

08-23-2000

FORM PTO-1594  
(Rev. 6-93)

REI



U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

To the Honorable Commissioner of Patents  
thereof.

101439530

attached original documents or copy

MPO 7-84-00

<p>1. Name of conveying party(ies): <u>Siebel Systems, Inc.</u></p> <p><input type="checkbox"/> Individual(s)      <input type="checkbox"/> Association</p> <p><input type="checkbox"/> General Partnership    <input type="checkbox"/> Limited Partnership</p> <p><input checked="" type="checkbox"/> Corporation-State California</p> <p><input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment    <input type="checkbox"/> Merger</p> <p><input type="checkbox"/> Security Agreement    <input checked="" type="checkbox"/> Change of Name</p> <p>Other _____</p> <p>Execution Date: <u>June 20, 1996</u></p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <u>Siebel Systems, Inc.</u></p> <p>Internal Address: _____</p> <p>Street Address: <u>1855 S. Grant Street</u></p> <p>City: <u>San Mateo</u>      State: <u>CA</u>      ZIP <u>94402</u></p> <p><input type="checkbox"/> Individual(s) citizenship _____</p> <p><input type="checkbox"/> Association _____</p> <p><input type="checkbox"/> General Partnership _____</p> <p><input type="checkbox"/> Limited Partnership _____</p> <p><input checked="" type="checkbox"/> Corporation-State <u>Delaware</u></p> <p><input type="checkbox"/> Other _____</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>(Designation must be a separate document from Assignment). Additional name(s) &amp; address(es) attached? <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
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<p>4. Application number(s) or registration number(s): A. Trademark Application No.(s)</p>	<p>B. Trademark Registration No.(s) <u>2,207,835</u></p> <p>Additional numbers attached?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p>
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<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>Five Palo Alto Square</u></p> <p>Street Address: <u>3000 El Camino Real</u></p> <p>City: <u>Palo Alto</u>      State: <u>CA</u>      ZIP <u>94306</u></p>	<p>6. Total number of applications and registration involved: <input type="checkbox"/> <u>1</u></p> <p>7. Total fee (37 CFR 3.41):..... \$ <u>40.00</u></p> <p><input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number: <u>03-3118</u> (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.*

Sally B. Lavecchia      July 17, 2000  
Sally B. Lavecchia      Date

Total number of pages including cover sheet, attachments, and document:  2

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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REEL: 002124 FRAME: 0198

*State of Delaware*  
*Office of the Secretary of State*

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AGREEMENT OF MERGER OF "SIEBEL ACQUISITION CORPORATION", CHANGING ITS NAME FROM "SIEBEL ACQUISITION CORPORATION" TO "SIEBEL SYSTEMS, INC.", FILED IN THIS OFFICE ON THE TWENTIETH DAY OF JUNE, A.D. 1996, AT 9 O'CLOCK A.M.

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 001336451



*Edward J. Freel*  
 \_\_\_\_\_  
 Edward J. Freel, Secretary of State  
 0535497  
 06-30-00

AUTHENTICATION:

DATE:

TRADEMARK  
 REEL: 002124 FRAME: 0199

## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (hereinafter called the "Merger Agreement") is made as of June 20, 1996, by and between SIEBEL SYSTEMS, INC., a California corporation ("Siebel California"), and SIEBEL ACQUISITION CORPORATION, a Delaware corporation ("Siebel Delaware"). Siebel California and Siebel Delaware are sometimes referred to as the "Constituent Corporations."

The authorized capital stock of Siebel California consists of thirty-five million (35,000,000) shares of Common Stock, no par value, and ten million (10,000,000) shares of Preferred Stock, no par value. The authorized capital stock of Siebel Delaware, upon effectuation of the transactions set forth in this Merger Agreement, will consist of forty million (40,000,000) shares of Common Stock, \$.001 par value, and ten million (10,000,000) shares of Preferred Stock, \$.001 par value.

