

09-14-2001



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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

101842852

Customer No. 23910

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): **9-701**

Progressive Systems Technologies, Inc.

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

2. Name and address of receiving party(ies):

Name: Asyst Technologies, Inc.Address: 48761 Kato RoadFremont, California 94538

3. Nature of conveyance:

☐ Assignment ☐ Merger  
☐ Security Agreement ☐ Change of Name  
☒ Other Agreement and Plan of Merger and Reorganization

Execution Date: June 2, 1999Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

A. Patent Application No.:

B. Confirmation No.:

Title:

C. Patent No(s).:

5,664,926

5,785,186

5,823,361

5,834,915

5,853,214

5,984,116

6,077,026

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mark E. Miller, Esq.Address: Fliesler Dubb Meyer & Lovejoy LLPFour Embarcadero Center, Fourth FloorSan Francisco, CA 94111Telephone: (415) 362-38006. Total Number of applications and patents involved: 7 X \$40.00 each7. Total fee (37 CFR 3.41).....\$ 280.00☒ Check Enclosed

8. Fee Authorization. Authorization is given to charge any additional fees or credit any overpayment to Deposit Account No. 06-1325.

Copy. (A duplicate copy of this authorization is **not** enclosed.)

9. 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.*Mark E. MillerAttorney (Reg. No.: 31,401)

Signature

September 4, 2001

Date

10. Total number of pages to be recorded: 10 (1 page cover sheet and 9 page document).

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**AGREEMENT AND PLAN OF MERGER AND REORGANIZATION**

among:

**ASYST TECHNOLOGIES, INC.,**  
a California corporation;

**PSTI MERGER SUB ACQUISITION CORP.,**  
a Delaware corporation;

**PROGRESSIVE SYSTEM TECHNOLOGIES, INC.**  
a Texas corporation; and

**ADVENT INTERNATIONAL INVESTOR II, ENVIROTECH FUND I**  
**AND GLOBAL PRIVATE EQUITY II**

Dated as of June 2, 1999

# AGREEMENT AND PLAN OF MERGER AND REORGANIZATION

THIS AGREEMENT AND PLAN OF MERGER AND REORGANIZATION ("Agreement") is made and entered into as of June 2, 1999, by and among: ASYST TECHNOLOGIES, INC., a California corporation ("Parent"); PSTI MERGER SUB ACQUISITION CORP., a Delaware corporation and a wholly owned subsidiary of Parent ("Merger Sub"); PROGRESSIVE SYSTEM TECHNOLOGIES, INC., a Texas corporation (the "Company"); and ADVENT INTERNATIONAL INVESTORS II, ENVIROTECH FUND I AND GLOBAL PRIVATE EQUITY II (the "Signing Shareholder"). Certain other capitalized terms used in this Agreement are defined in Exhibit A.

## RECITALS

- A. Parent, Merger Sub, the Company and the Signing Shareholder intend to effect a merger (the "Merger") of Merger Sub into the Company in accordance with this Agreement and the Texas Business Corporation Act. Upon consummation of the Merger, Merger Sub will cease to exist, and the Company will become a wholly owned subsidiary of Parent.
- B. It is intended that the Merger qualify as a tax-free reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"). For accounting purposes, it is intended that the Merger be treated as a "pooling of interests."
- C. This Agreement has been approved by the respective boards of directors of Parent, Merger Sub, the Company and the Signing Shareholder.

## AGREEMENT

The parties to this Agreement agree as follows:

### SECTION 1. DESCRIPTION OF TRANSACTION

**1.1 Merger of Merger Sub into the Company.** Upon the terms and subject to the conditions set forth in this Agreement, at the Closing Date (as defined in Section 1.3), Merger Sub shall be merged with and into the Company, and the separate existence of Merger Sub shall cease. The Company will continue as the surviving corporation in the Merger (the "Surviving Corporation").

