

06-25-2003

6-24-03

FORM PTO-1594
(Rev. 6-93)

REC



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To the Honorable Commissioner of Patents
thereof.

102481396

attached original documents or copy

1. Name of conveying party(ies):
Alignment Software, Inc.

Individual(s) Association

General Partnership Limited Partnership
 Corporation-State Delaware
 Other _____

Additional name(s) of conveying party(ies) attached? Yes
 No

2. Name and address of receiving party(ies):
Name: Xaffire, Inc. (f/k/a A/M Combination, Inc.)

Internal Address: _____

Street Address: 100 Superior Plaza Way, Suite 200

City: Superior State: Colorado ZIP 80027

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State Delaware
 Other _____

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).
 Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other Business Combination and Funding Agreement

Execution Date: April 4, 2003 and June 5, 2003

4. Application number(s) or registration number(s):
 A. Trademark Application No(s) 76452113, 76391295
 and 76452374

Additional numbers attached? Yes No

B. Trademark Registration No(s)

5. Name and address of party to whom correspondence
concerning document
should be mailed:

Name: Cooley Godward LLP

Internal Address: Attn: Andrew Hartman, Esq.

Street Address: 380 Interlocken Crescent, Suite 900

City: Broomfield State: Colorado ZIP 80021

6. Total number of applications and registration
involved:
3

7. Total fee (37 CFR 3.41):.....
\$ 90.00

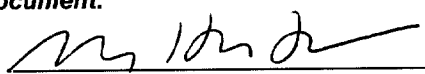
Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by
deposit account)

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.

 June 18, 2003
 Andrew Hartman, Esq. Date

Total number of pages including cover sheet, attachments, and document: 17

06/25/2003 LNUELLER 00000023 76452113

01 FC:8521 40.00 OP
 02 FC:8522 50.00 OP

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

TRADEMARK
 REEL: 002762 FRAME: 0255

BUSINESS COMBINATION AND FUNDING AGREEMENT

Business Combination and Funding Agreement, dated as of April 4, 2003 (the "Agreement") by and among (i) A/M Combination, Inc., a Delaware corporation (the "Company"), (ii) Matrix NetSystems, Inc., a Delaware corporation ("Matrix"), (iii) Alignment Software Inc., a Delaware corporation ("Alignment"), (iv) Mobius Technology Ventures VI, L.P., SOFTBANK U.S. Ventures VI, L.P., Mobius Technology Ventures Advisors Fund VI, L.P., and Mobius Technology Ventures Side Fund VI, L.P. (collectively, "Mobius"), and (v) Meritage Private Equity Fund, L.P., Meritage Private Equity Parallel Fund, L.P. and Meritage Entrepreneurs Fund, L.P. (collectively, "Meritage" and, together with Mobius, the "Investors").

The parties desire to effect a combination of the operations of Matrix and Alignment in the form of a sale by Matrix and Alignment of substantially all of their respective assets to the Company and the assumption by the Company of specified liabilities of Matrix and Alignment, and the Investors wish to provide additional funding to the Company, all upon the terms and subject to the conditions of this Agreement. Capitalized terms used and not otherwise defined herein have the meanings set forth in Section 7.3 below.

THEREFORE, in consideration of the mutual undertakings set forth herein, the parties agree as follows:

Article I—Business Combination

Section 1.1 Company Actions Prior to the Closing. Prior to the Closing (as defined below in Section 3.1), the Company shall (a) authorize the issuance pursuant to this Agreement of up to ~~REDACTED~~ shares of its Series B Preferred Stock, \$.001 par value per share (the "Series B Preferred Stock"), ~~REDACTED~~ shares of its Series A Preferred Stock, \$.001 par value per share (the "Series A Preferred Stock"), and ~~REDACTED~~ shares of its Common Stock, \$.001 par value per share (the "Common Stock"), each with the relative rights and preferences set forth in the Company's Certificate of Incorporation attached hereto as Exhibit A (the "Certificate"), (b) duly adopt the bylaws set forth in Exhibit B hereto (the "Bylaws"), and (c) duly adopt an Employee Option Plan in the form attached hereto as Exhibit C (the "Option Plan"), and (d) take the actions contemplated by Section 1.4 below with respect to Matrix and Alignment employees.

