

07-17-2000



FORM PTO - 1618A
Expires 06/30/99
OMB 0651-0027

101405463
6-15-00

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

**RECORDATION FORM COVER SHEET
TRADEMARKS ONLY**

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
- Document ID #
- Correction of PTO Error
- Reel # Frame #
- Corrective Document
- Reel # Frame #

Conveyance Type

- Assignment
- Security Agreement
- License
- Nunc Pro Tunc Assignment
- Effective Date: _____
Month Day Year
- Merger 05012000
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Name Execution Date _____
Month Day Year 05012000

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

Individual General Partnership Limited Partnership If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Corporation Association

Other

Citizenship/State of Incorporation/Organization

07/14/2000 85COTT 00000212 75742044

01 FC:481 40.00 OP
02 FC:488 25.00 OP

FOR OFFICE USE ONLY

The burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB information Collection Budget package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name **THOMAS H. ZELLERBACH**
Address (line 1) **ORRICK, HERRINGTON & SUTCLIFFE**
Address (line 2) **1020 MARSH ROAD**
Address (line 3) **MENLO PARK, CA 94025**
Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number **(650) 614-7400**

Name **THOMAS H. ZELLERBACH AND SUSAN L. SMITH**
Address (line 1) **ORRICK, HERRINGTON & SUTCLIFFE**
Address (line 2) **1020 MARSH ROAD**
Address (line 3) **MENLO PARK, CA 94025**
Address (line 4)

Pages Enter the total number of pages of the attached conveyance document including any attachments #

Trademark Application Number(s) or Registration Number(s) Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)			Registration Number(s)		
<input type="text" value="75742044"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1725340"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties Enter the total number of properties involved. # **2**

Fee Amount Fee Amount for Properties Listed (37 CFR 3.41): \$ **65.00**

Method of Payment: Enclosed Deposit Account

Deposit Account
(Enter for payment by deposit or if additional fees can be charged to the account.)

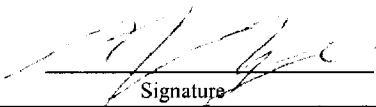
Deposit Account Number: # **15-0665**

Authorization to charge additional fees: Yes No

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. Charges to deposit account are authorized, as indicated herein.

THOMAS H. ZELLERBACH
Name of Person Signing


Signature

June 15, 2000
Date Signed

AGREEMENT OF MERGER

This Agreement of Merger, dated as of May 1, 2000 (this "Agreement"), is made and entered into by SERENA Software, Inc., a Delaware corporation ("SERENA"), and High Power Software, Inc., a California corporation ("Company" or "HPS"). HPS and SERENA are herein collectively referred to as the "Constituent Corporations."

RECITALS

A. Concurrently with the execution of this Agreement, the Constituent Corporations and the shareholders of HPS have entered into an Agreement and Plan of Reorganization dated as of May 1, 2000 (the "Agreement and Plan of Reorganization") providing for certain representations, warranties and agreements in connection with the transactions contemplated thereby. Unless otherwise defined herein, capitalized terms shall have the terms defined for them in the Agreement and Plan of Reorganization.

B. The Boards of Directors of the Constituent Corporations deem it advisable and in the best interests of the Constituent Corporations and in the best interests of the shareholders of the Constituent Corporations that HPS be acquired by SERENA through a merger of HPS with and into SERENA (the "Merger").

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I THE CONSTITUENT CORPORATIONS

1.1 Capitalization of HPS. HPS was incorporated under the laws of the State of California on February 19, 1988. HPS is authorized to issue an aggregate of 100,000 shares of its capital stock, without par value (the "HPS Common"). On the date hereof, an aggregate of 100 shares of HPS Common were issued and outstanding.

1.2 Capitalization of SERENA. SERENA was incorporated under the laws of the State of Delaware on January 22, 1999. SERENA is authorized to issue an aggregate of 60,000,000 shares of its common stock, \$.001 par value (the "SERENA Common") and 5,000,000 shares of its Preferred Stock, \$.001 par value (the "SERENA Preferred"). On the date hereof, an aggregate of 39,276,394 shares of SERENA Common were issued and outstanding, and no shares of SERENA Preferred were issued and outstanding.