The directors of the Constituent Corporations deem it advisable and to the advantage of the Constituent Corporations that Siebel California merge into Siebel Delaware upon the terms and conditions herein provided.

NOW, THEREFORE, the parties do hereby adopt the plan of reorganization encompassed by this Merger Agreement and do hereby agree that Siebel California shall merge into Siebel Delaware on the following terms, conditions and other provisions:

### I. TERMS AND CONDITIONS.

1.1 **Merger.** Siebel California shall be merged with and into Siebel Delaware (the "Merger"), and Siebel Delaware shall be the surviving corporation (the "Surviving Corporation") effective upon the date when this Merger Agreement is filed with the Secretary of State of Delaware (the "Effective Date").

1.2 **Name Change.** On the Effective Date, the name of Siebel Delaware shall be Siebel Systems, Inc.

1.3 **Succession.** On the Effective Date, Siebel Delaware shall continue its corporate existence under the laws of the State of Delaware, and the separate existence and corporate organization of Siebel California, except insofar as it may be continued by operation of law, shall be terminated and cease.

1.4 **Transfer of Assets and Liabilities.** On the Effective Date, the rights, privileges, powers and franchises, both of a public as well as of a private nature, of each of the Constituent Corporations shall be vested in and possessed by the Surviving Corporation, subject to all of the disabilities, duties and restrictions of or upon each of the Constituent Corporations; and all and singular rights, privileges, powers and franchises of each of the Constituent Corporations, and

all property, real, personal and mixed, of each of the Constituent Corporations, and all debts due to each of the Constituent Corporations on whatever account, and all things in action or belonging to each of the Constituent Corporations shall be transferred to and vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest, shall be thereafter the property of the Surviving Corporation as they were of the Constituent Corporations, and the title to any real estate vested by deed or otherwise in either of the Constituent Corporations shall not revert or be in any way impaired by reason of the Merger; provided, however, that the liabilities of the Constituent Corporations and of their shareholders, directors and officers shall not be affected and all rights of creditors and all liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and any claim existing or action or proceeding pending by or against either of the Constituent Corporations may be prosecuted to judgment as if the Merger had not taken place except as they may be modified with the consent of such creditors and all debts, liabilities and duties of or upon each of the Constituent Corporations shall attach to the Surviving Corporation, and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

**1.5 Common Stock of Siebel California and Siebel Delaware.** On the Effective Date, by virtue of the Merger and without any further action on the part of the Constituent Corporations or their shareholders, each share of Common Stock of Siebel California issued and outstanding immediately prior thereto shall be converted into one (1) fully paid and nonassessable share of the Common Stock of Siebel Delaware and each share of Common Stock of Siebel Delaware issued and outstanding immediately prior thereto shall be cancelled and returned to the status of authorized but unissued shares.

**1.6 Preferred Stock of Siebel California and Siebel Delaware.** On the Effective Date, by virtue of the Merger and without any further action on the part of the Constituent Corporations or their shareholders, each share of Series A Preferred Stock of Siebel California issued and outstanding immediately prior thereto shall be converted into one (1) fully paid and nonassessable share of Series A Preferred Stock of Siebel Delaware, each share of Series B Preferred Stock of Siebel California issued and outstanding immediately prior thereto shall be converted into one (1) fully paid and nonassessable share of Series B Preferred Stock of Siebel Delaware, each share of Series C Preferred Stock of Siebel California issued and outstanding immediately prior thereto shall be converted into one (1) fully paid and nonassessable share of Series C Preferred Stock of Siebel Delaware and each share of Series D Preferred Stock of Siebel California issued and outstanding immediately prior thereto shall be converted into one (1) fully paid and nonassessable share of Series D Preferred Stock of Siebel Delaware.