Section 1.2 Transfer of Matrix Assets. At the Closing, Matrix shall transfer, sell, assign, contribute and deliver to the Company, and the Company shall purchase and take delivery from Matrix, all Matrix's right, title and interest in and to all of its assets, properties and rights of whatever nature, other than cash, Cash-Equivalents and the stock of any subsidiary of Matrix (collectively, the "Matrix Assets"), in exchange for (i) the issuance by the Company to Matrix of ~~REDACTED~~ shares of its Series A Preferred Stock and ~~REDACTED~~ of its Common Stock and (ii) the assumption by the Company of the liabilities and obligations of Matrix set forth on Exhibit D hereto (collectively, the "Matrix Assumed Liabilities" (clauses (i) and (ii) collectively, the "Matrix Consideration"). Other than the Matrix Assumed Liabilities, the Company shall not assume or otherwise be responsible for any liability or obligation of Matrix,

and Matrix agrees to discharge all such non-assumed liabilities and obligations, including without limitation the liabilities and obligations set forth on Exhibit E hereto (collectively, the "Matrix Retained Liabilities").

Section 1.3 Transfer of Alignment Assets. At the Closing, Alignment shall transfer, sell, assign, contribute, and deliver to the Company, and the Company shall purchase and take delivery from Alignment, all Alignment's right, title and interest in and to all of its assets, properties and rights of whatever nature, other than cash and Cash Equivalents (collectively, the "Alignment Assets"), in exchange for (i) the issuance by the Company to Alignment of shares of its Series A Preferred Stock and shares of its Common Stock and (ii) the assumption by the Company of the liabilities and obligations of Alignment set forth on Exhibit F hereto (collectively, the "Alignment Assumed Liabilities") (clauses (i) and (ii) collectively, the "Alignment Consideration"). Other than the Alignment Assumed Liabilities, the Company shall not assume or otherwise be responsible for any liability or obligation of Alignment, and Alignment agrees to discharge all such non-assumed liabilities and obligations, including, without limitation, the obligations and liabilities set forth on Exhibit G hereto (the "Alignment Retained Liabilities").

Section 1.4 Employee Matters. At a mutually agreeable time prior to Closing, the Company will offer consulting contracts or employment, effective as of Closing, to those persons set forth on Exhibit H hereto on the terms and conditions set forth on Exhibit H hereto. With respect to each employee that accepts employment with the Company, (i) each unexercised option to acquire shares of common stock of Matrix or Alignment held by such employee shall be cancelled in exchange for an option to acquire shares of the Company's Common Stock pursuant to the Option Plan, which option shall be evidenced by an option agreement in substantially the form of Exhibit I attached hereto, and (y) the parties agree to use the alternative procedure set forth in Section 5 of IRS Revenue Procedure 96-60 in order to treat such employee as having one employer for payroll tax and compliance purposes during the entire calendar year 2003.

Section 1.5 Liquidations Following the Closing. As soon as practicable following the Closing, each of Matrix and Alignment will discharge its remaining liabilities and commence liquidation proceedings pursuant to the provisions of Delaware law. In furtherance thereof, Matrix will adopt the plan of liquidation, dissolution and distribution attached hereto as Exhibit J (the "Matrix Plan of Liquidation") and Alignment will adopt the plan of liquidation and dissolution attached hereto as Exhibit K (the "Alignment Plan of Liquidation"). Pursuant to the liquidation of Matrix and in accordance with the Matrix Plan of Liquidation, the holders of Matrix's Series B preferred stock will receive the shares of the Company's Series A Preferred Stock issued pursuant to Section 1.2 and the holders of Matrix's Series A preferred stock and common stock will receive the shares of the Company's Common Stock issued pursuant to Section 1.2. Pursuant to the liquidation of Alignment and in accordance with the Alignment Plan of Liquidation, the holders of Alignment's Series A preferred stock and the holders of that portion of those certain Promissory Notes, dated November 1, 2002 and January 31, 2003, with Alignment as maker and Mobius as holder, in the aggregate principal amount of ~~\$1,950,000~~ (the "Mobius Bridge Loans") that are not assumed by the Company will receive the shares of the Company's Series A Preferred Stock issued pursuant to Section 1.3 and the holders of