**1.2 Effect of the Merger.** The Merger shall have the effects set forth in this Agreement and in the applicable provisions of the Texas Business Corporation Act.

**1.3 Closing; Closing Date.** The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Cooley Godward LLP, 3000 El Camino Real, Five Palo Alto Square, Palo Alto, California 94306 at 10:00 a.m. on June 3, 1999, or at such other time or place as the parties may mutually agree (the date on which the Closing actually takes place is referred to in this Agreement as the "Closing Date").

those accounts receivable reflected on the Unaudited Interim Balance Sheet that have not yet been collected and those accounts receivable that have arisen since March 31, 1999 and have not yet been collected) (i) represent valid obligations of customers of the Company arising from bona fide transactions entered into in the ordinary course of business, and (ii) are current and will be collected in full when due, without any counterclaim or set off (net of the allowance for doubtful accounts set forth in the Unaudited Interim Balance Sheet).

## **2.8 Proprietary Assets.**

(a) Part 2.8(a)(i) of the Disclosure Schedule sets forth, with respect to each Company Proprietary Asset registered with any Governmental Body or for which an application has been filed with any Governmental Body, (i) a list of such Proprietary Asset, and (ii) the names of the jurisdictions covered by the applicable registration or application. Part 2.8(a)(ii) of the Disclosure Schedule identifies and provides a brief description of all other Company Proprietary Assets owned by the Company. Part 2.8(a)(iii) of the Disclosure Schedule identifies and provides a brief description of each Proprietary Asset licensed to the Company by any Person (except for any Proprietary Asset that is licensed to the Company under any third party software license generally available to the public at a cost of less than \$10,000). The Company has good, valid and marketable title to all of the Company Proprietary Assets identified in Parts 2.8(a)(i) and 2.8(a)(ii) of the Disclosure Schedule, free and clear of all liens and other Encumbrances, and has a valid right to use all Proprietary Assets identified in Part 2.8(a)(iii) of the Disclosure Schedule. The Company is not obligated to make any payment to any Person for the use of any Company Proprietary Asset. The Company has not developed jointly with any other Person any Company Proprietary Asset with respect to which such other Person has any rights.

(b) The Company has taken commercially reasonable measures and precautions necessary to protect and maintain the confidentiality and secrecy of all Company Proprietary Assets (except Company Proprietary Assets whose value would be unimpaired by public disclosure) and otherwise to maintain and protect the value of all Company Proprietary Assets. The Company has not (other than pursuant to license agreements identified in Part 2.9 of the Disclosure Schedule) disclosed or delivered to any Person (i) the source code of any Company Proprietary Asset, or (ii) the object code of any Company Proprietary Asset.

(c) Except for any Proprietary Assets licensed from Parent, none of the Company Proprietary Assets infringes or conflicts with any Proprietary Asset owned or used by any other Person. The Company is not infringing, misappropriating or making any unlawful use of, and the Company has not at any time infringed, misappropriated or made any unlawful use of, or received any communication to any Named Officers or any written notice of any actual, alleged, possible or potential infringement, misappropriation or unlawful use of, any Proprietary Asset owned or used by any other Person. To the knowledge of the Company and the Signing Shareholder, no other Person is infringing, misappropriating or making any unlawful use of any Company Proprietary Asset.

(d) Each Company Proprietary Asset conforms in all material respects with any specification, documentation, performance standard, representation or statement made or provided with respect thereto by or on behalf of the Company; and (ii) there has not been any written claim by any customer or other Person alleging that any Company Proprietary Asset does

not conform in all material respects with any specification, documentation, performance standard, representation or statement made or provided by or on behalf of the Company. The Company has established adequate reserves on the Unaudited Interim Balance Sheet to cover all costs associated with any obligations that the Company may have with respect to the correction or repair of programming errors or other defects in the Company Proprietary Assets.