**1.7 Stock Certificates.** On and after the Effective Date, all of the outstanding certificates which prior to that time represented shares of the Common Stock or of the Preferred Stock of Siebel California shall be deemed for all purposes to evidence ownership of and to represent the shares of Siebel Delaware into which the shares of Siebel California represented by such certificates have been converted as herein provided and shall be so registered on the books and records of the Surviving Corporation or its transfer agents. The registered owner of any such outstanding stock certificate shall, until such certificate shall have been surrendered for

transfer or conversion or otherwise accounted for to the Surviving Corporation or its transfer agent, have and be entitled to exercise any voting and other rights with respect to and to receive any dividend and other distributions upon the shares of Siebel Delaware evidenced by such outstanding certificate as above provided.

**1.8 Options.** On the Effective Date, the Surviving Corporation will assume and continue Siebel California's 1994 Equity Incentive Plan, 1996 Supplemental Stock Option Plan and Employee Stock Purchase Plan and the outstanding and unexercised portions of all options to purchase Common Stock of Siebel California, including without limitation all options outstanding under such stock plans and any other outstanding options, shall be converted into options of Siebel Delaware, such that an option for one (1) share of Siebel California shall be converted into an option for one (1) share of Siebel Delaware, with no change in the exercise price of the Siebel Delaware option. No other changes in the terms and conditions of such options will occur. Effective on the Effective Date, Siebel Delaware hereby assumes the outstanding and unexercised portions of such options and the obligations of Siebel California with respect thereto.

**1.9 Warrants.** On the Effective Date, the Surviving Corporation will assume and continue warrants of Siebel California and the outstanding and unexercised portions of all warrants, including without limitation all warrants to purchase shares of Series C Preferred Stock outstanding and any other outstanding warrants, shall be converted into warrants of Siebel Delaware, such that a warrant for one (1) share of Siebel California shall be converted into a warrant for one (1) share of Siebel Delaware, with no change in the exercise price of the Siebel Delaware warrant. No other changes in the terms and conditions of such warrants will occur. Effective on the Effective Date, Siebel Delaware hereby assumes the outstanding and unexercised portions of such warrants and the obligations of Siebel California with respect thereto.

**1.10 Employee Benefit Plans.** On the Effective Date, the Surviving Corporation shall assume all obligations of Siebel California under any and all employee benefit plans in effect as of such date. On the Effective Date, the Surviving Corporation shall adopt and continue in effect all such employee benefit plans upon the same terms and conditions as were in effect immediately prior to the Merger and shall reserve that number of shares of Siebel Delaware Common Stock with respect to each such employee benefit plan as is proportional to the number of shares of Siebel California Common Stock (if any) so reserved on the Effective Date.

## **II. CHARTER DOCUMENTS, DIRECTORS AND OFFICERS.**

**2.1 Certificate of Incorporation and Bylaws.** The Certificate of Incorporation and Bylaws of Siebel Delaware in effect on the Effective Date shall continue to be the Certificate of Incorporation and Bylaws of the Surviving Corporation, except that Article I of the Certificate of Incorporation and Bylaws of the Surviving Corporation shall, effective upon the filing of this Merger Agreement with the Secretary of State of the State of Delaware, be amended to read in its entirety as follows: "The name of this corporation is Siebel Systems, Inc."

**2.2 Directors.** The directors of Siebel California immediately preceding the Effective Date shall become the directors of the Surviving Corporation on and after the Effective Date to serve until the expiration of their terms and until their successors are elected and qualified.

**2.3 Officers.** The officers of Siebel California immediately preceding the Effective Date shall become the officers of the Surviving Corporation on and after the Effective Date to serve at the pleasure of its Board of Directors.

### **III. MISCELLANEOUS.**

**3.1 Further Assurances.** From time to time, and when required by the Surviving Corporation or by its successors and assigns, there shall be executed and delivered on behalf of Siebel California such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other action, as shall be appropriate or necessary in order to vest or perfect in or to conform of record or otherwise, in the Surviving Corporation the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Siebel California and otherwise to carry out the purposes of this Merger Agreement, and the officers and directors of the Surviving Corporation are fully authorized in the name and on behalf of Siebel California or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

**3.2 Amendment.** At any time before or after approval by the shareholders of Siebel California, this Merger Agreement may be amended in any manner (except that, after the approval of the Merger Agreement by the shareholders of Siebel California, the principal terms may not be amended without the further approval of the shareholders of Siebel California) as may be determined in the judgment of the respective Board of Directors of Siebel Delaware and Siebel California to be necessary, desirable, or expedient in order to clarify the intention of the parties hereto or to effect or facilitate the purpose and intent of this Merger Agreement.