4.2.6 Absence Of Changes. Except as set forth in Paragraph 4.2.6 of the Matrix Disclosure Schedule, since January 1, 2003: (a) there has not been any material adverse change in, and no event has occurred that might have a material adverse effect on, the business, condition, assets, liabilities, operations, financial performance, net income or prospects of Matrix; (b) there has not been any material loss, damage or destruction to, or any interruption in the use of, any of the Matrix Assets; (c) Matrix has not made any capital expenditure or otherwise purchased or acquired any assets with a book value in excess of \$5,000, (d) Matrix has not sold or otherwise transferred, or leased or licensed, any asset to any other Person outside the ordinary course of its business; (e) Matrix has not entered into any transaction or taken any other action outside the ordinary course of business; and (f) Matrix has not agreed, committed or offered (in writing or otherwise) to take any of the actions referred to in clauses (c), (d) and (e) above.

4.2.7 Title To Assets. Matrix owns, and has good and valid title to, all of the assets purported to be owned by it, including: (a) all assets reflected on its December 31, 2002 balance sheet; (b) all assets acquired by Matrix since December 31, 2002; and (c) all other assets reflected in the books and records of Matrix as being owned by it, in each case other than assets disposed of in the ordinary course of business. Paragraph 4.2.7 of the Matrix Disclosure Schedule sets forth a complete and accurate list of all furniture, equipment, automobiles and all other tangible personal property (including its net book value) owned by Matrix as of March 31, 2003 with a book value in excess of \$5,000 per item. Except as set forth in Paragraph 4.2.7 of the Matrix Disclosure Schedule, all of the Matrix Assets are owned by Matrix free and clear of any Encumbrances. The Matrix Assets collectively constitute all of the properties, rights, interests and other tangible and intangible assets necessary to enable Matrix to conduct its business in the manner in which such business is currently being conducted.

4.2.8 Real Property. Matrix does not own any real property. Paragraph 4.2.8 of the Matrix Disclosure Schedule contains a list of all real property leased, subleased or otherwise occupied by Matrix, identifying the lessor, rental rate, lease term, expiration date and existence of any renewal option.

4.2.9 Intellectual Property.

(a) Paragraph 4.2.9 of the Matrix Disclosure Schedule identifies and provides a brief description of all Intellectual Property owned by Matrix and material to its operations, as well as a brief description of each item of Intellectual Property that is owned by any other Person and that is licensed to or used by Matrix (except for Intellectual Property that is licensed to Matrix under any third party software license that (i) is generally available to the public, and (ii) imposes no future monetary obligation on Matrix) and identifies the license agreement or other agreement under which such Intellectual Property is being licensed to or used by Matrix. Matrix has good and valid title to all of the Intellectual Property identified in the Matrix Disclosure Schedule as owned by it, free of any Encumbrances, and has a valid right to use and otherwise exploit all Intellectual Property identified in the Matrix Disclosure Schedule as licensed by it. Except as set forth in Paragraph 4.2.9 of the Matrix Disclosure Schedule, Matrix is not obligated to make any payment to any Person for the use or other exploitation of any Intellectual Property. Except as set forth in the Matrix Disclosure Schedule, Matrix is free to use, modify, copy, distribute, sell, license or otherwise exploit each item of its Intellectual Property on an exclusive basis (other than Intellectual Property consisting of software licensed to

Matrix under third party licenses generally available to the public, with respect to which Matrix's rights are not exclusive).

(b) Matrix has taken all reasonable measures and precautions necessary to protect and maintain the confidentiality and secrecy of its Intellectual Property (except those whose value would be unimpaired by public disclosure) and otherwise to maintain and protect the value of its Intellectual Property. Matrix has not disclosed or delivered or permitted to be disclosed or delivered to any Person, (other than Matrix, and its employees and authorized agents) and no Person (other than Matrix, and its employees and authorized agents) has access to or has any rights with respect to, the source code, or any portion or aspect of the source code, of any software included in its Intellectual Property.