(e) The Company Proprietary Assets constitute all the Proprietary Assets necessary to enable the Company to conduct its business substantially in the manner in which such business has been and is being conducted. The Company has not licensed any of the Company Proprietary Assets to any Person on an exclusive basis, and the Company has not entered into any covenant not to compete or Contract limiting its ability to exploit fully any of its Proprietary Assets or to transact business in any market or geographical area or with any Person.

(f) All current and former employees of the Company have executed and delivered to the Company an agreement (containing no exceptions to or exclusions from the scope of its coverage) that is substantially identical to the form of Confidential Information and Invention Assignment Agreement previously delivered to Parent, and all current and former consultants and independent contractors to the Company have executed and delivered to the Company an agreement (containing no exceptions to or exclusions from the scope of its coverage) that is substantially identical to the form of Consultant Confidential Information and Invention Assignment Agreement previously delivered to Parent.

(g) To the knowledge of the Company and the Signing Shareholder, each computer program and other item of software that is owned by the Company is Year 2000 Compliant. Each computer program and other item of software that has been designed, developed, sold, installed, licensed or otherwise made available by the Company to any Person is Year 2000 Compliant. As used in this Section 2.8, "Year 2000 Compliant" means, with respect to a computer program or other item of software (i) the functions, calculations, and other computing processes of the program or software perform in a consistent and correct manner without interruption regardless of the date on which the Processes are actually performed, whether before, on, or after January 1, 2000; (ii) the program or software accepts, calculates, compares, sorts, extracts, sequences, and otherwise processes date inputs and date values, and returns and displays date values, in a consistent and correct manner regardless of the dates used whether before, on, or after January 1, 2000; (iii) the program or software accepts, stores, displays and responds to date information in a manner that resolves any ambiguities as to century in a defined, predetermined, and appropriate manner; and (iv) leap years will be determined by the following standard (A) if dividing the year by 4 yields an integer, it is a leap year, except for years ending in 00, but (B) a year ending in 00 is a leap year if dividing it by 400 yields an integer.

## 2.9 Contracts.

(a) Part 2.9 of the Disclosure Schedule identifies:

(i) each Company Contract relating to the employment of, or the performance of services by, any employee, consultant or independent contractor;

The parties hereto have caused this Agreement to be executed and delivered.

Asyst Technologies, Inc.  
a California corporation

By: D.J. McCutcheon

Name: D.J. McCutcheon

Title: Senior VP CFO

Envirotech Investment Fund I

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

PSTI Merger Sub Acquisition Corp.,  
a Delaware corporation

By: D.J. McCutcheon

Name: D.J. McCutcheon

Title: President

Global Private Equity II

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Progressive System Technologies, Inc.  
a Texas corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Advent International Investors II

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SIGNATURE PAGE

The parties hereto have caused this Agreement to be executed and delivered.

Asyst Technologies, Inc.  
a California corporation

Envirotech Investment Fund I

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

PSTI Merger Sub Acquisition Corp.,  
a Delaware corporation

Global Private Equity II

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Progressive System Technologies, Inc.  
a Texas corporation

By: 

Name: James York

Title: CEO

Advent International Investors II

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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The parties hereto have caused this Agreement to be executed and delivered.

Asyst Technologies, Inc.  
a California corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Envirotech Investment Fund I

By: D-R Calt

Name: Dennis R. Calt

Title: Sr. Vice President  
Advent International Inc. G.P.

PSTI Merger Sub Acquisition Corp.,  
a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Global Private Equity II

By: D-R Calt

Name: Dennis R. Calt

Title: Sr. Vice President  
Advent International Inc. G.P.

Progressive System Technologies, Inc.  
a Texas corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Advent International Investors II

By: D-R Calt

Name: Dennis R. Calt

Title: Sr. Vice President  
Advent International Inc., G.P.

