

07-30-2001

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RECORDATION FORM COVER SHEET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

101791563

TRADEMARKS ONLY

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

1. Name of conveying party(ies):
 Acuity Corporation 7-16-01
 11100 Metric Boulevard, Building 7
 Austin, Texas 78758
 Individual(s) Association
 General Partnership Limited Partnership
 Corporation - Delaware
 Other _____
 Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies):
 Name: Quintus Corporation
 Internal Address: _____
 Street Address: 47212 Mission Falls Court
 City: Fremont State: CA ZIP: 94539
 Individual(s) citizenship _____
 Association _____
 Limited Partnership _____
 Corporation Delaware
 Other _____

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other _____
 Execution Date: September 10, 1999

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
 (Designations 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)
 B. Trademark No.(s)
2,392,585
 Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
 Name: Lori M. Stockton
 Internal Address: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
 Street Address: 12400 Wilshire Boulevard, 7th Floor
 City: Los Angeles State: CA ZIP: 90025

6. Total number of applications and patents involved: 1
 7. Total fee (37 CFR 3.41).....\$ 40.00
 Enclosed
 Authorized to be charged to deposit account
 8. Deposit account number:
02-2666
 (Attach duplicate copy of this page if paying by deposit account)

07/27/2001 RMW:EBI 0000068 2392585
 01 FCT481 40.00 OP

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.

Lori M. Stockton [Signature] July 12, 2001
 Name of Person Signing Signature Date

Total number of pages comprising cover sheet: 10

[Handwritten mark]

AGREEMENT AND PLAN OF REORGANIZATION
BY AND AMONG
QUINTUS CORPORATION,
RIBEYE ACQUISITION CORP.,
ACUTY CORP. AND
THE UNDERSIGNED STOCKHOLDERS OF ACUTY CORP.

SEPTEMBER 10, 1999

AGREEMENT AND PLAN OF REORGANIZATION

This AGREEMENT AND PLAN OF REORGANIZATION (the "Agreement") is made and entered into as of September __, 1999, by and among Quintus Corporation, a Delaware corporation ("Acquiror"), Ribeye Acquisition Corp., a Delaware corporation and wholly owned subsidiary of Acquiror ("Merger Sub"), Acuity Corp., a Delaware corporation ("Target"), Andrew Busey as "Stockholders' Representative," and each of the undersigned affiliates of Target (each an "Affiliate" and collectively the "Affiliates").

RECITALS

A. The Boards of Directors of Target, Acquiror and Merger Sub believe it is in the best interests of their respective companies and the stockholders of their respective companies that Target and Merger Sub combine into a single company through the statutory merger of Merger Sub with and into Target (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 capital stock of Acquiror ("Acquiror Capital Stock"), as set forth below.

C. Target, Acquiror, Merger Sub and the Affiliates desire to make certain representations and warranties 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)(1)(A) and 368(a)(2)(E) of the Code.

F. Concurrent with the execution of this Agreement and as an inducement to Acquiror to enter into this Agreement, certain of the stockholders of Target are entering 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 Certificate of Merger attached hereto as Exhibit A (the "Certificate of Merger") and the applicable provisions of the Delaware General Corporation Law ("Delaware Law"), Merger Sub shall be merged with and into Target, the separate corporate existence of Merger Sub shall cease and Target shall continue as the

surviving corporation. Target 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 date on which the Closing shall occur, the "Closing Date"). The Closing shall take place at the offices of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian in Menlo Park, California, or at such other location as the parties hereto agree. On the Closing Date, the parties hereto shall cause the Merger to be consummated by filing the Certificate of Merger, together with the required officers' certificates, with the Secretary of State of the State of Delaware, in accordance with the relevant provisions of Delaware Law (the time and date of such filing being the "Effective Time" and the "Effective Date," respectively).

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

1.4 Certificate of Incorporation: Bylaws.

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

(b) The Bylaws of Merger Sub, 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 Merger Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation, to hold office until such time as such directors resign, are removed or their respective successors are duly elected or appointed and qualified. The officers of Merger Sub immediately prior to the Effective Time shall be the officers of the Surviving Corporation, to hold office until such time as such officers resign, are removed or 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, Merger Sub, Target or the holders of any of Target's securities:

(a) Conversion of Target Capital Stock. The "Total Consideration" shall equal the number of shares of Acquiror Capital Stock to be issued pursuant to this Section 1.6 plus the number of shares of Acquiror Capital Stock to be reserved for issuance upon exercise of unexpired and unexercised (whether vested or unvested and assuming the satisfaction of any conditions to exercisability, including, without limitation, the passage of time) Target Options (the "Target Option Reserve") and Target Warrants (each as defined below) following

domestic, or, to the knowledge of Target, threatened against Target or any of its properties or officers or directors (in their capacities as such), nor does Target have any reason to expect that any such activity, threat or allegation will be forthcoming. There is no judgment, decree or order against Target, or, to the knowledge of Target, any of its directors or officers (in their capacities as such), that could prevent, enjoin, or materially alter or delay any of the transactions contemplated by this Agreement, or that could reasonably be expected to have a Material Adverse Effect on Target. All litigation to which Target is a party (or, to the knowledge of Target, threatened to become a party) is disclosed in the Target Disclosure Letter. Target does not have any plans to initiate any litigation, arbitration or other proceeding against any third party.

