

01-24-2005



102923718

Docket No.: ACT-0258

ET

U.S. DEPARTMENT OF COMMERCE

Patent and Trademark Office

Tab settings → → → ▼

To the Director of the United States Pat.

the attached original documents or copy thereof.

1. Name of conveying party(ies):

Wandel & Goltermann Technologies, Inc.

Additional names(s) of conveying party(ies)

☐ Yes ☒ No

3. Nature of conveyance:

☐ Assignment

☒ Merger

☐ Security Agreement

☐ Change of Name

☐ Other

Execution Date: **September 26, 2001**

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

Name: **Wandel & Goltermann, Inc.**

Address: **(a subsidiary of Wavetek Wandel**

Goltermann, Inc.)

2200 West Main Street, Suite 800

City: **Durham**

State/Prov.: **NC**

Country: **U.S.A.**

ZIP: **27705**

Additional name(s) & address(es)

☐ Yes ☒ No

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

If this document is being filed together with a new application, the execution date of the application is:

Patent Application No.

Filing date

B. Patent No.(s)

5,878,030

Additional numbers

☐ Yes ☒ No

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

Name: **John Dials**

Registration No.

Address: **Acterna LLC**

One Milestone Center Court

City: **Germantown**

State/Prov.: **MD**

Country: **U.S.A.**

ZIP: **20876**

6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 3.41):.....\$ **40.00**

☒ Enclosed - Any excess or insufficiency should be credited or debited to deposit account

☐ Authorized to be charged to deposit account

8. Deposit account number:

50-1390

(Attach duplicate copy of this page if paying by deposit account)

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.

Lawrence D. Eisen (Reg. No. 41,009)

Name of Person Signing

Signature

January 18, 2005

Date

15

Total number of pages including cover sheet, attachments, and

Mail documents to be recorded with required cover sheet information to:

Mail Stop Assignment Recordation Services
Director of the United States Patent and Trademark Office
P.O. Box 1450, Alexandria, VA 22313-1450

PATENT

REEL: 016153 FRAME: 0395

01/24/2005 EQUIPER 00000001 5878030 40.00 DP 01 FC-0021



NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF MERGER

OF

WANDEL & GOLTERMANN TECHNOLOGIES, INC.

the original of which was filed in this office on the 28th day of September, 2001.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 16th day of November, 2004

Elaine F. Marshall

Secretary of State

NOV. 16. 2004 5:53PM

CORPORATION SVC CO

NO. 563 P. 44/48

21 271 9058

SOSID: 0322565
Date Filed: 9/28/2001 8:46 AM
Elaine F. Marshall
North Carolina Secretary of State

ARTICLES OF MERGER
OF
WANDEL & GOLTERMANN TECHNOLOGIES, INC.
INTO
WANDEL & GOLTERMANN, INC.

Pursuant to Section 55-11-04 and Section 55-11-05 of the General Statutes of North Carolina, WANDEL & GOLTERMANN, INC., a corporation organized under the laws of the State of North Carolina, (the "Surviving Corporation") hereby submits these Articles of Merger for the purpose of merging WANDEL & GOLTERMANN TECHNOLOGIES, INC., a corporation organized under the laws of the State of North Carolina, (the "Merging Corporation") into the Surviving Corporation:

I.

The Agreement and Plan of Merger attached hereto as Exhibit A was duly approved in the manner prescribed by law by each of the corporations participating in the merger and by the Shareholders of the Surviving Corporation and the Merging Corporation.

II.

These articles of merger will be effective as of the date of filing.

This the 26th day of Sept., 2001.

WANDEL & GOLTERMANN, INC.

By: 

John R. Peeler, President

DUR1290231_1

EXHIBIT A

AGREEMENT AND PLAN OF MERGER OF
WANDEL & GOLTERMANN TECHNOLOGIES, INC.
WITH AND INTO
WANDEL & GOLTERMANN, INC.

