

09-22-1999

FORM PTO-1594

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U.S. DEPARTMENT OF COMMERCE

(Rev. 6-93)

9-20 99

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Patent and Trademark Office

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

1. Name of conveying party(ies): 1999 SEP 20 AM 9:27  
PipeLinks, Inc. OPR/FINANCE

: Individual(s) : Association  
 : General Partnership : Limited Partnership  
 X Corporation-State (California)  
 : Other \_\_\_\_\_  
 Additional name(s) of conveying party(ies) attached? : Yes X  
 No

3. Nature of conveyance:  
 : Assignment X Merger  
 : Security Agreement : Change of Name  
 : Other \_\_\_\_\_

Execution Date: December 1, 1998

2. Name and address of receiving party(ies):  
 Name: Cisco Systems, Inc.  
 Internal Address: \_\_\_\_\_  
 Street Address: 170 West Tasman Drive  
 City: San Jose State: CA ZIP 95134

: Individual(s) citizenship \_\_\_\_\_  
 : Association \_\_\_\_\_  
 : General Partnership \_\_\_\_\_  
 : Limited Partnership \_\_\_\_\_  
 X Corporation-State California  
 : Other \_\_\_\_\_

If assignee is not domiciled in the United States, a domestic representative designation is attached: : Yes : No  
 (Designation must be a separate document from Assignment).  
 Additional name(s) & address(es) attached? : Yes : No

4. Application number(s) or registration number(s):  
 A. Trademark Application No.(s)  
75/465393; 75/465387; 75/471035; 75/472048; 75/497053  
 Additional numbers attached? : Yes X No

B. Trademark Registration No.(s) None.

5. Name and address of party to whom correspondence concerning document should be mailed:  
 Name: Cooley Godward LLP  
 Internal Address: Attn: Todd S. Bontemps, Esq.  
 Street Address: 5 Palo Alto Square  
3000 El Camino Real  
 City: Palo Alto State: CA ZIP 94306-2155

6. Total number of applications and registrations involved: Five (5)

7. Total fee (37 CFR 3.41):..... \$ 140.00  
 X Enclosed  
 : Authorized to be charged to deposit account

8. Deposit account number:  
03-3118 (for any underpayment or credit of any overpayment)  
 (Attach duplicate copy of this page if paying by deposit account)

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.*

Todd S. Bontemps 9-12-99  
 Signature Date

Total number of pages including cover sheet, attachments, and document: 8

Mail documents to be recorded with required cover sheet information to: Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

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02 FC:462 100.00 OP

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REEL: 001962 FRAME: 0146

# AGREEMENT AND PLAN OF REORGANIZATION

This AGREEMENT AND PLAN OF REORGANIZATION (the "Agreement") is made and entered into as of December 1, 1998, by and between Cisco Systems, Inc., a California corporation ("Acquiror"), and PipeLinks, Inc., a California corporation ("Target").

## RECITALS

- A. Target, certain Securityholders of Target and Acquiror have entered into that certain Option Agreement dated June 15, 1998, as amended (the "Purchase Option Agreement"). This Agreement is being executed and delivered as a result of the conditions set forth in such Option Agreement being satisfied.
- B. The Boards of Directors of Target and Acquiror believe it is in the best interests of their respective companies and the shareholders of their respective companies that Target and Acquiror combine into a single company through the statutory merger of Target with and into Acquiror (the "Merger") and, in furtherance thereof, have approved the Merger.
- C. Pursuant to the Merger, among other things, each outstanding share of capital stock of Target ("Target Capital Stock") shall be converted into shares of common stock of Acquiror ("Acquiror Common Stock"), at the rate set forth herein.
- D. Target and Acquiror desire to make certain representations and warranties and other agreements in connection with the Merger.
- E. The parties intend, by executing this Agreement, to adopt a plan of reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"), and to cause the Merger to qualify as a reorganization under the provisions of Section 368(a)(1)(A) of the Code.
- F. As an inducement to Acquiror to enter into this Agreement, shareholders, officers and directors of Target have previously entered into an agreement to vote the shares of Target's Capital Stock owned by such person to approve the Merger and against any competing proposals.

NOW, THEREFORE, in consideration of the covenants and representations set forth herein, and for other good and valuable consideration, the parties agree as follows:

## ARTICLE I THE MERGER

1.1 The Merger. At the Effective Time (as defined in Section 1.2) and subject to and upon the terms and conditions of this Agreement, the Agreement of Merger attached hereto as Exhibit A (the "Agreement of Merger") and the applicable provisions of the California Corporations Code ("California Law"), Target shall be merged with and into Acquiror, the separate corporate existence of Target shall cease and Acquiror shall continue as the surviving corporation.

