

FORM PTO-1595

RECORDATION FORM COVER SHEET

U.S. DEPARTMENT OF COMMERCE

1-31-92

PATENTS ONLY

Patent and Trademark Office

To the Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof. ID NUMBER 700291457A

1. Name of conveying party(ies):
Virtio Corporation
Additional name(s) of conveying party(ies) attached?
 Yes No

2. Name and address of receiving party(ies):
Name: Synopsys, Inc.
Street Address: 700 E. Middlefield Rd.
City/State/Zip: Mountain View, CA 94043
Additional name(s) & address(es) attached?
 Yes No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other:
Execution Date: October 11, 2006

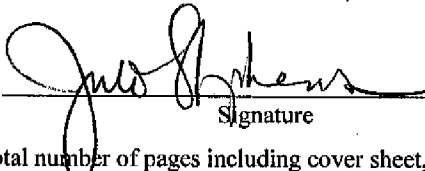
4. Application number(s) or patent number(s):
09/872,435

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Julie Stephenson
Synopsys, Inc.
700 E. Middlefield Rd.
Mountain, View CA 94043

6. Total number of applications and patents involved: [1]
7. Total fee (37 CFR 3.41) \$40.00
 Enclosed
 Authorized to be charged to Credit Card Payment Form
8. Deposit account number: _____

DO NOT USE THIS SPACE

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.
Julie Stephenson (Reg. No. 41330)  October 24, 2006
Name of Person Signing Signature Date
Total number of pages including cover sheet, attachments, and document: [22]

OP \$40.00 09872435

10/11/2006
700291457

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<p>1. Name of conveying party(ies): Virtio Corporation</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies): Name: Synopsys, Inc.</p> <p>Street Address: 700 E. Middlefield Rd.</p> <p>City/State/Zip: Mountain View, CA 94043</p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance:</p> <p><input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other:</p> <p>Execution Date: <u>October 11, 2006</u></p>	

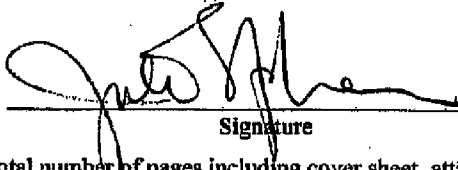
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DO NOT USE THIS SPACE

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.

Julie Stephenson		October 11, 2006
Name of Person Signing	Signature	Date

Total number of pages including cover sheet, attachments, and document: **[19]**

PATENT ASSIGNMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, Virtio Corporation and its subsidiaries ("ASSIGNOR"), the surviving entity of a merger between Ventura Acquisition Sub, Inc., (an indirect wholly owned subsidiary of Synopsys, Inc.) and Virtio Corporation in a transaction that closed 15th May 2006 (Agreement of Merger attached as Exhibit A, without exhibits), hereby sells, assigns, transfers, and sets over its entire right, title, and interest in and to the Assigned Patents and Patent Applications (as set forth below), any patent or reissues of any patent or patent application that may be granted thereon, and foreign counterparts thereto, and any extensions and applications which are continuations, continuations-in-part, substitutes, divisions, renewals or reissues of said Assigned Patents and Patent Applications to Synopsys, Inc. ("ASSIGNEE") and its successors and assigns.

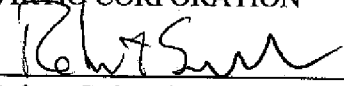
Assigned Patents and Patent Applications:


Docket #	Serial #	Filing Date	Patent No.	Issue Date
0472	09/872,435	6/1/2001		

ASSIGNOR hereby further sells, assigns, transfers, and sets over unto ASSIGNEE, ASSIGNOR's entire right, title, and interest in and to the aforesaid inventions in the United States and each and every country foreign to the United States; and ASSIGNOR further conveys to ASSIGNEE all priority rights resulting from the Assigned Patents, and all causes of action for infringement arising prior to and after the date of this Assignment.

At any time and from time to time after the date hereof, at ASSIGNEE's request and expense, ASSIGNOR promptly shall execute and deliver, and shall cause its affiliates and employees to execute and deliver, such instruments of sale, transfer, conveyance, assignment and confirmation, and take such other action, as ASSIGNEE may reasonably request to more effectively transfer, convey and assign to ASSIGNEE, and to confirm ASSIGNEE's title to, all of the Assigned Patents.

IN WITNESS WHEREOF, the parties hereunto set their hand and seal on the date below.

ASSIGNOR:
 VIRTIO CORPORATION

 Robert G. Specker, President & CEO

ASSIGNEE:
 SYNOPSYS, INC.