THIS PLAN OF MERGER (the "Merger Agreement") is made and entered into as of Sept. 26, 2001, by and between WANDEL & GOLTERMANN TECHNOLOGIES, INC. ("W&G Technologies"), a corporation organized and existing under the laws of the State of North Carolina (W&G Technologies being hereinafter sometimes referred to as the "Merging Corporation") and WANDEL & GOLTERMANN, INC. ("W&G"), a corporation organized and existing under the laws of the State of North Carolina (W&G being hereinafter sometimes referred to as the "Surviving Corporation"), said two corporations being hereinafter sometimes referred to collectively as the "Constituent Corporations";

PREMISES

WHEREAS, W&G is a wholly-owned subsidiary of W&G Technologies; and

WHEREAS, W&G Technologies has authorized stock consisting of (i) 50,000,000 shares of common stock, par value of \$0.01 per share; and (ii) 2,000,000 shares of preferred stock, par value of \$0.01 per share; and

WHEREAS, W&G Technologies has as of the date hereof, 1000 shares of common stock issued and outstanding, and no shares of the preferred stock are issued and outstanding; and

WHEREAS, W&G has authorized stock consisting of 1000 shares of common stock, no par value, of which 300 shares of common stock are issued and outstanding; and

WHEREAS, the Boards of Directors of the Constituent Corporations deem it advisable and generally to the advantage, best interest and welfare of their respective companies and shareholders that W&G Technologies merge with W&G under and pursuant to the provisions of the North Carolina Business Corporation Act.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

ARTICLE I
MERGER

1.1 W&G Technologies shall be merged with and into W&G in accordance with the laws of the State of North Carolina. The separate corporate existence of W&G Technologies shall thereby cease, and W&G shall be the Surviving Corporation. It is intended by the parties that the merger of W&G Technologies into W&G qualify as a tax-free reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"). The sole shareholder of W&G Technologies waives the mailing of the copy of the Plan of Merger pursuant to Section 55-11-04(d) of the North Carolina Business Corporation Act.

1.2 On the Effective Time (as defined in Section 2.1 below), the separate existence of the Merging Corporation shall cease. Except as herein otherwise specifically set forth, from and after the Effective Time, the Surviving Corporation shall possess all of the rights, privileges, immunities and franchises, to the extent consistent with its Articles of Incorporation, of the Constituent Corporations. All the rights, privileges, powers and franchises of the Merging Corporation, of a public as well as of a private nature, and all property, real, personal and mixed of the Merging Corporation, and all debts due on whatever account to it, including all choses in action and all and every other interest of or belonging to it, shall be taken by and deemed to be transferred to and vested in the Surviving Corporation without further act or deed; and all such property, rights, privileges, immunities and franchises, of a public as well as of a private nature, and all and every other interest of the Merging Corporation shall be thereafter the property of the Surviving Corporation.

1.3 From and after the Effective Time, the Surviving Corporation shall be subject to all the duties and liabilities of a corporation organized under the North Carolina Business Corporation Act and shall be liable and responsible for all the liabilities and obligations of the Constituent Corporations. The rights of the creditors of the Constituent Corporations, or of any person dealing with such corporations, or any liens upon the property of such corporations, shall not be impaired by this merger, and any claim existing or action or proceeding pending by or against either of such corporations may be prosecuted as if this merger had not taken place, or the Surviving Corporation may be proceeded against or substituted in place of the Merging Corporation. Except as otherwise specifically provided to the contrary herein, the identity, existence, purposes, powers, franchises, rights, immunities and liabilities of the Surviving Corporation shall continue unaffected and unimpaired by the merger.

ARTICLE II TERMS AND CONDITIONS OF THE MERGER

The terms and conditions of the merger shall be as follows:

2.1 The merger shall become effective as of the date of filing. The time and date of such effectiveness is referred to in this Agreement as the "Effective Time." The Constituent Corporations shall file articles of merger with the office of the Secretary of State of North Carolina pursuant to the North Carolina Business Corporation Act.

