

11-12-99

11-22-1999



101207457

FORM PTO-1594
(Rev. 6-93)

COVER SHEET
BY

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

<p>1. Name of conveying party(ies): <u>TransMedia Communications, Inc.</u></p> <p>: Individual(s) : Association</p> <p>: General Partnership : Limited Partnership</p> <p>X Corporation-State <u>Delaware</u></p> <p>: Other _____</p> <p>Additional name(s) of conveying parties attached? Yes X No</p> <hr/> <p>3. Nature of conveyance:</p> <p>: Assignment X Merger</p> <p>: Security Agreement : Change of Name</p> <p>: Other _____</p> <p>Execution Date: <u>June 16, 1999</u></p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <u>Cisco Systems, Inc.</u></p> <p>Internal Address: _____</p> <p>Street Address: <u>170 West Tasman Drive</u></p> <p>City: <u>San Jose</u> State: <u>CA</u> ZIP <u>95134</u></p> <p>: Individual(s) citizenship _____</p> <p>: Association _____</p> <p>: General Partnership _____</p> <p>: Limited Partnership _____</p> <p>X Corporation-State <u>California</u></p> <p>: Other _____</p> <p>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).</p> <p>Additional name(s) & address(es) attached? : Yes : No</p>
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<p>4. Application number(s) or registration number(s):</p> <p>A. Trademark Application No.(s): <u>See attached.</u></p>	<p>B. Trademark Registration No.(s): <u>None</u></p>
<p>Additional numbers attached? : X Yes No</p>	

<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: <u>Cooley Godward LLP</u></p> <p>Internal Address: <u>Todd S. Bontemps, Esq.</u></p> <p>Street Address: <u>5 Palo Alto Square</u> <u>3000 El Camino Real</u></p> <p>City: <u>Palo Alto</u> State: <u>CA</u> ZIP <u>94306-2155</u></p>	<p>6. Total number of applications and registrations involved: <u>22</u></p> <p>7. Total fee (37 CFR 3.41):..... \$ <u>590.00</u></p> <p>X Enclosed</p> <p>X Authorized to be charged to deposit account (for any deficiency or credit of any overpayment)</p> <p>8. Deposit account number: <u>03-3118</u></p> <p>Attach duplicate copy of this page if paying by deposit account</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.



 Todd S. Bontemps, Esq.

 Date

Total number of pages including cover sheet, attachments, and document: **11**

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

11/23/1999 DNGUYEN 00000117 75640787

01 FC:481	40.00 OP
02 FC:482	525.00 OP
03 FC:998	25.00 OP

Schedule of Trademarks

Mark	Country	App. No./Date	Class
MMS-100	US	75/640,787 02/13/99	9
MMS-100	US	75/640,784 02/13/99	38
MMS-10000	US	75/638,958 02/13/99	9
MMS-10000	US	75/640,769 02/13/99	38
MMS-1600	US	75/640,770 02/13/99	9
MMS-1600	US	75/640,766 02/13/99	38
MMS-800	US	75/640,777 02/13/99	9
MMS-800	US	75/640,788 02/13/99	38
MULTIMEDIA CALL SERVER	US	75/637,067 02/09/99	9
MULTIMEDIA CALL SERVER	US	75/637,066 02/09/99	38
MULTIMEDIA CONTROL SERVER	US	75/637,069 02/09/99	9
MULTIMEDIA CONTROL SERVER	US	75/637,068 02/09/99	38
MULTIPATH DATA	US	75/640,786 02/13/99	9
MULTIPATH DATA	US	75/638,954 02/13/99	38
MULTIPATH VOICE	US	75/640,750 02/13/99	9
MULTIPATH VOICE	US	75/640,776 02/13/99	38
TRANSMEDIA	US	75/592,277 11/19/98	9
TRANSMEDIA	US	75/592,278 11/19/98	42
VIRTUAL SERVICE NODE	US	75/637,065 02/09/99	9
VIRTUAL SERVICE NODE	US	75/639,699 02/09/99	38
WEBVIEWER	US	75/638,957	9

Schedule of Trademarks

Mark	Country	App. No./Date	Class
		02/13/99	
WEBVIEWER	US	75/640,773 02/13/99	38

AGREEMENT AND PLAN OF REORGANIZATION

This AGREEMENT AND PLAN OF REORGANIZATION (this "Agreement") is made and entered into as of June 16, 1999, by and between Cisco Systems, Inc., a California corporation ("Acquiror"), and TransMedia Communications, Inc., a Delaware corporation ("Target").

RECITALS

A. 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.

B. 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.

C. Target and Acquiror desire to make certain representations, warranties, covenants and other agreements in connection with the Merger.

D. 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 Sections 368(a) of the Code.

E. The parties intend that for financial accounting purposes the Merger shall be accounted for as a pooling-of-interests.

F. As an inducement to Acquiror to enter into this Agreement, certain of the shareholders 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.