 Christopher K. Sadeghian, Asst. Secretary

Date: 10/11/2006

Date: 10/11/06

State of California

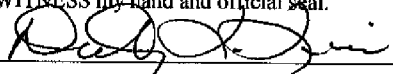
State of California

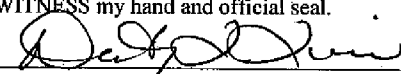
County of Santa Clara

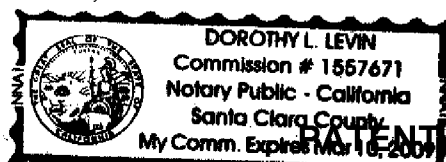
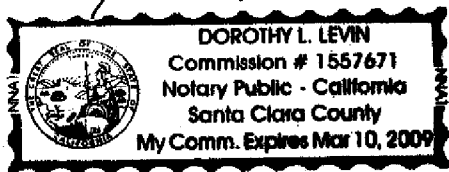
County of Santa Clara

On 11 Oct 2006, before me, Dorothy L. Levin, personally appeared Robert G. Specker, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

On 11 Oct. 2006, before me, Dorothy L. Levin personally appeared Christopher K. Sadeghian, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


WITNESS my hand and official seal.




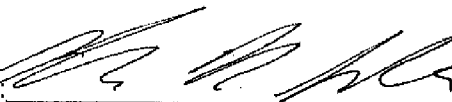
**CERTIFICATE OF THE ASSISTANT SECRETARY
OF
SYNOPSIS, INC.**

The undersigned, Christopher K. Sadeghian, the duly elected, qualified and acting Assistant Secretary of Synopsis, Inc. (the "Company"), hereby certifies that:

1. The Company acquired Virtio Corporation on May 15, 2006, and attached as Exhibit A is the Certificate of Merger issued by the California Secretary of State. The two parties to the Merger were Ventura Acquisition Sub, Inc., an indirect wholly-owned subsidiary of the Company, and Virtio Corporation.
2. Attached as Exhibit B is the Press Release of the Company announcing the completion of the acquisition.

Dated: June 20, 2006

SYNOPSIS, INC.

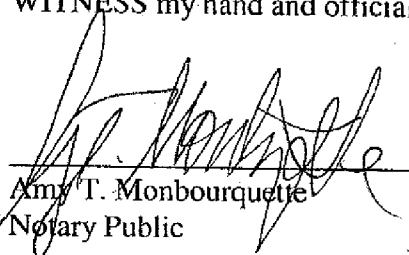
By: 

Christopher K. Sadeghian
Assistant Secretary

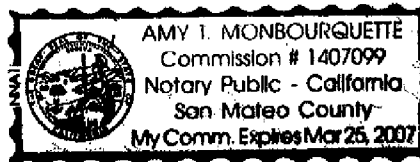
State of California)
) ss.
County of Santa Clara)

On June 20, 2006 before me, Amy T. Monbourquette, Notary Public, personally appeared Christopher K. Sadeghian, personally know to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Amy T. Monbourquette
Notary Public



Synopsys, Inc.

**Exhibit A
Certificate of Merger**

A0644706



State of California
Secretary of State

I, BRUCE McPHERSON, Secretary of State of the State of California, hereby certify:

That the attached transcript of 21 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY 16 2006

BRUCE McPHERSON
Secretary of State

A0644706

ENDORSED - FILED
 In the office of the Secretary of State
 of the State of California

AGREEMENT OF MERGER

MAY 15 2006

THIS AGREEMENT OF MERGER ("Merger Agreement") is made and entered into as of May 15, 2006 by and between Virtio Corporation, a California corporation (the "Company" or the "Surviving Corporation"), and Ventura Acquisition Sub, Inc., a California corporation ("Merger Sub"). The Company and Merger Sub are sometimes jointly referred to herein as the "Constituent Corporations."

RECITALS

WHEREAS, Synopsys, Inc., a Delaware corporation ("Parent"), the Company, Merger Sub and Bruce Crocker (the "Shareholders' Representative") have entered into an Agreement of Merger dated as of April 9, 2006 (the "Reorganization Agreement"); and

WHEREAS, all of the shares of Company Common Stock (as defined below) and Company Preferred Stock (as defined below) outstanding immediately prior to the Effective Time (as defined below) will convert into the right to receive cash as described below.

INTENDING TO BE LEGALLY BOUND, and in consideration of the premises and material covenants and agreements contained herein, the Constituent Corporations hereby agree as follows:

ARTICLE 1

THE MERGER

1.1 Merger of Merger Sub With and Into the Company.

(a) **Agreement to Acquire the Company.** Subject to the terms of this Merger Agreement, the Company shall be acquired by Parent through a merger of Merger Sub (an indirect wholly-owned subsidiary of the Parent) with and into the Company (the "Merger").

