

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	10/04/2005

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Pathlore Software Corporation		10/03/2005	CORPORATION: DELAWARE

**RECEIVING PARTY DATA**

Name:	SumTotal Systems, Inc.
Street Address:	1808 North Shoreline Blvd.
City:	Mountain View
State/Country:	CALIFORNIA
Postal Code:	94303
Entity Type:	CORPORATION: DELAWARE

**PROPERTY NUMBERS Total: 12**

Property Type	Number	Word Mark
Registration Number:	2363999	PHOENIX
Registration Number:	2337135	PHOENIX INTERHOST
Registration Number:	2275541	PHOENIX IMPACT
Serial Number:	76602727	DIRECTURL
Serial Number:	76573137	XLMS
Registration Number:	2258549	DLE DISTANCE LEARNING ENVIRONMENT
Registration Number:	1545236	PREFERENCE
Registration Number:	2250625	PATHLORE
Registration Number:	1149783	PHOENIX
Registration Number:	2731904	PATHLORE
Registration Number:	2189677	PATHLORE
Registration Number:	1374616	EXPLAIN

CH \$315.00 2363999

**CORRESPONDENCE DATA**

Fax Number: (916)329-4900

*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*

Phone: 415-773-5921

Email: lpartmann@orrick.com

Correspondent Name: Zachary S. Finley

Address Line 1: 405 Howard Street

Address Line 2: The Orrick Building

Address Line 4: San Francisco, CALIFORNIA 94105-2669

ATTORNEY DOCKET NUMBER:	14988-3/1640
NAME OF SUBMITTER:	Zachary S. Finley
Signature:	/Zachary S. Finley/
Date:	10/28/2005

Total Attachments: 5  
source=pathlore#page1.tif  
source=pathlore#page2.tif  
source=pathlore#page3.tif  
source=pathlore#page4.tif  
source=pathlore#page5.tif

# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

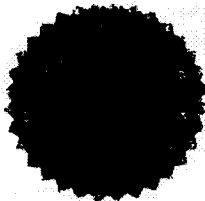
"PATHLORE SOFTWARE CORPORATION", A DELAWARE CORPORATION, WITH AND INTO "SUMTOTAL SYSTEMS, INC." UNDER THE NAME OF "SUMTOTAL SYSTEMS, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRD DAY OF OCTOBER, A.D. 2005, AT 9:09 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF OWNERSHIP IS THE FOURTH DAY OF OCTOBER, A.D. 2005, AT 12:02 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

3716692 8100M

050809842



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 4200876

DATE: 10-03-05

TRADEMARK  
REEL: 003183 FRAME: 0907

**CERTIFICATE OF OWNERSHIP AND MERGER**

**MERGING**

**PATHLORE SOFTWARE CORPORATION**  
(a Delaware corporation)

with and into

**SUMTOTAL SYSTEMS, INC.**  
(a Delaware corporation)

(Pursuant to Section 253 of the General Corporation Law of Delaware)

SumTotal, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation") does hereby certify as follows:

1. That the Corporation is organized and existing under the General Corporation Law of the State of Delaware.
2. That the Corporation owns all the capital stock of Pathlore Software Corporation, a Delaware corporation;
3. That the Corporation determined to merge Pathlore Software Corporation into itself (the "Merger") by the resolutions of its board of directors attached hereto as Exhibit A, duly adopted on August 3, 2005.
4. That the Merger shall be effective at 12:02 a.m. Eastern Time on October 4, 2005.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be signed by its duly authorized officer on this 3<sup>rd</sup> day of October, 2005.

SUMTOTAL, INC.

By: Neil J. Laird  
Neil J. Laird, Executive Vice President and  
Chief Financial Officer

PAL0203123261

## EXHIBIT A

**WHEREAS**, there has been presented to and discussed by the Board a potential strategic business combination with Pathlore Software Corporation, a Delaware corporation ("**Pathlore**"), pursuant to the merger of Galaxy Acquisition Corporation, a Delaware corporation and direct wholly owned subsidiary of the Company ("**Merger Sub**"), with and into Pathlore, with Pathlore being the surviving corporation after such first merger (the "**First Merger**"), and, as part of the same overall transaction, the statutory merger of the surviving entity of the First Merger with and into the Company (the "**Second Merger**" and together with the First Merger, the "**Mergers**"), pursuant to the terms and provisions of an Agreement and Plan of Merger (the "**Agreement**") by and among the Company, Merger Sub, Pathlore, and with respect to Sections 1.7(e) and 7.3(h) of the Agreement, James Collis as Stockholder Representative, and with respect to Section 7.3 of the Agreement, U.S. Bank National Association, as Escrow Agent, and such other agreements, instruments and documents as may be necessary or appropriate to consummate the transactions contemplated by the Agreement (including the Employee Severance Agreements as defined in the Agreement) (collectively, the "**Ancillary Agreements**"); and

**WHEREAS**, the Mergers will become effective following the satisfaction of the conditions contemplated by the Agreement at such time as the certificates of merger are filed with the Secretary of State of the State of Delaware in accordance with the terms of the Agreement and the Delaware General Corporation Law (the "**DGCL**"); and

**WHEREAS**, the terms and conditions of the Mergers and related transactions are set forth in (1) the Agreement (including all exhibits and schedules thereto); (2) the Disclosure Schedules; (3) the Voting Agreements; (4) the Registration Rights Agreements; (5) the Employee Severance Agreements and (6) the other Ancillary Agreements (collectively, the "**Agreements**"); and