(c) All patents, trademarks, service marks and copyrights that are registered with any Governmental Body and held by Matrix are valid and subsisting. None of Matrix's Intellectual Property infringes or conflicts with any Intellectual Property owned or used by any other Person. To the best of the knowledge of Matrix: (i) Matrix is not infringing, misappropriating or making any unlawful use of, and Matrix has not at any time infringed, misappropriated or made any unlawful use of, or received any notice or other communication of any actual, alleged, possible or potential infringement, misappropriation or unlawful use of, any Intellectual Property owned or used by any other Person, (ii) no other Person is infringing, misappropriating or making any unlawful use of, and (iii) no Intellectual Property owned or used by any other Person infringes or conflicts with, any Intellectual Property of Matrix.

(d) The Intellectual Property listed in paragraph 4.2.9 of the Matrix Disclosure Schedule constitute all the Intellectual Property necessary to enable Matrix to conduct its business in the manner in which such business is being conducted. Matrix has not licensed any of its Intellectual Property to any Person on an exclusive basis. Matrix has not entered into any covenant not to compete or other Contract limiting its ability to exploit fully any of its Intellectual Property or to transact business in any market or geographical area or with any Person.

(e) Except as set forth in paragraph 4.2.9 of the Matrix Disclosure Schedule, Matrix has not entered into and is not bound by any Contract under which any Person has the right to distribute or license any Intellectual Property of Matrix. Matrix has not disclosed or delivered to any Person (other than Matrix, its employees and authorized agents), or permitted the disclosure or delivery to any Person (other than Matrix, its employees and authorized agents), of the source code, or any portion or aspect of the source code, or any proprietary information or algorithm contained in any source code, of any software included in its Intellectual Property. No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or could reasonably be expected to, result in the disclosure or delivery to any Person of the source code, or any portion or aspect of the source code, or any proprietary information or algorithm contained in any source code, of any software included in Matrix's Intellectual Property.

(f) Matrix has full authority and permission to use all images, graphics and other content used or utilized by it in connection with its business and operations including, without limitation, all such images, text, sounds, graphics and other content used or utilized by it

on its websites or other internet domains or addresses used by Matrix. To Matrix's knowledge, none of Matrix's website content infringes or conflicts with the Intellectual Property of any other Person.

4.2.10 Contracts. Paragraph 4.2.10 of the Matrix Disclosure Schedule identifies each Contract to be assumed by the Company (the "Matrix Assumed Contracts"), all of which are valid and in full force and effect. To Matrix's knowledge, no Person has violated or breached, or declared or committed any default under, any Matrix Assumed Contract, and Matrix has not received any notice or other communication regarding any actual, alleged, possible or potential violation or breach of, default under, or proposed termination of, any Matrix Assumed Contract. The Matrix Assumed Contracts collectively constitute all of the Contracts necessary to enable Matrix to conduct its business in the manner in which such business is currently being conducted.

4.2.11 Compliance With Legal Requirements. To Matrix's knowledge, Matrix is in full compliance with each Legal Requirement that is applicable to it or to the conduct of its business or the ownership or use of any of its assets. No event has occurred, and no condition or circumstance exists, that might (with or without notice or lapse of time) constitute or result directly or indirectly in a violation by Matrix of, or a failure on the part of Matrix to comply with, any Legal Requirement, and Matrix has not received any notice or other communication (in writing or otherwise) from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of, or failure to comply with, any Legal Requirement.

4.2.12 Governmental Authorizations. All Governmental Authorizations held by Matrix are identified in paragraph 4.2.12 of the Matrix Disclosure Schedule. Such Governmental Authorizations are valid and in full force and effect and constitute all of the Governmental Authorizations necessary to enable Matrix to conduct its business in the manner in which such business is currently being conducted. Matrix is in full compliance with all of the terms and requirements of each such Governmental Authorization, and no event has occurred that might (with or without notice or lapse of time) result in a violation of any requirement of any such Governmental Authorization, or result in the termination or modification of any such Governmental Authorization.

4.2.13 Tax Matters. Each Tax required to have been paid, or claimed by any Governmental Body to be payable, by Matrix has been duly paid in full on a timely basis. Any Tax required to have been withheld or collected by Matrix has been duly withheld and collected; and (to the extent required) each such Tax has been paid to the appropriate Governmental Body. Except as set forth in Paragraph 4.2.13 of the Matrix Disclosure Schedule, no Proceeding is pending or, to Matrix's knowledge, has been threatened against or with respect to Matrix in respect of any Tax. Matrix operates at least one significant historic business line or owns at least a significant portion of its historic assets, in each case within the meaning of Treasury Regulation §1.368-1(d).