(b) **Effective Time of the Merger.** The Merger shall become effective on such date (the "Effective Time") as this Merger Agreement and Officers' Certificates of each Constituent Corporation are filed with the Secretary of State of the State of California pursuant to Section 1103 of the California General Corporation Law.

(c) **Surviving Corporation.** At the Effective Time of the Merger, Merger Sub shall be merged with and into the Company and the separate corporate existence of Merger Sub shall cease. The Company shall be the Surviving Corporation in the Merger, and all of the property, rights, privileges, powers and franchises of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Corporation and shall continue unaffected and unimpaired by the Merger.

1.2 Effect of the Merger. The Merger shall have the effects set forth in Section 1107 of the California General Corporation Law.

1.3 **Further Action.** If, at any time after the Effective Time, any further action is ~~determined by Parent to be necessary or desirable to carry out the purposes of this Merger Agreement~~ or to vest the Surviving Corporation or Parent with full right, title and possession of and to all rights and property of Merger Sub and the Company, the officers and directors of the Surviving Corporation and Parent shall be fully authorized (in the name of Merger Sub, in the name of the Company and otherwise) to take such action.

ARTICLE 2

THE CONSTITUENT CORPORATIONS

2.1 Organization of the Company

(a) **Incorporation.** The Company was incorporated under the laws of the State of California on May 18, 1999.

(b) **Authorized Stock.** The Company is authorized to issue two classes of shares, designated "Common Stock" (the "Company Common Stock") and "Preferred Stock" (the "Company Preferred Stock" and together with the Company Common Stock, the "Company Capital Stock"), respectively, both of which have no par value. The number of shares of Company Common Stock authorized to be issued is 95,000,000 shares. The number of shares of Company Preferred Stock authorized to be issued is 63,500,000 shares, 8,000,000 of which are designated as "Series A Preferred Stock", 100,000 of which are designated as "Series A-1 Preferred Stock", 9,400,000 of which are designated as "Series B Preferred Stock" and 46,000,000 of which are designated as "Series C Preferred Stock."

(c) **Outstanding Stock.** As of the record date for purposes of voting on the Merger, 21,980,940 shares of Company Common Stock were outstanding, 4,354,510 shares of Series A Preferred Stock were outstanding, 91,360 shares of Series A-1 Preferred Stock were outstanding, 5,068,049 shares of Series B Preferred Stock were outstanding and 42,319,502 shares of Series C Preferred Stock were outstanding.

2.2 Organization of Merger Sub.

(a) **Incorporation.** Merger Sub was incorporated under the laws of the State of California on February 7, 2006.

(b) **Authorized Stock.** Merger Sub is authorized to issue an aggregate of 1,000 shares of Common Stock, par value \$0.001 per share ("Subsidiary Stock").

(c) **Outstanding Stock.** On the date hereof, an aggregate of 1,000 shares of Subsidiary Stock are outstanding.

ARTICLE 3

ARTICLES OF INCORPORATION OF THE SURVIVING CORPORATION

3.1 Amendment of Company's Articles of Incorporation. At the Effective Time, the Articles of Incorporation of the Surviving Corporation shall be amended and restated in their entirety to read as set forth in Exhibit A hereto.

ARTICLE 4

EFFECT OF THE MERGER ON THE CAPITAL STOCK OF THE CONSTITUENT CORPORATIONS; EXCHANGE OF CERTIFICATES4.1 Conversion of Shares.

(a) At the Effective Time, by virtue of the Merger and without any further action on the part of Parent, Merger Sub, the Company or any shareholder of the Company:

(i) subject to Sections 4.1(b) and 4.1(c), each share of Company Capital Stock outstanding immediately prior to the Effective Time (other than Dissenting Shares, as defined below) shall be converted into the right to receive from Parent the following consideration:

(1) each share of Series A Preferred Stock outstanding immediately prior to the Effective Time shall be converted into the right to receive \$0.107488 in cash, less \$0.0107488 per share which shall be contributed to the Indemnity Escrow Fund (as defined below);

(2) each share of Series A-1 Preferred Stock outstanding immediately prior to the Effective Time shall be converted into the right to receive \$0.107488 in cash, less \$0.0107488 per share which shall be contributed to the Indemnity Escrow Fund;

(3) each share of Series B Preferred Stock outstanding immediately prior to the Effective Time shall be converted into the right to receive \$0.201679 in cash, less \$0.0201679 per share which shall be contributed to the Indemnity Escrow Fund;

(4) each share of Series C Preferred Stock outstanding immediately prior to the Effective Time shall be converted into the right to receive \$0.207942 in cash, less \$0.0207942 per share which shall be contributed to the Indemnity Escrow Fund; *provided, however*, any shares of Series C Preferred Stock owned by Parent, Merger Sub or any direct or indirect wholly-owned subsidiary of Parent, Merger Sub or the Company immediately prior to the Effective Time shall be canceled without payment of any consideration with respect thereto; and

(5) each share of Company Common Stock outstanding immediately prior to the Effective Time shall be converted into the right to receive \$0.02 in cash, less \$0.002 per share which shall be contributed to the Indemnity Escrow Fund.