**WHEREAS**, the Board believes that given the complementary nature of the technology and products of the Company and Pathlore, the transaction will provide the Company with (1) increased R&D capacity to bring new innovations to market more rapidly and economically; (2) enhanced global and vertical market support and delivery capabilities; (3) enhanced scale and stability with over \$100 million in expected annualized revenue; (4) increased investment capability with approximately \$10 million in expected annual cash flow; (5) expanded market footprint with over 1,500 customers worldwide to drive industry roadmap; and (6) the transaction would create the opportunity for the Company to establish itself as the clear market leader in the learning and business performance technologies and services; and

**WHEREAS**, the Board has considered a number of factors relating to the Mergers, including, but not limited to, the following: (1) the strategic benefits of the Mergers; (2) historical information concerning the Company's and Pathlore's respective businesses, prospects, financial performance and condition, operations, technology, management and competitive position; (3) management's view of the financial condition, results of operations and businesses of the Company and Pathlore before and after giving effect to the Mergers; (4) current financial market conditions and historical market prices, volatility and trading information with respect to the Common Stock of the Company; (5) the consideration to be paid to stockholders of

Pathlore in the Mergers and a comparison of comparable merger transactions; (6) the belief that the terms of the Agreement, including the parties' representations, warranties and covenants, and the conditions to their respective obligations, are reasonable; (7) management's view of the prospects of the Company without doing the Mergers; (8) other strategic alternatives for the Company, including the potential to enter into strategic relationships with third parties or acquire or combine with third parties; (9) detailed financial analyses and pro forma and other information with respect to the companies presented by ThinkEquity Partners LLC in Board presentations, including ThinkEquity Partners LLC's opinion that the consideration to be paid pursuant to the Agreement is fair from a financial point of view; (10) the impact of the Mergers on the Company's customers, suppliers and employees; and (11) analysis by management, legal and financial advisors as to the results of the due diligence investigation of Pathlore; and

**WHEREAS**, the Board has also identified and considered a variety of potentially negative factors in its deliberations concerning the Mergers, including, but not limited to: (1) the risk that the potential benefits sought in the Mergers might not be fully realized; (2) the possibility that the Mergers might not be consummated, or that consummation might be unduly delayed, and the effect of public announcement of the Mergers on (a) the Company's sales and operating results; (b) the Company's ability to attract and retain key employees; and (c) the likelihood that Pathlore customers and prospective customers may cancel contracts or delay purchasing decisions; (3) the substantial charges to be incurred in connection with the Mergers, including costs of integrating the businesses and transaction expenses arising from the Mergers; (4) the risk that despite the efforts of the combined company, key employees might not remain employed by the combined company; and (5) various other risks; and

**WHEREAS**, the Board has determined that it is advisable and in the best interests of the Company and its stockholders that the Company enter into the Agreements and consummate the business combination and other transactions provided for in the Agreements in order to advance its long-term strategic business interests; and

**WHEREAS**, the Board deems it advisable and in the best interests of the Company and its stockholders that the Company take all such additional actions, including as set forth below, in connection with and in furtherance of the Mergers;

**NOW, THEREFORE, BE IT RESOLVED**: That the Board hereby determines (i) that the Mergers are consistent with and in furtherance of the long-term business strategy of the Company and fair to, and in the best interests of, the Company and its stockholders; (ii) that consummation of the Merger and the other transactions on the terms and conditions substantially as set forth in the Agreements and as described and discussed at the meeting of the Board is advisable and in the best interests of the Company and its stockholders; and

**RESOLVED FURTHER**: That the Board hereby authorizes and approves the acquisition by the Company of Pathlore pursuant to the Agreements; and

**RESOLVED FURTHER**: That the form, terms and provisions of the Agreements in substantially the forms presented to the Board be, and hereby are, approved and adopted in all respects, and that the following officers of the Company, R.

Andrew Eckert, Neil Laird and Erika Rottenberg (each, an "**Authorized Officer**") and any person designated and authorized by an Authorized Officer (collectively, with the Authorized Officers, the "**Authorized Persons**") be, and each of them hereby is, in the name and on behalf of the Company, authorized and directed to prepare, execute, and deliver the Agreements and other documents, with such modifications as the Authorized Person executing the same shall approve, and to pay or cause to be paid on behalf of the Company any related costs and expenses, to execute and deliver or cause to be executed and delivered such other notices, requests, demands, directions, consents, approvals, orders, applications, certificates, agreements, undertakings, supplements, amendments, further assurances or other instruments or communications under the corporate seal of the Company or otherwise, and to take such other action, in the name and on behalf of the Company, as each of such officers, in his or her discretion, shall deem necessary or advisable to complete and effect the foregoing transactions and to carry out the intent and purposes of the foregoing resolutions and the transactions contemplated thereby; the execution by any such Authorized Person in connection with the foregoing to establish conclusively such Authorized Person's authority therefor from the Company and the approval and ratification by the Company of the documents so executed and the actions so taken; and

**RESOLVED FURTHER:** That following the satisfaction of all applicable conditions set forth in the Agreement (unless waived by an Authorized Person), the Company be, and hereby is, authorized to pay the Merger Cash and issue the Merger Shares in accordance with the terms of the Agreement and the Authorized Officers are authorized and directed to effect the Mergers and cause the execution and filing with the Secretary of State of the State of Delaware, in accordance with the applicable provisions of the DGCL, the certificates of merger together with any required certificates or other documentation with respect to the Mergers; and

**RESOLVED FURTHER:** That all actions heretofore taken by the officers and directors of the Company with respect to the foregoing transactions and all other matters contemplated by the foregoing resolutions are hereby in all respects, approved, adopted, ratified and confirmed.