2.2 Prior to the Effective Time, the Constituent Corporations shall take all such action as shall be necessary or appropriate in order to effect the merger. If at any time after the Effective Time, the Surviving Corporation shall determine that any further conveyance, assignment or other documents or any further action is necessary or desirable in order to vest in, or confirm to, the Surviving Corporation full title to all of the property, assets, rights, privileges and franchises of the Constituent Corporations, or either of them, the officers and directors of the Constituent Corporations shall execute and deliver all such instruments and take all such further actions as the Surviving Corporation may determine to be necessary or desirable in order to vest in and confirm to the Surviving Corporation title to and possession of all such property, assets, rights, privileges, immunities and franchises, and otherwise to carry out the purpose of this Merger Agreement.

DOC1\299105_1

ARTICLE III
CHARTER AND BYLAWS;
DIRECTORS AND OFFICERS

3.1 The Articles of Incorporation of W&G as in effect immediately prior to the Effective Time, shall, after the merger, continue to be the Articles of Incorporation of the Surviving Corporation until duly amended in accordance with law, and no change to such Articles of Incorporation shall be effected by the merger.

3.2 The Bylaws of W&G, as in effect immediately prior to the Effective time, shall, after the merger, continue to be the Bylaws of the Surviving Corporation until duly amended in accordance with law, and no change to such Bylaws shall be effected by the merger.

3.3 The persons who are the Directors and Officers of W&G immediately prior to the Effective Time shall, after the merger, continue as the Directors and Officers of the Surviving Corporation without change, to serve, subject to the provision of the Bylaws of the Surviving Corporation, until their successors have been duly elected and qualified in accordance with the laws of the State of North Carolina and the Articles of Incorporation and Bylaws of the Surviving Corporation.

ARTICLE IV
CONVERSION OF SHARES

4.1 At the Effective Time, each of the 300 shares of common stock of W&G presently issued and outstanding shall be retired, and no shares of common stock, or other securities of W&G shall be issued in respect thereof, and any shares of common stock or preferred stock of W&G Technologies held as treasury stock of W&G Technologies on the Effective Date shall be retired, and no shares of common stock or preferred stock shall be issued in respect thereof.

4.2 In accordance with this Merger Agreement, at the Effective Time, each of the issued and outstanding shares of common stock of W&G Technologies, and all rights in respect thereof, shall be converted into one fully paid and nonassessable share of common stock of W&G. After the Effective Time, each holder of an outstanding certificate or certificates theretofore representing shares of common stock of W&G Technologies shall surrender the same to the Surviving Corporation for cancellation or transfer and each such holder or transferee will be entitled to receive certificates of common stock of W&G. No other cash, shares, certificates or obligations will be distributed or issued upon the conversion of common stock of W&G Technologies.

ARTICLE V
MISCELLANEOUS

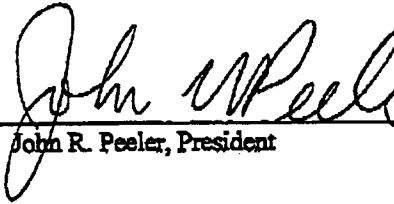
5.1 This Merger Agreement and Plan embodies the entire agreement between the parties hereto and there are no agreements, understandings, restrictions or warranties between the parties hereto other than those set forth herein or herein provided for.

0021\200105_1

IN WITNESS WHEREOF, this Merger Agreement has been signed by the duly authorized officers of the Constituent Corporations, all as of the day and year first above written.

WANDEL & GOLTERMANN, INC.

By:


John R. Peeler, President

ATTEST:


Mark V.B. Tremallo, Secretary

[CORPORATE SEAL]

WANDEL & GOLTERMANN TECHNOLOGIES, INC.

By:


Aldebert Kuthe, President

ATTEST:


Mike Smith, Secretary

[CORPORATE SEAL]

Downloaded By: David Kurzawa

Company: WAVETEK WANDEL & GOLTERMANN INC
Form Type: 10-K SEC File #: 333-32195
Description: 10-K
File Date: 12/22/99
State of Incorporation: DE
Fiscal Year End: 09/30
CIK: 0001043015
SIC: 3825
IRS Identifying Number: 330457664

Business Address
1030 SWABIA COURT
STE 301
RESEARCH TRIANGLE PA, NC 27709-3585
(619) 793-2300

Mailing Address
11995 EL CAMINO REAL
STE 301
SAN DIEGO, CA 92130

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K

☒ Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange
Act of 1934 For the Fiscal Year ended September 30, 1999.
☐ Transition Report Pursuant to Section 13 or 15(d) of the Securities
Exchange Act of 1934 For the transition period from _____ to _____.