For purposes of this Agreement, "**Merger Consideration**" for a particular class or series of Company Capital Stock shall mean the consideration to which such class or series of Company Capital Stock is entitled pursuant to this Section 4.1.

(ii) At the Effective Time, each share of the Subsidiary Stock outstanding immediately prior to the Effective Time shall be converted into one share of common stock of the Surviving Corporation.

(b) At the Effective Time, the amount of \$907,608 (the "**Aggregate Indemnity Escrow Cash Amount**") shall be delivered by Parent to U.S. Bank National Association (the "**Escrow Agent**") as a contribution to the escrow fund (the "**Indemnity Escrow Fund**") on behalf of the shareholders of the Company for the purpose of securing the indemnification and other rights of Parent and certain other indemnitees in accordance with the terms of that certain Escrow Agreement dated as of May 15, 2006 between Parent, the Shareholders' Representative and the Escrow Agent (the "**Escrow Agreement**"). The Aggregate Indemnity Escrow Cash Amount shall be released in accordance with the terms and conditions of the Reorganization Agreement and the Escrow Agreement.

(c) If, as of the date hereof, the Company's total liabilities (including, but not limited to, all expenses incurred by the Company in connection with the transactions contemplated by the Reorganization Agreement) exceeds the Company's total assets (such excess, the "**Adjustment Amount**"), then the aggregate consideration payable to all shareholders of the Company entitled to receive such consideration pursuant to Section 4.1(a)(i) shall be reduced by the Adjustment Amount, and such remaining amount shall then be distributed among such shareholders ratably in proportion to the full amounts to which they would have been entitled if no adjustment had been made.

(d) At the Effective Time, each share of Company Common Stock subject to an outstanding option to purchase shares of Company Common Stock (a "**Company Option**") shall be converted into the right to receive a cash amount from Parent equal to the Option Consideration (as hereinafter defined) for each share of Company Common Stock then subject to the Company Option. "**Option Consideration**" means, with respect to any share of Company Common Stock issuable under a particular Company Option, an amount equal to the excess, if any, of: (1) \$0.02 over (2) the exercise price payable in respect of such share of Company Common Stock issuable under such Company Option (it being understood that, if the exercise price payable in respect of such share of Common Stock issuable under such Company Option exceeds \$0.02 the Option Consideration shall be zero).

(e) Parent shall not assume any warrants to purchase Company Capital Stock in connection with the Merger. To the extent not exercised prior to the Effective Time, any outstanding warrant to purchase Company Capital Stock shall be terminated and canceled as of the Effective Time.

4.2 Post-Closing Payments.

(a) For purposes of this Section 4.2, the following terms shall have the following meanings:

(i) **"Acquisition Transaction"** shall mean: (A) any consolidation or merger of the Surviving Corporation with or into any other corporation or other entity or person, or any other corporate reorganization, other than any such consolidation, merger or reorganization in which the Parent or an entity affiliated with Parent immediately following such consolidation, merger or reorganization, continue to hold at least a majority of the voting power of the surviving entity; or (B) a sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Surviving Corporation as a stand alone entity and not as a part of a sale of an entire division of Parent's business. An Acquisition Transaction involving the Parent or any affiliate of the Parent shall not be deemed to be an Acquisition Transaction for purposes of this Section 4.2.

(ii) **"Cumulative License Revenue"** for a particular Post-Closing Payment Period shall mean the portion of revenues recognized by Parent (on a consolidated basis and as determined in accordance with GAAP, consistently applied, and Parent's revenue recognition policies, including, but not limited to those set forth in Parent's periodic reports on Forms 10-K and 10-Q filed with the SEC during the relevant Post-Closing Payment Period (the **"Revenue Recognition Criteria"**)) that are attributable to the sale or license of the Company's Virtual Platforms, Platform Development Kits and Technology Development Kits (as such terms are used by the Company as product references as of the date of this Merger Agreement and including any successor, enhanced, modified or improved versions of such products) (collectively, the **"Platform Products"**) between the date of this Merger Agreement and the end of such Post-Closing Payment Period. For avoidance of doubt: (i) the Cumulative License Revenue in a given Post-Closing Payment Period shall be determined based on revenues recognized by Parent during the period between the date of this Agreement and the end of such Post-Closing Payment Period, even if the actual sale or license of the Platform Products occurred in a different period; and (ii) if orders occur during a Post-Closing Payment Period but revenues associated with such orders are not recognized by Parent within any Post-Closing Payment Period, then any revenues recognized by Parent in connection therewith shall not be considered Cumulative License Revenue. Should Parent or any of its affiliates recognize revenue in accordance with the Revenue Recognition Criteria from the license or sale to any Person of a group of products or services that includes any of the Platform Products, then the portion of the recognized revenue attributable to the Platform Products from such arrangement shall be determined by Parent in good faith in accordance its customary revenue allocation procedures. Parent agrees that it shall not unreasonably discriminate against the Platform Products in the application of its customary revenue allocation procedures.