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") and the Delaware General Corporation Law ("Delaware 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 Delaware and the Secretary of State of the State of California, in accordance with the relevant provisions of Delaware Law and California Law (the time of such filing with the Secretary of State of California 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 and unexercised outstanding options to acquire Target Capital Stock shall be equal to (i) 3,500,000 shares of Acquiror Common Stock if the average of the closing prices for a share of Acquiror Common Stock as quoted on the Nasdaq Stock Market for the ten (10) trading days immediately preceding and ending on the trading day that is three (3) calendar days prior to the Closing Date (the "Acquiror Stock Price") is at least \$99.143 per share but not more than \$120.857 per share; or (ii) if the Acquiror Stock Price is less than \$99.143 per share, then that number of shares of Acquiror Common Stock obtained by dividing \$347 million by the Acquiror

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, inventions, 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 Third Party Intellectual Property Rights, 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 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. The manufacturing, marketing, licensing or sale of Target's products do not infringe any patent, trademark, service mark, copyright, trade secret or other proprietary right of any third party. Target 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.

(iii) "Property" shall mean all real property leased or owned by Target or its subsidiaries either currently or in the past.

(iv) "Facilities" shall mean all buildings and improvements on the Property of Target or its subsidiaries.

Schedule 2.11
Intellectual Property

i. List of all patents, patent applications, trademarks, trade names and service marks, registered and unregistered copyrights and maskworks (including jurisdiction in which rights have been issued).

1. **Patents**

None.

2. **Provisional Patent Applications**

[See attached list]

3. **Trademarks**

The Company has filed Federal Trademark Applications for all trademarks on the attached list. [See attached list]

4. **Unregistered Trademarks**

None

5. **Tradenames/Service Marks**

None

6. **Registered Copyrights**

None

7. **Works in which the Company claims a copyright interest**

The Company claims a copyright interest in the software code, graphics, written documentation and other copyrightable materials created by the Company.

8. **Maskworks**

None

ii. Licenses, sublicenses and other agreements under which a third party has a right to use any intellectual property of the Company.

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.

TRANSMEDIA COMMUNICATIONS, INC.

By: [Signature]
Name: _____
Title: _____

CISCO SYSTEMS, INC.

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION]

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.

TRANSMEDIA COMMUNICATIONS, INC.

By: _____
Name: _____
Title: _____

CISCO SYSTEMS, INC.

By: *Judith Estun* _____
Name: _____
Title: _____

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION]

TransMedia Communications, Inc.

Trademarks

- Multipath Voice in Class 38
- Multipath Voice in Class 9
- MMS-1600 in Class 38
- MMS-1600 in Class 9
- MMS-10000 in Class 9
- MMS-10000 in Class 38
- Webviewer in Class 9
- Webviewer in Class 38
- Multipath Data in Class 38
- Multipath Data in Class 9
- MMS-100 in Class 9
- MMS-100 in Class 38
- MMS-800 in Class 9
- MMS-800 in Class 38
- Virtual Service Node in Class 9
- Virtual Service Node in Class 38
- Multimedia Control Server in Class 9
- Multimedia Control Server in Class 38
- Multimedia Call Server in Class 9
- Multimedia Call Server in Class 38
- Transmedia in International Class 9
- Transmedia in International Class 38

Cooley Godward LLP

ATTORNEYS AT LAW

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425 893-7700
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650 843-5100
Reston, VA
703 262-8000
San Diego, CA
858 550-6000
San Francisco, CA
415 693-2000

www.cooley.com

TODD S. BONTEMPS
650 843-5490
bontempsts@cooley.com

November 12, 1999

VIA EXPRESS MAIL

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

**Re: Assignment of Trademark Applications
Our File: Cisco Systems, Inc. Assignments**

Dear Commissioner:

Enclosed is a Recordation Cover Sheet with enclosure to record the assignment of twenty-two (22) trademark applications from TransMedia Communications, Inc. to Cisco Systems, Inc.

Also enclosed is a check for the \$590.00 fee to record the assignment of twenty-two (22) trademarks. Please charge any underpayment, or credit any overpayment, to Deposit Account 03-3118. Thank you.

Very truly yours,

COOLEY GODWARD LLP

Todd S. Bontemps

TSB:cpl

Enclosures

cc: Tanya Khachiyan
Janet L. Cullum, Esq.

Certificate of Mailing #: <u>EM570129569US</u>
I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, postage prepaid, to Addressee in an envelope addressed to: Assistant Commissioner For Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3543.
<u>Todd S. Bontemps</u> (Date)
<u>11/12/99</u> (Name)

TRADEMARK
REEL: 001990 FRAME: 0962

Cooley Godward LLP

ATTORNEYS AT LAW

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858 550-6000
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650 843-5490
bontempsts@cooley.com

November 12, 1999

VIA EXPRESS MAIL

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

**Re: Assignment of Trademark Applications
Our File: Cisco Systems, Inc. Assignments**

Dear Commissioner:

Enclosed is a Recordation Cover Sheet with enclosure to record the assignment of twenty-two (22) trademark applications from TransMedia Communications, Inc. to Cisco Systems, Inc.

Also enclosed is a check for the \$590.00 fee to record the assignment of twenty-two (22) trademarks. Please charge any underpayment, or credit any overpayment, to Deposit Account 03-3118. Thank you.

Very truly yours,

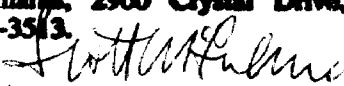
COOLEY GODWARD LLP

Todd S. Bontemps

TSB:cpl

Enclosures

cc: Tanya Khachiyan
Janet L. Cullum, Esq.

Certificate of Mailing #: EM570129569US
I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, postage prepaid, to Addressee in an envelope addressed to: Assistant Commissioner For Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.
 (Date)
11/12/99 (Name)