rd party) _____	01 20 2000
Name (4th party) _____	_____

Receiving Party Mark if additional names of receiving parties attached

Name (line 1) Ariba, Inc. 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 2) a corporation of Delaware

Address (line 1) 1565 Charleston Road

Address (line 2) _____

Address (line 3) Mountain View CA 94043

City State/Country Zip Code

Domestic Representative Name and Address Enter for the first Receiving Party only.

(Complete only if receiving party is not domiciled in the United States)

Name _____

Address (line 1) _____

Address (line 2) _____

Address (line 3) _____

Address (line 4) _____

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Correspondent Name and Address

Area Code and Telephone Number 408 720-8300

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Pages

Enter the total number of pages of the attached conveyance document.

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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)

09131048 09328193
09339325
09410856

Month Day Year

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.

Patent Cooperation Treaty (PCT)

Enter PCT application number only if a PCT _____ PCT _____ PCT _____
U.S. Application Number has not been assigned. PCT _____ PCT _____ PCT _____

Number of Properties

Enter the total number of properties involved.

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Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$ 160.00

Method of Payment: Enclosed Deposit Account

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

Customer No.: 008791 Deposit Account Number: # 02-2666

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.

James H. Salter

35,668

2/12/01

Name of Person Signing

Registration No.

Signature

Date

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Office of the Secretary of
of the State of California

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AGREEMENT OF MERGER

JAN 20 2000

Bill [Signature]

AGREEMENT OF MERGER dated as of January 20, 2000 (this "~~Agreement~~") among ARIBA, INC., a corporation duly organized and existing under the laws of the State of Delaware ("Parent"), BLUE MERGER CORP., a corporation duly organized and existing under the laws of the State of California and a wholly owned subsidiary of Parent ("Merger Sub"), and TRADINGDYNAMICS, INC., a corporation duly organized and existing under the laws of the State of California (the "Company").

WITNESSETH:

WHEREAS, the boards of directors of Parent, Merger Sub and the Company have each determined that it is advisable and in the best interests of their respective shareholders for Merger Sub to merge with and into the Company (the "Merger") upon the terms and subject to the conditions set forth herein;

WHEREAS, in furtherance of the Merger, the boards of directors of Parent, Merger Sub and the Company have each approved the Merger in accordance with the General Corporation Law of the State of California ("California Law") and upon the terms and subject to the conditions set forth herein; and

WHEREAS, in furtherance of the Merger, the holders of the common stock, par value \$0.001 per share ("Company Common Stock"), of the Company, and the holders of the Series A preferred stock, par value \$0.001 per share ("Company Preferred Stock"), of the Company; each voting as a single class, have approved the Merger by (i) the affirmative vote of a majority of the issued and outstanding shares held by such holders, and (ii) the affirmative vote of greater than 66% of the issued and outstanding shares of Company Preferred Stock in accordance with California Law and upon the terms and subject to the conditions set forth herein;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Parent, Merger Sub and the Company hereby agree as follows:

SECTION 1: The Merger. At the Effective Time (as defined below), and upon the terms and subject to the conditions of this Agreement and California Law, Merger Sub shall be merged with and into the Company. As a result of the Merger, the separate corporate existence of Merger Sub shall cease and the Company shall continue as the surviving corporation of the Merger (the "Surviving Corporation").

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SECTION 2: Effective Time. The effective time of the Merger ("Effective Time") shall be the date and time of the acceptance of this Agreement by the Secretary of State of the State of California in accordance with the relevant provisions of California Law.

SECTION 3: Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of California Law. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions, disabilities and duties of each of the Company and Merger Sub shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Corporation.

SECTION 4: Articles of Incorporation. The Articles of Incorporation of the Surviving Corporation shall be amended to read in full as attached hereto at Exhibit 1.

SECTION 5: Directors and Officers. The directors of Merger Sub immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation, each to hold office in accordance with the Articles of Incorporation and By-laws of the Surviving Corporation, and the officers of the Company immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation, in each case until their respective successors are duly elected or appointed and qualified.

SECTION 6: Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Merger Sub, the Company or the holders of any of the following securities:

(a) each share of Company Common Stock issued and outstanding immediately prior to the Effective Time (other than Dissenting Shares (as defined below) and shares to be canceled pursuant to Section 6(d)) and all rights in respect thereof shall be canceled and converted automatically into the right to receive the Merger Consideration (as defined below);

(b) it is a condition to the obligation of Parent and Merger Sub to effect the Merger that all the holders of Company Preferred Stock convert all Company Preferred Stock into Company Common Stock immediately prior to the Effective Time. Each share of Company Common Stock received as a result of such conversion (other than Dissenting Shares and shares to be canceled pursuant to Section 6(d)) and all rights in respect thereof shall be canceled and converted automatically into the right to receive the Merger Consideration;