Acquiror as the surviving corporation after the Merger is hereinafter sometimes referred to as the "Surviving Corporation."

1.2 Closing; Effective Time. The closing of the transactions contemplated hereby (the "Closing") shall take place as soon as practicable after the satisfaction or waiver of each of the conditions set forth in Article VI hereof or at such other time as the parties hereto agree (the "Closing Date"). The Closing shall take place at the offices of Brobeck, Phleger & Harrison LLP, Two Embarcadero Place, 2200 Geng Road, Palo Alto, California, or at such other location as the parties hereto agree. In connection with the Closing, the parties hereto shall cause the Merger to be consummated by filing the Agreement of Merger, together with the required officers' certificates, with the Secretary of State of the State of California, in accordance with the relevant provisions of California Law (the time of such filing being the "Effective Time").

1.3 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement, the Agreement of Merger and 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 Target shall vest in the Surviving Corporation, and all debts, liabilities and duties of Target shall become the debts, liabilities and duties of the Surviving Corporation.

1.4 Articles of Incorporation; Bylaws.

(a) At the Effective Time, the Articles of Incorporation of Acquiror, as in effect immediately prior to the Effective Time, shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended as provided by California Law and such Articles of Incorporation.

(b) The Bylaws of Acquiror, as in effect immediately prior to the Effective Time, shall be the Bylaws of the Surviving Corporation until thereafter amended.

1.5 Directors and Officers. At the Effective Time, the directors of Acquiror, as in effect immediately prior to the Effective Time, shall be the directors of the Surviving Corporation, until their respective successors are duly elected or appointed and qualified. The officers of Acquiror, as in effect immediately prior to the Effective Time, shall be the officers of the Surviving Corporation, until their respective successors are duly elected or appointed and qualified.

1.6 Effect on Capital Stock. By virtue of the Merger and without any action on the part of Acquiror, Target or the holders of any of Target's securities:

(a) Conversion of Target Capital Stock. The maximum number of shares of Acquiror Common Stock to be issued (including Acquiror Common Stock to be reserved for issuance upon exercise of options to purchase shares of Target Common Stock ("Target Options") assumed by Acquiror) in exchange for the acquisition by Acquiror of all outstanding Target Capital Stock (including any Target Capital Stock owned by Acquiror) and all unexpired, unexercised and outstanding options to acquire Target Capital Stock shall be equal to that number of shares determined by dividing \$179,845,000 by the average of the closing prices for a share of Acquiror Common Stock as quoted on the Nasdaq National Market for the ten (10) trading days immediately preceding and ending on the trading day that is three (3) calendar days

are in full force and effect, except where the failure to obtain or have any such Target Authorizations could not reasonably be expected to have a Material Adverse Effect on Target.

**2.10 Title to Property.** Target and its subsidiaries have good and marketable title to all of their respective properties, interests in properties and assets, real and personal, reflected in the Target Balance Sheet or acquired after the Target Balance Sheet Date (except properties, interests in properties and assets sold or otherwise disposed of since the Target Balance Sheet Date in the ordinary course of business), or with respect to leased properties and assets, valid leasehold interests in, free and clear of all mortgages, liens, pledges, charges or encumbrances of any kind or character, except (i) the lien of current taxes not yet due and payable, (ii) such imperfections of title, liens and easements as do not and will not materially detract from or interfere with the use of the properties subject thereto or affected thereby, or otherwise materially impair business operations involving such properties and (iii) liens securing debt which is reflected on the Target Balance Sheet. The plants, property and equipment of Target and its subsidiaries that are used in the operations of their businesses are in good operating condition and repair, subject to normal wear and tear. All properties used in the operations of Target and its subsidiaries are reflected in the Target Balance Sheet to the extent generally accepted accounting principles require the same to be reflected. Schedule 2.10 identifies each parcel of real property owned or leased by Target or any of its subsidiaries.

**2.11 Intellectual Property.**

(a) Target and its subsidiaries own, or are licensed or otherwise possess legally enforceable rights to use all patents, trademarks, trade names, service marks, copyrights, and any applications therefor, maskworks, net lists, schematics, technology, know-how, trade secrets, inventory, ideas, algorithms, processes, computer software programs or applications (in source code and/or object code form), and tangible or intangible proprietary information or material (“Intellectual Property”) that are used or proposed to be used in the business of Target and its subsidiaries as currently conducted or as proposed to be conducted by Target and its subsidiaries. Target has not (i) licensed any of its Intellectual Property in source code form to any party or (ii) entered into any exclusive agreements relating to its Intellectual Property with any party.