(iii) **"Eligible Shareholder"** shall mean a holder of Company Preferred Stock immediately prior to the Effective Time that does not perfect such shareholder's dissenters' rights under the California Corporations Code.

(iv) **"Maximum Per Share Earn Out"** shall mean \$0.150484 for each share of Series A Preferred Stock, \$0.150484 for each share of Series A-1 Preferred Stock, \$0.282351 for each share of Series B Preferred Stock and \$0.051985 for each share of Series C Preferred Stock.

(v) "Post-Closing Payment Period" shall mean each of the following: ~~(A) the period between the date of this Merger Agreement and the end of Parent's fiscal year 2006, (B) Parent's fiscal year 2007, and (C) Parent's fiscal year 2008.~~

(b) Subject to the other provisions of this Section 4.2, within 90 days after the end of each Post-Closing Payment Period, Parent shall make an initial determination of the amount of Cumulative License Revenue for such Post-Closing Payment Period and shall promptly notify the Shareholders' Representative in writing of such amount. Subject to the other provisions of this Section 4.2, Parent shall provide documentation or other evidence as reasonably requested by the Shareholders' Representative to support its determination of the amount of Cumulative License Revenue. The Shareholders' Representative will, within 30 days after receipt of Parent's notice (the "Initial Response Period"), notify Parent in writing that he either (i) accepts Parent's determination of the amount of Cumulative License Revenue or (ii) wishes to dispute Parent's determination of the amount of Cumulative License Revenue in accordance with the procedures set forth in Section 4.2(f) below; *provided* that if the Shareholders' Representative fails to provide Parent with notice in writing within such 30 day period, then the Shareholders' Representative shall be deemed to have notified Parent that it accepts Parent's determination of the amount of Cumulative License Revenue and such determination shall be binding and conclusive on Parent, the Eligible Shareholders and the Shareholders' Representative. Within 10 business days after (i) determination of the amount of Cumulative License Revenue pursuant to Section 4.2(f), if the Shareholders' Representative has disputed Parent's determination of such amount or (ii) the date the Shareholders' Representative notifies (or is deemed to have notified) Parent in writing that it accepts Parent's determination of the amount of Cumulative License Revenue, Parent shall pay to the Payment Agent (as defined below), for distribution to the Eligible Shareholders in accordance with this Section 4.2, the amount in cash as set forth in Schedule I based on the amount of Cumulative License Revenue for the applicable Post-Closing Payment Period (the "Distribution Amount"). For avoidance of doubt, the amounts payable for any Post-Closing Payment Period after the first Post-Closing Payment Period as set forth in Schedule I are cumulative, and accordingly any Distribution Amounts previously paid shall be subtracted from the amounts payable as set forth in Schedule I; *provided that* in no event shall the Eligible Shareholders be required to make any payment to Parent in the event that such amount payable is less than any Distribution Amounts previously paid.

(c) Subject to the other provisions of this Section 4.2, upon receipt of the Distribution Amount, the Payment Agent shall promptly distribute the Distribution Amount to the Eligible Shareholders in accordance with the number of shares of Company Preferred Stock held immediately prior to the Effective Time. The amount payable for each share of Company Preferred Stock shall be equal to the applicable Maximum Per Share Earn Out multiplied by a fraction, the numerator of which is the Distribution Amount and the denominator of which is \$4,300,000.

(d) In the event that all Eligible Shareholders have received the applicable Maximum Per Share Earn Out for each share of Preferred Stock held by them, then no further payment of any Distribution Amounts shall be made by Parent pursuant to this Section 4.2.

(e) No rights or interest of any Eligible Shareholder under this Section 4.2 ~~may be assigned, transferred or otherwise disposed of, in whole or in part, other than (i) pursuant to the laws of descent and distribution or by will or (ii) as otherwise permitted under the Reorganization Agreement.~~