(c) each option to purchase shares of Company Common Stock (collectively, the "Company Stock Options") issued and outstanding at the Effective Time and all rights in

respect thereof shall be assumed by Parent (each a "Substitute Option") and remain subject to the same terms and conditions set forth in the Company's 1998 and 1999 Stock Plans and the applicable option agreement issued thereunder, except that (i) each Substitute Option shall be exercisable for, and represent the right to acquire, that whole number of shares of common stock, par value \$0.002 per share ("Parent Common Stock"), of Parent equal to the number of shares of Company Common Stock subject to the option multiplied by the Exchange Ratio (as defined below), and (ii) the option price per share of Parent Common Stock shall be an amount equal to the option price per share of Company Common Stock in effect immediately prior to the Effective Time divided by the Exchange Ratio;

(d) each share of Company Common Stock held in the treasury of the Company and each share of Company Common Stock owned by Parent or any direct or indirect wholly owned subsidiary of Parent or of the Company immediately prior to the Effective Time shall be canceled and extinguished without any conversion thereof and no payment or distribution shall be made with respect thereto;

(e) each share of common stock, par value \$0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for one validly issued, fully paid and nonassessable share of common stock, par value \$0.01 per share, of the Surviving Corporation;

(f) as used in this Agreement, the following terms have the following meanings:

(i) "Aggregate Share Amount" means 4,148,302 shares of Parent Common Stock, subject to adjustment as described in Section 7.

(ii) "Fully Diluted Share Amount" means the sum of (i) the number of shares of Company Common Stock issued and outstanding immediately prior to the Effective Time, (ii) the number of shares of Company Preferred Stock issued and outstanding immediately prior to the Effective Time and (iii) the number of shares of Company Common Stock issuable upon exercise of (x) the sum of (A) all Company Stock Options that have been granted as of the date hereof and not exercised or canceled prior to the Effective Time and (B) up to 100,000 Company Stock Options granted in connection with the hiring of new employees or consultants after the date hereof and prior to the Effective Time and (y) all warrants that have been granted immediately prior to the Effective Time.

(iii) "Merger Consideration" means a number of shares of Parent Common Stock determined by dividing (x) the Aggregate Share Amount less 414,830 shares of Parent Common Stock (the "Escrow Shares") by (y) the Fully Diluted Share Amount

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(such number of shares obtained pursuant to this clause (iii) is also referred to as the "Exchange Ratio"); and

(g) no fractional shares of Parent Common Stock will be issued in the Merger. Instead, each Company shareholder who would otherwise be entitled to receive a fraction of a share of Parent Common Stock will receive an amount of cash equal to the product of (i) such fraction, multiplied by (ii) the average closing price for shares of Parent Common Stock as reported on the Nasdaq National Market for each of the nineteen trading days ending on the third business day prior to closing (the "Closing Parent Share Price").

SECTION 7: Closing Balance Sheet Adjustment. No later than two business days and no earlier than ten business days prior to the closing date, the Company will prepare an estimated consolidated balance sheet (the "Estimated Closing Balance Sheet") and a calculation of its total assets less total liabilities ("Net Assets"). If the Net Assets exceed the greater of (i) (\$2,200,000) or (ii) the actual Net Assets of the Company as of the closing date (such greater amount being hereinafter referred to as the "Target Amount"), then the Aggregate Share Amount deliverable at the closing shall be increased by the number of shares as shall equal the quotient of (i) the amount of such excess divided by (ii) the Closing Parent Share Price. If the Target Amount exceeds the Net Assets as set forth on the Estimated Closing Balance Sheet, then the Aggregate Share Amount deliverable at the closing shall be decreased by the number of shares as shall equal the quotient of (i) the amount of such excess divided by (ii) the Closing Parent Share Price.

SECTION 8: Dissenting Shares. (a) Notwithstanding any provision of this Agreement to the contrary, shares of Company Common Stock that are outstanding immediately prior to the Effective Time and which are held by shareholders who shall have exercised and perfected appraisal rights for such shares in accordance with California Law (collectively, the "Dissenting Shares") shall not be converted into or represent the right to receive the Merger Consideration. Such shareholders shall be entitled to receive payment of the appraised value of such shares held by them in accordance with California Law, except that all Dissenting Shares held by shareholders who shall have failed to perfect or who effectively shall have withdrawn or lost their rights to appraisal of such shares shall thereupon be deemed to have been converted into and to have become exchangeable for, as of the Effective Time, the right to receive the Merger Consideration, without any interest thereon, upon surrender of the certificate or certificates that formerly evidenced such shares.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ARIBA, INC.

By: Keith J. Krach
Name: Keith J. Krach
Title: President

By: Edward H. Kinsey
Name: Edward H. Kinsey
Title: Secretary

BLUE MERGER CORP.

By: Edward P. Kinsey
Name: Edward P. Kinsey
Title: President

By: Craig Schmitz
Name: Craig Schmitz
Title: Assistant Secretary

TRADINGDYNAMICS, INC.

By: Kirk A. Cruikshank
Name: Kirk A. Cruikshank
Title: President

By: Anthony McCusker
Name: Anthony McCusker
Title: Assistant Secretary

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