(b) Schedule 2.11 lists (i) all patents and patent applications and all registered and unregistered trademarks, trade names and service marks, registered and unregistered copyrights, and maskworks, included in the Intellectual Property, including the jurisdictions in which each such Intellectual Property right has been issued or registered or in which any application for such issuance and registration has been filed, (ii) all licenses, sublicenses and other agreements as to which Target is a party and pursuant to which any person is authorized to use any Intellectual Property, and (iii) all licenses, sublicenses and other agreements as to which Target is a party and pursuant to which Target is authorized to use any third party patents, trademarks or copyrights, including software (“Third Party Intellectual Property Rights”) which are incorporated in, are, or form a part of any Target product.

(c) There is no unauthorized use, disclosure, infringement or misappropriation of any Intellectual Property rights of Target or any of its subsidiaries, or any Intellectual Property right of any third party to the extent licensed by or through Target or any of its subsidiaries, by

any third party, including any employee or former employee of Target or any of its subsidiaries. Neither Target nor any of its subsidiaries has entered into any agreement to indemnify any other person against any charge of infringement of any Intellectual Property, other than indemnification provisions contained in purchase orders or license agreements arising in the ordinary course of business.

(d) Target is not, nor will it be as a result of the execution and delivery of this Agreement or the performance of its obligations under this Agreement, in breach of any license, sublicense or other agreement relating to the Intellectual Property or Third Party Intellectual Property Rights.

(e) All patents, registered trademarks, service marks and copyrights held by Target are valid and subsisting. Target (i) has not been sued in any suit, action or proceeding which involves a claim of infringement of any patents, trademarks, service marks, copyrights or violation of any trade secret or other proprietary right of any third party; (ii) has no knowledge that the manufacturing, marketing, licensing or sale of its products infringes any patent, trademark, service mark, copyright, trade secret or other proprietary right of any third party and (iii) has not brought any action, suit or proceeding for infringement of Intellectual Property or breach of any license or agreement involving Intellectual Property against any third party.

(f) Target has secured valid written assignments from all consultants and employees who contributed to the creation or development of Intellectual Property of the rights to such contributions that Target does not already own by operation of law.

(g) Target has taken all necessary and appropriate steps to protect and preserve the confidentiality of all Intellectual Property not otherwise protected by patents, patent applications or copyright ("Confidential Information"). All use, disclosure or appropriation of Confidential Information owned by Target by or to a third party has been pursuant to the terms of a written agreement between Target and such third party. All use, disclosure or appropriation of Confidential Information not owned by Target has been pursuant to the terms of a written agreement between Target and the owner of such Confidential Information, or is otherwise lawful.

## 2.12 Environmental Matters.


(a) The following terms shall be defined as follows:

(i) "Environmental and Safety Laws" shall mean any federal, state or local laws, ordinances, codes, regulations, rules, policies and orders that are intended to assure the protection of the environment, or that classify, regulate, call for the remediation of, require reporting with respect to, or list or define air, water, groundwater, solid waste, hazardous or toxic substances, materials, wastes, pollutants or contaminants, or which are intended to assure the safety of employees, workers or other persons, including the public.

(ii) "Hazardous Materials" shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant, or infectious or radioactive substance or material, including without limitation, those substances, materials and wastes defined in or regulated under any Environmental and Safety Laws.

IN WITNESS WHEREOF, Target and Acquiror have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized, all as of the date first written above.

TARGET

By:   
Name: AMIT PARIKH  
Title: CFO

ACQUIROR

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION]

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ERROR: BOOKMARK NOT DEFINED.

IN WITNESS WHEREOF, Target and Acquiror have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized, all as of the date first written above.

TARGET

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ACQUIROR

By: Judith Estrin  
Name: Judith Estrin  
Title: Senior VP, Business Development  
& Chief Technology Officer

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION]

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REEL: 001962 FRAME: 0152

Schedule 2.11

Intellectual Property

(i) The status of PipeLinks' pending trademark protections are as follows:

<u>Mark</u>	<u>Application Number</u>	<u>Class</u>	<u>Filing Date</u>
PARKWAY 2000	75/465393	US Class 9	4/9/98
CENTRALWAY	75/465387	US Class 9	4/9/98
VISIONWAY	75/471035	US Class 9	4/20/98
RACEWAY	75/472048	US Class 9	4/22/98
SERVICEWAY	75/497053	US Class 9	6/5/98

(ii)

REDACTED

(iii)