4.2.14 Employee Matters. Paragraph 4.2.14 of the Matrix Disclosure Schedule lists the name, title and annual compensation of each current employee and current independent contractor of Matrix (including wages, salary, commissions, fringe benefits, bonuses and other payments or benefits of any type), and accurately identifies each former employee of Matrix receiving or scheduled to receive (or whose dependent is receiving or is scheduled to receive) any

4.3.5 Liabilities. Paragraph 4.3.5 of the Alignment Disclosure Schedule provides a detailed schedule of all outstanding liabilities of Alignment as of March 31, 2003 except for liabilities reflected or reserved for in the Alignment Financial Statements, including a complete breakdown and aging of the accounts payable of Alignment as of March 31, 2003 and an accurate and complete breakdown of all notes payable and other indebtedness of Alignment as of March 31, 2003. Paragraph 4.3.5 of the Alignment Disclosure Schedule accurately identifies, and provides an accurate and complete breakdown of the amounts paid to, each supplier or other Person that received more than \$5,000 in the aggregate from Alignment from January 1, 2003 through March 31, 2003. Except as set forth in Paragraph 4.3.5 of the Alignment Disclosure Schedule, since January 1, 2003, Alignment has made all payments with respect to its accounts payable on a timely basis and has collected each of its accounts receivable in the ordinary course of business.

4.3.6 Absence Of Changes. Except as set forth in Paragraph 4.3.6 of the Alignment Disclosure Schedule, since January 1, 2003: (a) there has not been any material adverse change in, and no event has occurred that might have a material adverse effect on, the business, condition, assets, liabilities, operations, financial performance, net income or prospects of Alignment; (b) there has not been any material loss, damage or destruction to, or any interruption in the use of, any of the Alignment Assets; (c) Alignment has not made any capital expenditure or otherwise purchased or acquired any assets with a book value in excess of \$5,000, (d) Alignment has not sold or otherwise transferred, or leased or licensed, any asset to any other Person outside the ordinary course of its business; (e) Alignment has not entered into any transaction or taken any other action outside the ordinary course of business; and (f) Alignment has not agreed, committed or offered (in writing or otherwise) to take any of the actions referred to in clauses (c), (d) and (e) above.

4.3.7 Title To Assets. Alignment owns, and has good and valid title to, all of the assets purported to be owned by it, including: (a) all assets reflected on its December 31, 2002 balance sheet; (b) all assets acquired by Alignment since December 31, 2002; and (c) all other assets reflected in the books and records of Alignment as being owned by it, in each case other than assets disposed of in the ordinary course of business. Paragraph 4.3.7 of the Alignment Disclosure Schedule sets forth a complete and accurate list of all furniture, equipment, automobiles and all other tangible personal property (including its net book value) owned by Alignment as of March 31, 2003 with a book value in excess of \$5,000 per item. Except as set forth in Paragraph 4.3.7 of the Alignment Disclosure Schedule, all of the Alignment Assets are owned by Alignment free and clear of any Encumbrances. The Alignment Assets collectively constitute all of the properties, rights, interests and other tangible and intangible assets necessary to enable Alignment to conduct its business in the manner in which such business is currently being conducted.

4.3.8 Real Property. Alignment does not own any real property. Paragraph 4.3.8 of the Alignment Disclosure Schedule contains a list of all real property leased, subleased or otherwise occupied by Alignment, identifying the lessor, rental rate, lease term, expiration date and existence of any renewal option.