**3.3 Conditions to Merger.** The obligations of the Constituent Corporations to effect the transactions contemplated hereby is subject to satisfaction of the following conditions (any or all of which may be waived by either of the Constituent Corporations in its sole discretion to the extent permitted by law):

(a) the Merger shall have been approved by the shareholders of Siebel California in accordance with applicable provisions of the General Corporation Law of the State of California; and

(b) Siebel California, as sole stockholder of Siebel Delaware, shall have approved the Merger in accordance with the General Corporation Law of the State of Delaware; and


(c) any and all consents, permits, authorizations, approvals, and orders deemed in the sole discretion of Siebel California to be material to consummation of the Merger shall have been obtained.

**3.4 Abandonment or Deferral.** At any time before the Effective Date, this Merger Agreement may be terminated and the Merger may be abandoned by the Board of Directors of either Siebel California or Siebel Delaware or both, notwithstanding the approval of this Merger Agreement by the shareholders of Siebel California or Siebel Delaware, or the consummation of the Merger may be deferred for a reasonable period of time if, in the opinion of the Boards of Directors of Siebel California and Siebel Delaware, such action would be in the best interest of such corporations. In the event of termination of this Merger Agreement, this Merger Agreement shall become void and of no effect and there shall be no liability on the part of either Constituent Corporation or its Board of Directors or shareholders with respect thereto, except that Siebel California shall pay all expenses incurred in connection with the Merger or in respect of this Merger Agreement or relating thereto.

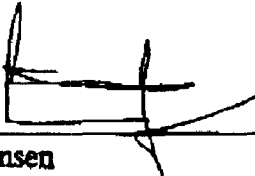
**3.5 Counterparts.** In order to facilitate the filing and recording of this Merger Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, this Merger Agreement, having first been duly approved by the Board of Directors of Siebel California and Siebel Delaware, is hereby executed on behalf of each said corporation and attested by their respective officers thereunto duly authorized.


**SIEBEL SYSTEMS, INC.**  
A California corporation

By   
Thomas M. Siebel  
Chairman and President

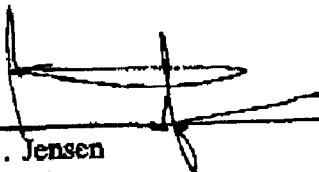
**ATTEST:**

  
Eric C. Jensen  
Assistant Secretary

**SIEBEL ACQUISITION CORPORATION**  
A Delaware corporation

By   
Thomas M. Siebel  
Chairman and President

**ATTEST:**

  
Eric C. Jensen  
Assistant Secretary



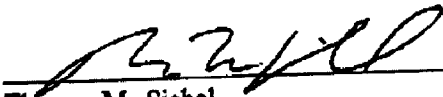
**SIEBEL ACQUISITION CORPORATION**


**OFFICERS' CERTIFICATE OF APPROVAL OF MERGER**

The undersigned, Thomas M. Siebel and Eric C. Jensen, do hereby certify that:

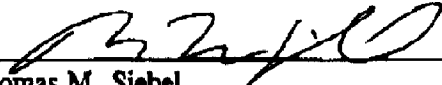
1. They are the President and Assistant Secretary, respectively, of Siebel Acquisition Corporation, a Delaware corporation (the "Corporation").
2. The Agreement and Plan of Merger attached to this Certificate providing for the merger of Siebel Systems, Inc., a California corporation, with and into the Corporation was duly approved by the Board of Directors and by the stockholder of the Corporation.
3. The Corporation has two authorized classes of shares, designated Common Stock and Preferred Stock. The number of shares of Common Stock outstanding and entitled to vote upon the merger was One Hundred (100) shares of Common Stock. There were no shares of Preferred Stock outstanding.
4. The terms of the Agreement and Plan of Merger were approved by the Corporation by a vote of the number of shares of Common Stock of the Corporation which equaled or exceeded the vote required. The percentage vote required for such approval was more than fifty percent (50%).