ARTICLE II THE MERGER

2.1 Effective Time. The Merger shall become effective at such time (the "Effective Time") as a Certificate of Merger is filed with the Secretary of State of the State of Delaware.

2.2 The Merger. At the Effective Time, HPS shall be merged with and into SERENA and the separate corporate existence of HPS shall thereupon cease. SERENA shall sometimes be referred to as "Surviving Corporation." The Certificate of Incorporation and Bylaws of SERENA in effect prior to the Effective Date of the Merger shall continue in full force and effect as the Certificate of Incorporation and Bylaws of the Surviving Corporation.

2.3 Effects of the Merger. SERENA shall succeed to all of the property, rights, privileges, powers and franchises of HPS, all of the assets of HPS and all of the debts, liabilities and duties of HPS and shall be subject to, and responsible for, all of the debts, liabilities and obligations of HPS with the effects set forth in the Delaware General Corporation Law.

2.4 Further Actions. If, at any time after the Effective Time, SERENA shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in SERENA its right, title or interest in, to or under any of the rights, properties or assets of HPS acquired or to be acquired by SERENA as a result of, or in connection with, the Merger or to otherwise carry out this Agreement, the officers and directors of SERENA shall and will be authorized to execute and deliver, in the name and on behalf of the Constituent Corporations or otherwise, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of the Constituent Corporations or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in SERENA or to otherwise carry out the transactions contemplated by this Agreement.

ARTICLE III
MANNER AND BASIS OF CONVERTING SHARES
OF THE CONSTITUENT CORPORATIONS

3.1 Effect on Capital Stock. Subject to the terms and conditions of this Agreement, as of the Effective Time, by virtue of the Merger and without any action on the part of SERENA, the Company, or the holder of any shares of the Company Capital Stock, the following shall occur:

(a) Conversion of Company Capital Stock. Other than shares to be canceled pursuant to Section 3.1(c) and fractional shares, if any, as provided in Section 3.1(d), each share of Common Stock of the Company ("Company Common Stock") issued and outstanding immediately prior to the Effective Time will be canceled and extinguished and will be converted automatically, without any action on the part of the holder thereof, into the right to receive, upon surrender in the manner provided in Section 3.2 hereof of the certificate(s) representing such shares of Company Common Stock, (i) \$19,380.00 in cash, payable in cash or by wire transfer (the "Cash Payment"), and (ii) 919.54 shares of SERENA Common Stock.

(b) Escrow Shares. Of the aggregate SERENA Common Stock, 18,106 shares (the "Escrow Shares") shall be subject to the Escrow Agreement as collateral for the indemnification obligations of the Shareholders under Article VIII of the Agreement and Plan of Reorganization (the "Escrow Fund").

(c) Cancellation of SERENA-Owned and Company-Owned Stock. Each share of Company Capital Stock owned by SERENA, the Company or any direct or indirect wholly-owned subsidiary of SERENA immediately prior to the Effective Time shall be canceled and extinguished without any conversion thereof, and no stock of SERENA or other consideration shall be delivered in exchange therefor.

(d) Fractional Shares. No fraction of a share of SERENA Common Stock will be issued in connection with the Merger. In lieu thereof, the number of shares of SERENA Common Stock issuable under this Section 3.1 shall be rounded up to the nearest whole number of shares.

(e) No Effect. The merger will have no effect upon the shares of SERENA.

3.2 Exchange Procedures.

(a) Surrender of Certificates for Company Common Stock. At the Closing, each Shareholder shall deliver or cause to be delivered to SERENA all certificates representing the shares of Company Capital Stock held by such Shareholder, duly endorsed or accompanied by stock powers duly endorsed in blank, with any required transfer stamps affixed thereto.

(b) Delivery of Certificates for SERENA Common Stock. Subject to delivery of the certificates representing the shares of Company Common Stock held by the Shareholders, SERENA shall promptly following the closing deliver to the Shareholders the Cash Payment in accordance with Section 3.1(a) and a certificate, registered in such Shareholder's name, representing the number of shares of SERENA Common Stock to be issued to such Shareholder in connection with the Merger (less the number of shares of SERENA Common Stock to be deposited in the Escrow Fund on behalf of the Shareholders). As soon as practicable after the Effective Time, and subject to and in accordance with the provisions of the Escrow Agreement, SERENA shall cause to be deposited with the Exchange Agent a certificate or certificates representing the Escrow Shares, which shall be registered in the name of the Escrow Agent. Such shares shall be beneficially owned by the holders on whose behalf such shares were deposited in the Escrow Fund and shall be available to compensate SERENA as provided in Article VIII hereof and in the Escrow Agreement.