(f) In the event that the Shareholders' Representative objects to Parent's initial determination of the amount of Cumulative License Revenue or requires further information to verify such amount, then during the Initial Response Period the Shareholders' Representative may deliver to Parent a written notice (the "Objection Notice") (i) describing in reasonable detail the Shareholders' Representative's objections to Parent's determination of the amount set forth in such notice or (ii) requesting additional information from Parent that the Shareholders' Representative require in order to confirm such amount, which information, to the extent reasonably necessary and available, shall be provided by Parent within ten (10) days after Parent's receipt of such request, *provided* that Parent may elect to provide such information directly to a Representative instead of the Shareholders' Representative, as determined in Parent's sole discretion and in accordance with Section 4.2(f)(ii) below). The Shareholders' Representative hereby acknowledges that the procedures set forth in this Section 4.2(f) may not be used for any objection to the Revenue Recognition Criteria or any of Parent's revenue allocation procedures, which shall be determined by Parent in good faith in accordance with this Section 4.2. If the Shareholders' Representative delivers an Objection Notice to Parent accompanied by a request for additional information from Parent during the Initial Response Period, then the Shareholders' Representative shall have an additional ten (10) days after receiving the requested information from Parent (the "Final Response Period") to deliver to Parent a written notice (a "Final Objection Notice") describing in reasonable detail the Shareholders' Representative's objections to Parent's determination of the amount of Cumulative License Revenue accompanied by a statement setting forth the amount of Cumulative License Revenue determined by the Shareholders' Representative to be correct. If the Shareholders' Representative does not deliver a Final Objection Notice to Parent during the Final Response Period, then Parent's initial determination of the amount of Cumulative License Revenue shall be binding and conclusive on Parent, the Eligible Shareholders and the Shareholders' Representative. If the Shareholders' Representative delivers an Objection Notice or Final Objection Notice, as the case may be, to Parent accompanied by a statement setting forth the amount of Cumulative License Revenue determined by the Shareholders' Representative to be correct during either the Initial Response Period or the Final Response Period in accordance with this Section 4.2(f), the Shareholders' Representative and Parent shall endeavor in good faith to agree on the correct amount of Cumulative License Revenue. If the Shareholders' Representative and Parent are unable to agree upon the amount of Cumulative License Revenue within fifteen (15) days after such Objection Notice or Final Objection Notice, as the case may be, is delivered to Parent, the dispute shall be finally settled by a nationally recognized independent accounting firm selected by Parent and reasonably acceptable to the Shareholders' Representative. The determination by the independent accounting firm of the amount of Cumulative License Revenue shall be conclusive and binding on Parent, the Eligible Shareholders and the Shareholders' Representative.

(i) The Eligible Shareholders shall bear and pay the fees and other expenses of the independent accounting firm engaged under this Section 4.2(f) (the "Post-Closing Payment Fees"); *provided, however*, that if (A) the independent accounting firm's

determination of the amount of Cumulative License Revenue is greater than Parent's initial determination of such amount by more than 5%, or (B) the independent accounting firm's determination of the amount of Cumulative License Revenue results in the payment of a Distribution Amount that is greater than the Distribution Amount corresponding to Parent's initial determination of Cumulative License Revenue, then in either case the Parent shall bear and pay such Post-Closing Payment Fees. Parent shall be entitled, in its sole discretion, to deduct from either the Indemnity Escrow Account or any Distribution Amount cash equal to the amount of any Post-Closing Payment Fees payable by the Eligible Shareholders.

(ii) During normal business hours and upon reasonable notice provided to Parent, Parent shall permit one representative designated by the Shareholders' Representative who is acceptable to Parent (in Parent's sole discretion and who is not affiliated or otherwise related to the Shareholders' Representative or any Eligible Shareholder and who has agreed in writing to be bound by the confidentiality restrictions contained in this Section 4.2(f)(ii)), to examine the financial books and records of the Surviving Corporation and/or Parent, only to the extent necessary for the exercise of the Shareholders' Representative's right to object to Parent's determination of the amount of Cumulative License Revenue. Such representative shall hold all information acquired during such examination in strict confidence and shall use such information only for purposes of making any calculations under this Section 4.2. The Shareholders' Representative and its representative may not exercise the inspection rights set forth in this Section 4.2(f)(ii) more than once with respect to any Post-Closing Payment Period. Notwithstanding anything to the contrary set forth in this Agreement, Parent reserves the right to withhold or redact any information (financial or otherwise) in its books and records which the Parent deems (in its sole discretion) necessary to protect confidential or sensitive information, *provided* that the representative's review of Parent's determination of Cumulative License Revenue under this Section 4.2(f)(ii) is not unreasonably impaired.