4.3.9 Intellectual Property.

(a) Paragraph 4.3.9 of the Alignment Disclosure Schedule identifies and provides a brief description of all Intellectual Property owned by Alignment and material to its operations, as well as a brief description of each item of Intellectual Property that is owned by any other Person and that is licensed to or used by Alignment (except for any Intellectual Property that is licensed to Alignment under any third party software license that (i) is generally available to the public, and (ii) imposes no future monetary obligation on Alignment) and identifies the license agreement or other agreement under which such Intellectual Property is being licensed to or used by Alignment. Alignment has good and valid title to all of the Intellectual Property identified in the Alignment Disclosure Schedule as owned by it, free of any Encumbrances, and has a valid right to use and otherwise exploit all Intellectual Property identified in the Alignment Disclosure Schedule as licensed by it. Except as set forth in Paragraph 4.3.9 of the Alignment Disclosure Schedule, Alignment is not obligated to make any payment to any Person for the use or other exploitation of any Intellectual Property. Except as set forth in the Alignment Disclosure Schedule, Alignment is free to use, modify, copy, distribute, sell, license or otherwise exploit each item of its Intellectual Property on an exclusive basis (other than Intellectual Property consisting of software licensed to Alignment under third party licenses generally available to the public, with respect to which Alignment's rights are not exclusive).

(b) Alignment has taken all reasonable measures and precautions necessary to protect and maintain the confidentiality and secrecy of its Intellectual Property (except those whose value would be unimpaired by public disclosure) and otherwise to maintain and protect the value of its Intellectual Property. Alignment has not disclosed or delivered or permitted to be disclosed or delivered to any Person (other than Alignment, and its employees and authorized agents), and no Person (other than Alignment, and its employees and authorized agents) has access to or has any rights with respect to, the source code, or any portion or aspect of the source code, of any software included in its Intellectual Property.

(c) All patents, trademarks, service marks and copyrights that are registered with any Governmental Body and held by Alignment are valid and subsisting. None of Alignment's Intellectual Property infringes or conflicts with any Intellectual Property owned or used by any other Person. To the best of the knowledge of Alignment, (i) Alignment is not infringing, misappropriating or making any unlawful use of, and Alignment has not at any time infringed, misappropriated or made any unlawful use of, or received any notice or other communication of any actual, alleged, possible or potential infringement, misappropriation or unlawful use of, any Intellectual Property owned or used by any other Person, (ii) no other Person is infringing, misappropriating or making any unlawful use of, and (iii) no Intellectual Property owned or used by any other Person infringes or conflicts with, any Intellectual Property of Alignment.

(d) The Intellectual Property listed in paragraph 4.3.9 of the Alignment Disclosure Schedule constitute all the Intellectual Property necessary to enable Alignment to conduct its business in the manner in which such business is being conducted. Alignment has not licensed any of its Intellectual Property to any Person on an exclusive basis. Alignment has not entered into any covenant not to compete or Contract limiting its ability to

exploit fully any of its Intellectual Property or to transact business in any market or geographical area or with any Person.

(e) Except as set forth in paragraph 4.3.9 of the Alignment Disclosure Schedule, Alignment has not entered into and is not bound by any Contract under which any Person has the right to distribute or license any Intellectual Property of Alignment. Alignment has not disclosed or delivered to any Person (other than Alignment, its employees and authorized agents), or permitted the disclosure or delivery to any Person (other than Alignment, its employees and authorized agents), of the source code, or any portion or aspect of the source code, or any proprietary information or algorithm contained in any source code, of any Intellectual Property. No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or could reasonably be expected to, result in the disclosure or delivery to any Person of the source code, or any portion or aspect of the source code, or any proprietary information or algorithm contained in any source code, of any software included in Alignment's Intellectual Property.

(f) Alignment has full authority and permission to use all images, graphics and other content used or utilized by it in connection with its business and operations including, without limitation, all such images, text, sounds, graphics and other content used or utilized by it on its websites or other internet domains or addresses used by Alignment. To Alignment's knowledge, none of Alignment's website content infringes or conflicts with the Intellectual Property of any other Person.

(g) Except as disclosed to Matrix in the Alignment Disclosure Schedule, Alignment is not party to any Contract with Keynote Systems, Inc., or any of its affiliates, that would or could result in any material obligation, liability or debt, whether monetary or otherwise, for the Company after Closing or that would restrict in any material respect the Company's ability to conduct the historical businesses of Matrix and Alignment following Closing.