3.3 No Liability. Notwithstanding anything to the contrary in this Agreement, neither the Exchange Agent or any party hereto shall be liable to a holder of shares of SERENA Common Stock for any amount properly paid to a public official pursuant to any applicable abandoned property, escheat, or similar law.

3.4 No Further Ownership Rights in Company Common Stock. All Cash Payments and shares of SERENA Common Stock issued upon the surrender for exchange of shares of Company Common Stock in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of Company Common Stock, and there shall be no further registration of transfers on the records of SERENA of shares of Company Capital Stock which were outstanding immediately prior to the Effective Time. If, after the Effective Time, certificates are presented by the Shareholders to SERENA for any reason, they shall be canceled and exchanged as provided in this Article III.

3.5 Lost, Stolen or Destroyed Certificates. In the event any certificate of the Shareholders evidencing shares of Company Capital Stock shall have been lost, stolen, or destroyed, SERENA shall issue in exchange for such lost, stolen or destroyed certificate, upon the making of an affidavit of that fact by the holder thereof, such shares of SERENA Common Stock as may be required pursuant to Section 4.1; provided, however, that SERENA may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate to deliver a bond in such sum as it may reasonably direct as indemnity against any claim that may be made against SERENA with respect to the certificate alleged to have been lost, stolen or destroyed.

3.6 Tax and Accounting Consequences. It is intended by the parties hereto that the Merger shall (i) constitute a reorganization within the meaning of Section 368 of the Code and (ii) qualify for accounting treatment as a purchase.

3.7 Taking of Necessary Action; Further Action. If, at any time after the Effective Time, any such further action is necessary or desirable to carry out the purposes of this Agreement and to vest SERENA with full right, title, and possession to all assets, property, rights, privileges, powers, and franchises of the Company, the officers and directors of the Company are fully authorized in the names of their respective corporations or otherwise to take, and will take, all such lawful and necessary action.

ARTICLE IV TERMINATION AND AMENDMENT

4.1 Termination. Notwithstanding the approval of this Agreement by the shareholders of HPS, this Agreement may be terminated at any time prior to the Effective Time by mutual agreement of the Boards of Directors of SERENA and HPS.

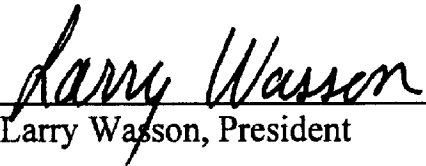
4.2 Effects of Termination. In the event of the termination of this Agreement as provided above, this Agreement shall forthwith become void and there shall be no liability on the part of either HPS or SERENA or their respective officers or directors, except as otherwise provided in the Agreement and Plan of Reorganization.

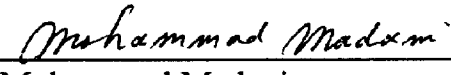
4.3 Amendment. This Agreement may be amended by the parties hereto at any time before or after approval hereof by the shareholders of HPS, but, after any such approval, no amendment shall be made which by law requires the further approval of the shareholders of HPS without obtaining such further approval. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

[Remainder of Page Intentionally Left Blank]

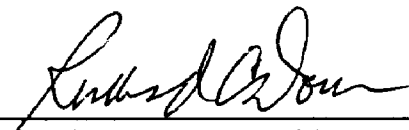
IN WITNESS WHEREOF, the parties have duly executed this Agreement of Merger as of the date first written above.

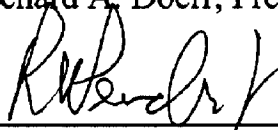
HIGH POWER SOFTWARE, INC.

By: 
Larry Wasson, President

By: 
Mohammad Madani,
Vice President & Secretary

SERENA SOFTWARE, INC.

By: 
Richard A. Doerr, President

By: 
Robert I. Pender, Jr.
Chief Financial Officer and Secretary