Commission file number 333-32195
WAVETEK WANDEL GOLTERMANN, INC.

(Exact name of registrant as specified in its charter)

DELAWARE

33-0457664

(State or Other Jurisdiction of
Incorporation or Organization)

(I.R.S. Employer
Identification No.)

1030 SWABIA COURT
RESEARCH TRIANGLE PARK, NC

27709-3585

(Zip Code)

(Address of Principal Executive Offices)

(919) 941-5730

Registrant's Telephone Number, Including Area Code
Securities registered pursuant to Section 12(b) of the Act:

Title of each class:

Name of each exchange on which registered:

Not applicable.

Not applicable.

Securities registered pursuant to section 12(g) of the Act:

10.125% Senior Subordinated Notes Due 2007

(Title of class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by
Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or
for such shorter period that the registrant was required to file such reports), and (2) has been
subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K
(Section 299.405 of this chapter) is not contained herein, and will not be contained, to the
best of registrant's knowledge, in definitive proxy or information statements incorporated by
reference in Part III of this Form 10-K or any amendment to this Form 10-K ☐.

Aggregate market value of the voting and non-voting common equity held by non-affiliates of the
registrant as of December 20, 1999:

Not applicable.

As of December 20, 1999, issuer had only one class of common stock, of which there were
13,268,323 shares outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

PART I.

ITEM 1. BUSINESS

HISTORICAL DEVELOPMENT OF BUSINESS

On September 30, 1998, Wavetek Corporation, a Delaware corporation ("Wavetek"), and Wandel & Goltermann Management Holding GmbH, a German limited liability company ("WG"), consummated an exchange transaction whereby the stockholders of WG became stockholders of Wavetek, and WG became a subsidiary of Wavetek (the "Exchange Transaction"). Following the Exchange Transaction, Wavetek was ultimately renamed Wavetek Wandel Goltermann, Inc. (the "Company").

Wavetek was founded in San Diego, California in 1962, and was acquired by an investment group led by Dr. Terence J. Gooding in 1991. After Dr. Gooding acquired Wavetek, and prior to the consummation of the Exchange Transaction, Wavetek completed two strategic acquisitions: (1) the instrumentation products division of Beckman Industrial in 1992 and (2) the wireless and fiber optics test businesses of Schlumberger S.A. in 1994. In June 1997, Wavetek completed a recapitalization of the Company involving the repurchase of equity from existing investors, the issuance of equity to new investors and the incurrence of debt.

WG was founded in Eningen, Germany in 1923. Prior to entering into the Exchange Transaction, WG was majority owned by the families of the founders. In October 1997, WG completed a phased acquisition of Switching Test Solutions AG, a Swiss joint venture formed by WG and Alcatel, a telephone switch testing company. Also, in September 1998, WG completed the acquisition of the shares of its U.S. subsidiary, Wandel & Goltermann Technologies, Inc., that it did not previously own.

Although WG became a subsidiary of Wavetek, the Exchange Transaction was treated, for accounting and financial reporting purposes, as a purchase of Wavetek by WG. Accordingly, the consolidated financial statements of the Company as of any date or for any period prior to September 30, 1998, are the historical consolidated financial statements of WG.

The executive offices of the Company are located at 1030 Swabia Court, Research Triangle Park, North Carolina 27709-3585, and its telephone number is (919) 941-5730.