SIGNATURE PAGE

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353504.DOC



Schedule 2.8a(i)  
Proprietary Assets

Patents

S&B Docket Number	Akin Gump Docket No.	Title	Description	Status
59209/001	044202.0001	Substrate Housing and Docking System	Original Case for KPOD & ADU	Issued July 28, 1998
59209/001D	044202.0003	Substrate Housing and Docking System	Div. App. filed May 1996 for the Docking System (ADU)	Allowed: Issue Fee paid and Dwgs submitted 5/12/98 Issued 11/10/98
59209/001PCT	044202.0002	Substrate Housing and Docking System	Intl. App. Filed October 1995	Intl. App. filed 10/95; Intl. App. Published 5/96; App. now in Natl. Stage of selected countries; received first OA dated 9/17/98 due 1/17/99; annuity due 10/31/98
"	044202.0017	"	Singapore	Grant fees paid and Amendment filed 5/12/98 Annuity due 10/10/99
"	044202.0013	"	China	Published by the Chinese Patent Office on 10/29/97 – Publication No. CN1163683A; paid annuity 10/10/98; Response to 1/17/99 OA mailed 1/13/99
"	044202.0015	"	Japan	Official Filing Receipt received – Application No.: 8-512750; Published by Japanese Patent Office on Jan 6, 1998; annuity due 1/6/01; Ordered Request for Exam. 11/3/98
"	044202.0014	"	Germany	Request for Examination filed; Received OA 7/22/98, due 11/3/98; Response to 7/22/98 OA mailed 12/3/98
"	044202.0016	"	Korea	Published in the "Patent Laid - Open Gazette" on November 3, 1997; Laid - Open No. 97-706644
59209/008	044202.0004	Stage Assembly For A Substrate Processing System		Issued 9/9/97; 1 <sup>st</sup> maintenance fee due 3/9/01
59209/009	044202.0005	Aligner for a Substrate Carrier		Filed 11/95; Election submitted 5/97; Response to OA submitted 11/25/97; Change of Address and Formal Drawings filed & Issue Fee paid 9/29/98; Issued 12/29/98, Patent No. 5,853,214
59209/009PCT	044202.0006	Aligner for a Substrate Carrier	Intl. App. filed November 1996	Intl. Preliminary Exam. Report received 2/24/98;
"	044202.0018	"	China	Exam. Due 11/27/98; Requested Examination 10/22/98; Annuity paid 11/10/98

S&B Docket Number	Akin Gump Docket No.	Title	Description	Status
"	044202.0019	"	Japan	Filed 5/27/98; Filing Receipt 8/3/98
"	044202.0020	"	Korea	Filed 5/26/98; Received filing receipt; Power of Attorney w/translation filed 7/27/98
"	044202.0021	"	Germany	Filed 5/27/98; Annuity due 11/26/98; Annuity paid 10/28/98; Requested Examination 11/13/98
59209/010	044202.0007	Substrate Support Apparatus for a Substrate Housing		Issued October 20, 1998
59209/010C	044202.0009	Substrate Support Apparatus for a Substrate Housing	Continuation App. based on 59209/010	Filed 11/7/97; Notice of Allowance dated 11/9/98; Formal Dwgs filed 11/23/98; Issue Fee Paid 1/11/99
59209/010PCT	044202.0008	Substrate Support Apparatus for a Substrate Housing	Intl. App. filed February 1997	Intl. Preliminary Examination report received October 1997
"	044202.0023	"	China	Filed 8/5/98; Filing Receipt 5/1/97; Response to 9/17/98 Office Action sent to agent 1/13/99
"	044202.0024	"	Germany	Filed 8/6/98; Filing Receipt 8/20/98
"	044202.0025	"	Japan	Filed 8/6/98; Filing Receipt 9/22/98
"	044202.0026	"	Korea	Filed 8/5/98; Filing Receipt 9/28/98
"	044202.0027	"	Singapore	Filed 7/7/98; S/N 9804043-9; Lodgement 7/27/98; Amendment due by 8/6/99
59209/014	044202.0012	A Programmable Substrate Support for a Substrate Positioning System		Filed March 30, 1998

Trademarks

ADU  
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