2.9 Restrictions on Business Activities. There is no agreement, judgment, injunction, order or decree binding upon Target that has or could reasonably be expected to have the effect of prohibiting or impairing any current business practice of Target, any acquisition of property by Target or the conduct of business by Target as currently conducted.

2.10 Governmental Authorization. Target has obtained each federal, state, county, local or foreign governmental consent, license, permit, grant, or other authorization of a Governmental Entity (i) pursuant to which Target currently operates or holds any interest in any of its properties or (ii) that is required for the operation of Target's business or the holding of any such interest ((i) and (ii) herein collectively called "Target Authorizations"), and all of such Target Authorizations 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.

2.11 Title to Property. Target has good and marketable title to all of its properties, interests in properties and assets, real and personal, necessary for the conduct of its business as presently conducted or which are 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 in the ordinary course of business since the Target Balance Sheet Date), or with respect to leased properties and assets, valid leasehold interests therein, in each case 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) liens arising by operation of law or statutory liens, (iii) liens securing debt that are reflected on the Target Balance Sheet and (iv) liens which do not materially detract from or interfere with the use of the properties subject thereto. All material plants, property and equipment of Target that are used in the operations of its business are in good operating condition and repair. All properties used in the operations of Target are reflected in the Target Balance Sheet to the extent generally accepted accounting principles require the same to be reflected. The Target Disclosure Letter identifies each parcel of real property owned by Target.

2.12 Intellectual Property.

(a) Target is the sole and exclusive owner of all Target Intellectual Property (defined below) free of all contingent and noncontingent liens, restrictions, interests, rights of reversion or termination, and all other encumbrances of any nature. The conduct of Target's business as currently conducted will not infringe, misappropriate or violate any

Intellectual Property (defined below) of others. All Target Intellectual Property is free from any challenge (or threat thereof) and Target is not aware of any specific basis therefor. With respect to patent rights, moral rights and Mark rights (defined below), the foregoing representations and warranties of this paragraph are made only to Target's knowledge. Target has not licensed any Target Intellectual Property to any third party, except for object code licenses in the ordinary course of business. Target is not a party to any license of Intellectual Property belonging to any third party, except licenses for readily available commercial software.

(b) All Target Intellectual Property that is the subject of any application, registration or issuance with or from any governmental entity is identified on the Target Disclosure Letter. All such applications, registrations and issuances have been properly maintained. Target has adequately protected all other Target Intellectual Property through the use of confidentiality agreements and otherwise and Target is not aware of any use, exercise or exploitation of any Target Intellectual Property, except as authorized by Target. Target has not disclosed any source code to any third party.


(c) Each current and former employee and contractor of Target has executed and delivered (and to Target's knowledge, is in compliance with) an enforceable agreement in substantially the form of Target's standard Proprietary Information and Inventions Agreement (in the case of an employee) or Target's standard Consulting Agreement (in the case of a contractor) (which agreement provides assignment of all title and rights to any Target Intellectual Property conceived or developed thereunder or otherwise in connection with his or her consulting or employment).

(d) "Intellectual Property" means patent rights; trade name, trademark, service mark and similar rights ("Mark" rights); copyrights; mask work rights; *sui generis* database rights; trade secret rights; moral rights; and all other intellectual and industrial property rights of any sort throughout the world, and all applications, registrations, issuances and the like with respect thereto. "Target Intellectual Property" means all Intellectual Property that has been or is owned by Target, or used in Target's business as currently conducted.

2.13 Environmental Matters. To Target's knowledge, Target is and has at all times operated its business in material compliance with all Environmental Laws and no material expenditures are or will be required in order to comply with such Environmental Laws. "Environmental Laws" means all applicable statutes, rules, regulations, ordinances, orders, decrees, judgments, permits, licenses, consents, approvals, authorizations, and governmental requirements or directives or other obligations lawfully imposed by governmental authority under federal, state or local law pertaining to the protection of the environment, protection of public health, protection of worker health and safety, the treatment, emission and/or discharge of gaseous, particulate and/or effluent pollutants, and/or the handling of hazardous materials, including without limitation, the Clean Air Act, 42 U.S.C. § 7401, et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1321, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. ("RCRA"), and the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.

IN WITNESS WHEREOF, Target, Acquiror, Merger Sub and each Affiliate have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized, and the Stockholders' Representative has executed this Agreement, all as of the date first written above.

**"TARGET"
ACUITY CORP.**


By: _____
Mark Whipple Saul, Chairman, Chief Executive Officer and President

**"ACQUIROR"
QUINTUS CORPORATION**

By: _____
Alan K. Anderson, Chief Executive Officer

**"MERGER SUB"
RIBEYE ACQUISITION CORP.**

By: _____
Alan K. Anderson, Chief Executive Officer

"STOCKHOLDERS' REPRESENTATIVE"

Andrew Busey

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION]

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"STOCKHOLDERS' REPRESENTATIVE"



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