BUSINESS

The Company is a leading global designer, manufacturer and marketer of a broad range of communications test instruments used to develop, manufacture, install and maintain communications networks and equipment. The Company's products provide comprehensive testing solutions to a wide range of end users. The Company's high-end instruments are used during the product development phase to stress test product functionality and performance. Other products are used during the production process to verify conformance to manufacturing specifications, while the Company's enhanced portable field service tools enable field technicians to quickly install, repair and maintain complex network infrastructure as well as validate service levels. The Company also provides distributed remote test systems to many of its service provider customers, which allow such customers to more efficiently utilize their network engineers to monitor and test service levels. The Company conducts its business in two principal business areas, communications test business and other test products.

COMMUNICATIONS TEST BUSINESS - The Company's communications test business, which addresses most sectors of the communications test market, primarily operates in four product areas: (1) Telecom Networks (traditional voice/data transmissions and new multi-service networks), (2) Enterprise Networks (local and wide-area network infrastructures), (3)

SUBSIDIARIES OF WAVETEK WANDEL GOLTERMANN, INC.

SUBSIDIARIES

Wavetek U.S. Inc. (1)
 Digital Transport Systems, Inc. (2)
 Wavetek Export Corporation (2)
 Wavetek (G.B.) Ltd. (1)
 Wavetek Limited (3)
 Wavetek S.A. (1)
 Wavetek GmbH (1)
 Wavetek Asia-Pacific Pte. Ltd. (1)
 Wavetek Hong Kong Ltd. (1)
 Wavetek Wandel Goltermann GmbH (1)
 Wandel & Goltermann Technologies, Inc. (1)
 Wandel & Goltermann A.T.E. Systems, Inc. (1)
 Wandel & Goltermann GmbH & Co. Elektronische Messtechnik (4)
 Wandel & Goltermann CTS S.A. (4)
 Wandel & Goltermann Management Ltd. (4)
 Switching Test Solutions AG (4)
 Wavetek Wandel Goltermann Vertriebsholding GmbH (4)
 Wavetek Wandel Goltermann GmbH & Co. Vertriebsgesellschaft (5)
 Wavetek Wandel Goltermann Europe GmbH (6)
 Wandel & Goltermann Verwaltungs GmbH (5)
 Wandel & Goltermann & Co. (5)
 Wandel & Goltermann S.A. (7)
 Wandel & Goltermann de Venezuela, C.A. (7)
 Wandel & Goltermann, Inc. (8)
 W&G Equities Inc. (8)
 Wandel & Goltermann Technologies Canada Inc. (8)
 Wavetek Wandel Goltermann Plymouth Ltd. (9)
 Wandel & Goltermann S.R.L. Tecnologie di Misura Electroniche (10)
 Wandel & Goltermann Singapore Pte. Ltd. (11)
 Wavetek Wandel Goltermann UK Ltd. (9)
 Wandel & Goltermann AB (12)
 Wavetek Wandel Goltermann Asia Pacific Pty. Ltd. (12)
 Wandel & Goltermann Investments Pty. Ltd. (12)
 Wandel & Goltermann Private Limited (13)
 Wavetek Wandel Goltermann Benelux B.V. (12)
 Wavetek Wandel Goltermann Canada Inc. (12)
 Wavetek Wandel Goltermann Schweiz AG (12)
 Wandel & Goltermann France S.A.R.L. (12)
 Wavetek Wandel Goltermann K.K. (12)
 Wandel & Goltermann Vertriebs-Ges.m.b.H. (12)

JURISDICTION OF INCORPORATION

Delaware
 California
 U.S. Virgin Islands
 United Kingdom
 United Kingdom
 France
 Germany
 Singapore
 Hong Kong
 Germany
 North Carolina
 North Carolina
 Germany
 France
 United Kingdom
 Switzerland
 Germany
 Germany
 Germany
 Switzerland
 Guatemala
 Venezuela
 North Carolina
 Delaware
 Canada
 United Kingdom
 Italy
 Singapore
 United Kingdom
 Sweden
 Australia
 Australia
 India
 Netherlands
 Canada
 Switzerland
 France
 Japan
 Austria

SUBSIDIARIES (CONTINUED)