IN WITNESS WHEREOF, the undersigned have executed this Certificate this 20th day of June, 1996.

  
\_\_\_\_\_  
Thomas M. Siebel  
President

  
\_\_\_\_\_  
Eric C. Jensen  
Assistant Secretary

Each of the undersigned declares under penalty of perjury that he has read the foregoing Certificate and knows the contents thereof and that the same is true of his own knowledge.

  
\_\_\_\_\_  
Thomas M. Siebel  
President

  
\_\_\_\_\_  
Eric C. Jensen  
Assistant Secretary

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**SIEBEL SYSTEMS, INC.**

**OFFICERS' CERTIFICATE OF APPROVAL OF MERGER**

The undersigned, Thomas M. Siebel and Eric C. Jensen, do hereby certify that:

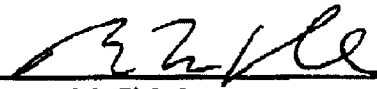
1. They are the President and Assistant Secretary, respectively, of Siebel Systems, Inc., a California corporation (the "Corporation").

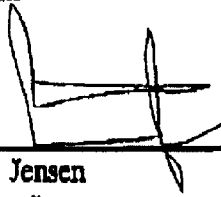
2. The Agreement and Plan of Merger attached to this Certificate providing for the merger of the Corporation with and into Siebel Acquisition Corporation, a Delaware Corporation, was duly approved by the Board of Directors and by the shareholders of the Corporation.

3. The Corporation has two authorized classes of shares, designated Common Stock and Preferred Stock. The total number of outstanding shares of Common Stock is Eight Million Six Hundred Twenty-Six Thousand Six Hundred Eighty-Five (8,626,685). The Preferred Stock is designated in four series. The total number of outstanding shares of Series A Preferred Stock outstanding is Two Million Three Hundred Forty-Four Thousand Five Hundred (2,344,500). The total number of outstanding shares of Series B Preferred Stock outstanding is Two Million (2,000,000). The total number of outstanding shares of Series C Preferred Stock outstanding is Five Hundred Ninety-Four Thousand Five Hundred Eighty-Five (594,585). The total number of outstanding shares of Series D Preferred Stock outstanding is Ninety Thousand (90,000). All outstanding shares of stock were entitled to vote on the merger.

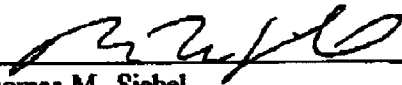
4. The terms of the Agreement and Plan of Merger were approved by the Corporation by the vote of more than (i) 50% of the outstanding shares of the Common Stock, (ii) 50% of the outstanding shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock, voting together as if the Series A Preferred, Series B Preferred, Series C Preferred and Series D Preferred Stock had converted into Common Stock and (iii) 50% of the outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock, voting as a separate class, which, in each case, equaled or exceeded the vote required.

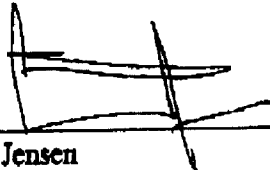
IN WITNESS WHEREOF, the undersigned have executed this Certificate this 20th day of June, 1996.

  
\_\_\_\_\_  
Thomas M. Siebel  
President

  
\_\_\_\_\_  
Eric C. Jensen  
Assistant Secretary

Each of the undersigned declares under penalty of perjury that he has read the foregoing Certificate and knows the contents thereof and that the same is true of his own knowledge.

  
\_\_\_\_\_  
Thomas M. Siebel  
President

  
\_\_\_\_\_  
Eric C. Jensen  
Assistant Secretary

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