(g) If (i) an Acquisition Transaction occurs after the Closing Date and prior to the end of the last Post-Closing Payment Period and (ii) at such time the Eligible Shareholders have not received the applicable Maximum Per Share Earn Out for each share of Preferred Stock held by them, then in such event the Eligible Shareholders may be entitled to receive a Distribution Amount at such time. The Distribution Amount payable under this Section 4.2(g) shall be determined in accordance with Schedule I based on the aggregate amount of Cumulative License Revenue that would have been recognized through the end of the last Post-Closing Payment Period, which amount shall be determined by Parent in good faith in accordance with this Section 4.2(g). In making such determination, Parent shall calculate a deemed amount of additional Cumulative License Revenue that would have been recognized between the date of the consummation of the Acquisition Transaction and the end of the last Post-Closing Period, which shall be calculated using the TREND function in Microsoft Excel with the historical Cumulative License Revenue actually recognized over the 12 months preceding the consummation of the Acquisition Transaction (or, if shorter, the period from the Closing Date to the date of the Acquisition Transaction) as the monthly input for such calculation. An example of such calculation is set forth in the Reorganization Agreement. Parent shall notify the Shareholders' Representative of its determination of such Cumulative License Revenue as soon as reasonably practicable. Except as otherwise provided by this Section 4.2(g), all other provisions of this Section 4.2 shall apply to the determination of the amount of Cumulative License Revenue and payment of Distribution Amount, if any, to the

Eligible Shareholders under this Section 4.2(g). After payment of any Distribution Amount pursuant to this Section 4.2(g), no further payment of any Distribution Amounts shall be made by Parent to the Eligible Shareholders pursuant to this Section 4.2.

4.3 Dissenting Shares.

(a) Notwithstanding anything to the contrary contained in this Merger Agreement, shares of Company Capital Stock that are or become "dissenting shares" within the meaning of Section 1300(b) of the California Corporations Code ("**Dissenting Shares**") at or after the Effective Time shall not be converted into or represent the right to receive the consideration specified in Section 4.1 or Section 4.2, but shall be entitled only to such rights as are granted by the California Corporations Code to Dissenting Shares.

(b) Subject to Section 4.1(b), if any Dissenting Shares shall lose their status as such (through failure to perfect or otherwise), then, as of the later of the Effective Time or the date of loss of such status, such shares shall automatically be converted into and shall represent only the right to receive consideration in accordance with Section 4.1, together with any additional amounts that may become payable pursuant to Section 4.2, without interest thereon, after the surrender of the Company Stock Certificate (as defined below) representing such shares.

(c) The Company shall give Parent: (i) prompt notice of any written demand received by the Company prior to the Effective Time to require the Company to purchase shares of Company Capital Stock pursuant to the California Corporations Code, any withdrawal of any such demand and any other demand, notice or instrument delivered to the Company prior to the Effective Time pursuant to the California Corporations Code; and (ii) the opportunity to participate in all negotiations and proceedings with respect to any such demand, notice or instrument. The Company shall not make any payment or settlement offer prior to the Effective Time with respect to any such demand, notice or instrument unless Parent shall have consented in writing to such payment or settlement offer.

4.4 Exchange of Certificates

(a) At the Effective Time: (a) all shares of Company Common Stock and Company Preferred Stock outstanding immediately prior to the Effective Time shall automatically be canceled and retired and shall cease to exist, and all holders of certificates representing shares of Company Common Stock and Company Preferred Stock that were outstanding immediately prior to the Effective Time shall cease to have any rights as shareholders of the Company; and (b) the stock transfer books of the Company shall be closed with respect to all shares of Company Common Stock and Company Preferred Stock outstanding immediately prior to the Effective Time. No further transfer of any such shares of Company Common Stock and Company Preferred Stock shall be made on such stock transfer books after the Effective Time. If, after the Effective Time, a valid certificate previously representing any shares of Company Common Stock and Company Preferred Stock outstanding immediately prior to the Effective Time (a "**Company Stock Certificate**") is presented to the Payment Agent (as defined below) or to the Surviving Corporation or Parent, such Company Stock Certificate shall be canceled and shall be exchanged as provided in this Section 4.4.

(b) On or prior to the date of this Merger Agreement, Parent shall select a ~~reputable bank or trust company to act as payment agent in the Merger (the "Payment Agent").~~ Within one business day after the Effective Time, Parent shall deposit with the Payment Agent cash sufficient to pay the cash consideration payable pursuant to Section 4.1, subject to Section 4.1(b) and Section 4.19(c) hereof. The cash amount so deposited with the Payment Agent is referred to as the "Payment Fund." The Payment Agent will invest the funds included in the Payment Fund in the manner directed by Parent. Any interest or other income resulting from the investment of such funds shall be the property of, and will be paid promptly to, Parent.