4.3.10 Contracts. Paragraph 4.2.10 of the Alignment Disclosure Schedule identifies each Contract to be assumed by the Company (the "Alignment Assumed Contracts"), all of which are valid and in full force and effect. To Alignment's knowledge, no Person has violated or breached, or declared or committed any default under, any Alignment Assumed Contract, and Alignment has not received any notice or other communication regarding any actual, alleged, possible or potential violation or breach of, default under, or proposed termination of, any Alignment Assumed Contract. The Alignment Assumed Contracts collectively constitute all of the Contracts necessary to enable Alignment to conduct its business in the manner in which such business is currently being conducted.

4.3.11 Compliance With Legal Requirements. To Alignment's knowledge, Alignment is in full compliance with each Legal Requirement that is applicable to it or to the conduct of its business or the ownership or use of any of its assets. No event has occurred, and no condition or circumstance exists, that might (with or without notice or lapse of time) constitute or result directly or indirectly in a violation by Alignment of, or a failure on the part of Alignment to comply with, any Legal Requirement, and Alignment has not received any notice or other communication (in writing or otherwise) from any Governmental Body or any other Person

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

A/M COMBINATION, INC.

By: 
Richard Schmelzer
President and Chief Executive Officer

MATRIX NETSYSTEMS, INC.

By: _____
Title: William J. Palmbo
President and Chief Executive Officer

ALIGNMENT SOFTWARE INC.

By: 
Richard Schmelzer
Chief Executive Officer

**MERITAGE PRIVATE EQUITY FUND, L.P.
MERITAGE PRIVATE EQUITY PARALLEL FUND, L.P.
MERITAGE ENTREPRENEURS' FUND, L.P.**

By: _____
Title: _____

**MOBIUS TECHNOLOGY VENTURES VI, L.P.
SOFTBANK U.S. VENTURES VI, L.P.
MOBIUS TECHNOLOGY VENTURES ADVISORS FUND VI, L.P.
MOBIUS TECHNOLOGY VENTURES SIDE FUND VI, L.P.**

By: Mobius VI LLC, its General Partner

By: _____
Bradley Feld
Managing Director

BUSINESS COMBINATION AND FUNDING AGREEMENT

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

A/M COMBINATION, INC.

By: _____
Richard Schmelzer
President and Chief Executive Officer

MATRIX NETSYSTEMS, INC.

By:  _____
Title: William J. Galumbo
President and Chief Executive Officer

ALIGNMENT SOFTWARE INC.

By: _____
Richard Schmelzer
Chief Executive Officer

**MERTAGE PRIVATE EQUITY FUND, L.P.
MERTAGE PRIVATE EQUITY PARALLEL FUND, L.P.
MERTAGE ENTREPRENEURS' FUND, L.P.**

By: _____
Title: _____

**MOBIUS TECHNOLOGY VENTURES VI, L.P.
SOFTBANK U.S. VENTURES VI, L.P.
MOBIUS TECHNOLOGY VENTURES ADVISORS FUND VI, L.P.
MOBIUS TECHNOLOGY VENTURES SIDE FUND VI, L.P.**

By: Mobius VI LLC, its General Partner

By: _____
Bradley Feld
Managing Director

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

A/M COMBINATION, INC.

By: _____
Richard Schmelzer
President and Chief Executive Officer

MATRIX NETSYSTEMS, INC.

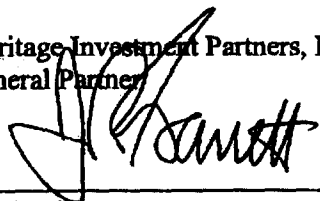
By: _____
Title: William J. Palumbo
President and Chief Executive Officer

ALIGNMENT SOFTWARE INC.

By: _____
Richard Schmelzer
Chief Executive Officer

**MERITAGE PRIVATE EQUITY FUND, L.P.
MERITAGE PRIVATE EQUITY PARALLEL FUND, L.P.
MERITAGE ENTREPRENEURS' FUND, L.P.**

By: Meritage Investment Partners, LLC
General Partner



By: _____
Name: John Garrett
Title: Principal

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.


A/M COMBINATION, INC.

By: 
Richard Schmelzer
President and Chief Executive Officer

MATRIX NETSYSTEMS, INC.

By: _____
Title: William J. Palumbo
President and Chief Executive Officer

ALIGNMENT SOFTWARE INC.