JURISDICTION OF INCORPORATION

Wavetek Wandel Goltermann Korea Ltd. (14)	South Korea
Wavetek Wandel Goltermann Espana S.A. (12)	Spain
Wandel & Goltermann Spolka Z OO (12)	Poland
Wandel & Goltermann Malaysia SDN.BHD (12)	Malaysia
Empowered Networks Inc. (12)	Canada
Wandel & Goltermann Instrumentacao Ltda. & Cia. (12)	Brazil
Wandel & Goltermann S.A. (12)	Argentina
Wavetek Wandel Goltermann de Mexico S.A. de C.V. (12)	Mexico
Wandel & Goltermann Elektronik B.V. (12)	Netherlands
Wavetek Wandel Goltermann Ltd. (15)	Hong Kong
Wavetek Wandel Goltermann Austria Ges.m.b.H. (15)	Austria
Wandel & Goltermann Russia (16)	Russian Federation
WGB - Electronica de Preciso Ltda. (12)	Brazil

- (1) The Company owns all of the outstanding shares of these subsidiaries.
- (2) Wavetek U.S. Inc. owns all of the outstanding shares of these subsidiaries.
- (3) Wavetek (G.B.) Ltd. owns all of the outstanding shares of its subsidiary, Wavetek Limited.
- (4) Wavetek Wandel Goltermann GmbH owns all of the outstanding shares of these subsidiaries.
- (5) Wandel & Goltermann GmbH & Co. Elektronische Messtechnik owns all of the outstanding shares of these subsidiaries.
- (6) Wavetek Wandel Goltermann GmbH & Co. Vertriebsgesellschaft owns all of the outstanding shares of its subsidiary, Wavetek Wandel Goltermann Europe GmbH.
- (7) Wandel & Goltermann & Co. owns all of the outstanding shares of these subsidiaries.
- (8) Wandel & Goltermann Technologies, Inc. owns all of the outstanding shares of these subsidiaries.
- (9) Wandel & Goltermann Management Ltd. owns all of the outstanding shares of these subsidiaries.
- (10) Wandel & Goltermann S.R.L. Tecnologie di Misura Electroniche is owned 50% by Wavetek Wandel Goltermann Plymouth Ltd. and 50% by Wavetek Wandel Goltermann Vertriebsholding GmbH.
- (11) Wavetek Wandel Goltermann Plymouth Ltd. owns all of the outstanding shares of Wandel & Goltermann Singapore Pte. Ltd.
- (12) Wavetek Wandel Goltermann Vertriebsholding GmbH owns all of the outstanding shares of these subsidiaries.
- (13) Wandel & Goltermann Investments Pty. Ltd. owns all of the outstanding shares of Wandel & Goltermann Private Limited.
- (14) Wavetek Wandel Goltermann Korea Ltd. is owned 10% by Wavetek Wandel Goltermann Vertriebsholding GmbH and 90% by Wandel & Goltermann Elektronik B.V.
- (15) Wandel & Goltermann Elektronik B.V. GmbH owns all of the outstanding shares of these subsidiaries.
- (16) Wavetek Wandel Goltermann Austria Ges.m.b.H. owns all of the outstanding shares of its subsidiary, Wandel & Goltermann Russia.

Downloaded By: David Kurzawa

Company: WAVETEK WANDEL & GOLTERMANN INC
Form Type: 10-K SEC File #: 333-32195
Document Type: EX-27
Description: EXHIBIT 27
File Date: 12/22/99
State of Incorporation: DE
Fiscal Year End: 09/30
CIK: 0001043015
SIC: 3825
IRS Identifying Number: 330457664

Business Address
1030 SWABIA COURT
STE 301
RESEARCH TRIANGLE PA, NC 27709-3585
(619) 793-2300

Mailing Address
11995 EL CAMINO REAL
STE 301
SAN DIEGO, CA 92130

LIVEDGAR Information Provided By:
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<http://www.gsionline.com>

<ARTICLE> 5

<LEGEND>

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE REGISTRANTS CONSOLIDATED FINANCIAL STATEMENTS AS OF AND FOR THE YEAR ENDED SEPTEMBER 30, 1999.

</LEGEND>

<MULTIPLIER> 1,000

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<EPS-DILUTED>		(0.61)