(c) Within five business days after the Effective Time, the Payment Agent will mail to record holders of Company Stock Certificates immediately prior to the Effective Time: (i) a letter of transmittal in customary form containing such provisions as Parent or the Payment Agent may reasonably specify (including a provision confirming that delivery of Company Stock Certificates shall be effected, and risk of loss and title to Company Stock Certificates shall pass, only upon delivery of such Company Stock Certificates to the Payment Agent); and (ii) instructions for use in effecting the surrender of Company Stock Certificates in exchange for Merger Consideration. Upon surrender of a Company Stock Certificate to the Payment Agent for exchange, together with a duly executed letter of transmittal and such other documents as may be reasonably required by the Payment Agent or Parent: (A) the holder of such Company Stock Certificate shall be entitled to receive in exchange therefor the dollar amount that such holder has the right to receive pursuant to the provisions of Section 4.1, together with any additional amounts that may become payable pursuant to Section 4.2; and (B) the Company Stock Certificate so surrendered shall be canceled. Until surrendered as contemplated by this Section 4.4(c), each Company Stock Certificate shall be deemed, from and after the Effective Time, to represent only the right to receive Merger Consideration as contemplated by Section 4.1, together with any additional amounts that may become payable pursuant to Section 4.2. If any Company Stock Certificate shall have been lost, stolen or destroyed, Parent or the Payment Agent may, in its discretion and as a condition precedent to the payment of any Merger Consideration with respect to the shares of Company Common Stock and Company Preferred Stock previously represented by such Company Stock Certificate, require the owner of such lost, stolen or destroyed Company Stock Certificate to provide a customary affidavit and indemnity agreement as indemnity against any claim that may be made against the Payment Agent, Parent or the Surviving Corporation with respect to such Company Stock Certificate.

(d) Any portion of the Payment Fund that remains undistributed to holders of Company Stock Certificates as of the date one year after the date of this Merger Agreement shall be delivered to Parent upon demand, and any holders of Company Stock Certificates who have not theretofore surrendered their Company Stock Certificates in accordance with this Section 4.4 shall thereafter look only to Parent for satisfaction of their claims for Merger Consideration.

(e) Each of the Payment Agent, Parent and the Surviving Corporation shall be entitled to deduct and withhold from any consideration payable to any holder of any Company Stock Certificate (in his or her capacity as a holder of Company Common Stock and/or Company Preferred Stock) such amounts as are required to be deducted or withheld from such consideration under the Internal Revenue Code of 1986, as amended, or any provision of state, local or foreign tax law or under any other applicable legal requirement. To the extent such

amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Merger Agreement as having been paid to the person to whom such amounts would otherwise have been paid.

(f) Neither Parent nor the Surviving Corporation shall be liable to any holder of any Company Stock Certificate or to any other person with respect to any Merger Consideration delivered to any public official pursuant to any applicable abandoned property law, escheat law or similar legal requirement.

ARTICLE 5

TERMINATION

5.1 Termination by Mutual Agreement. Notwithstanding the approval of this Merger Agreement by the shareholders of the Company, this Merger Agreement may be terminated at any time prior to the Effective Time by mutual agreement of the Boards of Directors of the Constituent Corporations.

5.2 Termination of Reorganization Agreement. Notwithstanding the approval of this Merger Agreement by the shareholders of the Company, this Merger Agreement shall terminate forthwith if the Reorganization Agreement is terminated as provided in Section 8 thereof.

5.3 Effects of Termination. In the event of the termination of this Merger Agreement, this Merger Agreement shall become void and there shall be no liability on the part of either Company or Merger Sub or their respective officers or directors, except as otherwise provided in Section 8.3 of the Reorganization Agreement.

ARTICLE 6

GENERAL PROVISIONS

6.1 Amendment. This Merger Agreement may be amended by the parties hereto any time before or after approval hereof by the shareholders of the Company, but after such approval, no amendment shall be made that by law requires 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.

6.2 Counterparts. This Merger Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one agreement.

6.3 Governing Law. This Merger Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

FROM : VIRTIO CORP

FAX NO. : 408 341 0849

May. 11 2006 10:07AM P4

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

VIRTIO CORPORATION

By: Sh
Name: Shay Ben-Chorin
Title: President

By: _____
Name: Matthew P. Quilter, Esq.
Title: Secretary

VENTURA ACQUISITION SUB, INC.

By: _____
Name: Robert G. Specker
Title: President and Secretary

AGREEMENT OF MERGER

22178/00600/DOCS/182571.1

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

VIRTIO CORPORATION

By: _____
Name: Shay Ben-Chorin
Title: President

By: Matthew P. Quilter
Name: Matthew P. Quilter, Esq.
Title: Secretary

VENTURA ACQUISITION SUB, INC.

By: _____
Name: Robert G. Specker
Title: President and Secretary

AGREEMENT OF MERGER

22178/00600/DOCS/1622571.1

PATENT
REEL: 018430 FRAME: 0936

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

VIRTIO CORPORATION

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Name: Shay Ben-Chorin
Title: President

By: _____
Name: Matthew P. Quilter, Esq.
Title: Secretary

VENTURA ACQUISITION SUB, INC.

By: Robert G. Specker
Name: Robert G. Specker
Title: President and Secretary