By: 
Richard Schmelzer
Chief Executive Officer

**MERITAGE PRIVATE EQUITY FUND, L.P.
MERITAGE PRIVATE EQUITY PARALLEL FUND, L.P.
MERITAGE ENTREPRENEURS' FUND, L.P.**

By: _____
Title:

**MOBIUS TECHNOLOGY VENTURES VI, L.P.
SOFTBANK U.S. VENTURES VI, L.P.
MOBIUS TECHNOLOGY VENTURES ADVISORS FUND VI, L.P.
MOBIUS TECHNOLOGY VENTURES SIDE FUND VI, L.P.**

By: Mobius VI LLC, its General Partner

By: _____
Bradley Feld
Managing Director

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

A/M COMBINATION, INC.

By: _____
Richard Schmelzer
President and Chief Executive Officer

MATRIX NETSYSTEMS, INC.

By: _____
Title: William J. Palumbo
President and Chief Executive Officer

ALIGNMENT SOFTWARE INC.

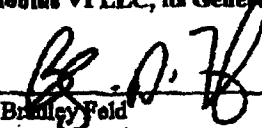
By: _____
Richard Schmelzer
Chief Executive Officer

**MERITAGE PRIVATE EQUITY FUND, L.P.
MERITAGE PRIVATE EQUITY PARALLEL FUND, L.P.
MERITAGE ENTREPRENEURS' FUND, L.P.**

By: _____
Title:

**MOBIUS TECHNOLOGY VENTURES VI, L.P.
SOFTBANK U.S. VENTURES VI, L.P.
MOBIUS TECHNOLOGY VENTURES ADVISORS FUND VI, L.P.
MOBIUS TECHNOLOGY VENTURES SIDE FUND VI, L.P.**

By: Mobius VI LLC, its General Partner

By:  _____
Bradley Feld
Managing Director

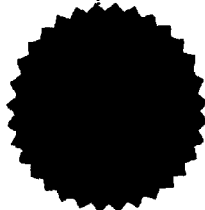
Delaware

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 AMENDMENT OF "A/M COMBINATION, INC.", CHANGING ITS NAME FROM "A/M COMBINATION, INC." TO "KAFFIRE, INC.", FILED IN THIS OFFICE ON THE FIFTH DAY OF JUNE, A.D. 2003, AT 5:35 O'CLOCK P.M.

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



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3641253 8100

030373182

AUTHENTICATION: 2456643

DATE: 06-06-03

06/06/2003 FRI 08:34 [TX/RX NO 8787] 002

TRADEMARK
REEL: 002762 FRAME: 0269

**CERTIFICATE OF AMENDMENT TO THE
RESTATED CERTIFICATE OF INCORPORATION OF
A/M COMBINATION, INC.**

A/M COMBINATION, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), **DOES HEREBY CERTIFY:**

FIRST: The name of the Corporation is **A/M Combination, Inc.**

SECOND: The date on which the Certificate of Incorporation of the Corporation was originally filed with the Secretary of State of the State of Delaware is **March 27, 2003**. A Restated Certificate of Incorporation was filed with the Secretary of State on **April 4, 2003**.

THIRD: Article I shall be amended and restated to read in its entirety as follows:

"The name of this corporation is **Xaffire, Inc.**"

FOURTH: The foregoing amendment to the Restated Certificate of Incorporation of the corporation has been duly adopted by the directors and stockholders of the Corporation in accordance with the provisions of Sections 141, 228 and 242 of the General Corporation Law of the State of Delaware, and notice of such adoption has been provided in accordance with said Section 228.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

198252 v1/CO
482@911.DOC

State of Delaware
Secretary of State
Division of Corporations
Delivered 06:03 PM 06/05/2003
FILED 05:35 PM 06/05/2003
SRV 030373182 - 3641253 FILE

IN WITNESS WHEREOF, A/M Combination, Inc. has caused this Certificate of Amendment to be signed by its Chief Executive Officer this 5th day of June, 2003.

A/M COMBINATION, INC.

By: 
Rich Schmelzer, Chief Executive Officer

198262 v1/CO
482@011.DOC

06/06/2003 FRI 08:34 [TX/RX NO 8787] 004