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**SECURITIES AND EXCHANGE COMMISSION**  
Washington, DC 20549

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**FORM 10-Q**

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**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
FOR THE QUARTERLY PERIOD ENDED OCTOBER 31, 2004**

**Commission file number 0-20008**

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**FORGENT NETWORKS, INC.**

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**A DELAWARE CORPORATION**

**IRS EMPLOYER ID NO. 74-2415696**

**108 WILD BASIN ROAD  
AUSTIN, TEXAS 78746  
(512) 437-2700**

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The registrant has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and has been subject to such filing requirements for the past 90 days.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes  No

At December 15, 2004 the registrant had outstanding 24,905,855 shares of its Common Stock, \$0.01 par value.

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**FORGENT NETWORKS, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
(Amounts in thousands, except per share data)

	OCTOBER 31, 2004	JULY 31, 2004
	(UNAUDITED)	
<b>ASSETS</b>		
Current Assets:		
Cash and equivalents, including restricted cash of \$650 at October 31, 2004 and July 31, 2004	\$ 20,157	\$ 19,051
Short-term investments	1,558	2,490
Accounts receivable, net of allowance for doubtful accounts of \$34 and \$26 at October 31, 2004 and July 31, 2004, respectively	340	398
Notes receivable, net of reserve of \$848 at October 31, 2004 and July 31, 2004	—	—
Prepaid expenses and other current assets	528	386
<b>Total Current Assets</b>	<b>22,583</b>	<b>22,325</b>
Property and equipment, net	3,514	3,165
Intangible assets, net	208	258
Other assets	168	267
	<b>\$ 26,473</b>	<b>\$ 26,015</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current Liabilities:		
Accounts payable	\$ 1,753	\$ 1,509
Accrued compensation and benefits	238	290
Other accrued liabilities	1,045	1,060
Notes payable, current position	336	348
Deferred revenue	487	525
<b>Total Current Liabilities</b>	<b>3,859</b>	<b>3,732</b>
Long-Term Liabilities:		
Deferred revenue	8	14
Other long-term obligations	2,669	2,769
<b>Total Long-Term Liabilities</b>	<b>2,677</b>	<b>2,783</b>
Stockholders' Equity:		
Preferred stock, \$.01 par value; 10,000 authorized; none issued or outstanding	—	—
Common stock, \$.01 par value; 40,000 authorized; 26,660 and 26,625 shares issued; 24,906 and 24,871 shares outstanding at October 31, 2004 and July 31, 2004, respectively	266	266
Treasury stock, 1,754 issued at October 31, 2004 and July 31, 2004	(4,726)	(4,726)
Additional paid-in capital	264,621	264,582
Accumulated deficit	(240,243)	(240,631)
Accumulated other comprehensive income	19	9
<b>Total Stockholders' Equity</b>	<b>19,937</b>	<b>19,500</b>
	<b>\$ 26,473</b>	<b>\$ 26,015</b>

The accompanying notes are an integral part of these consolidated financial statements.

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**FORGENT NETWORKS, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(Amounts in thousands, except per share data)

	FOR THE THREE MONTHS ENDED OCTOBER 31,	
	2004	2003
	(UNAUDITED)	
<b>REVENUES:</b>		
Intellectual property licensing	\$ 5,856	\$ 2,850
Software & services	599	999
Other	—	22
Total Revenues	<u>6,455</u>	<u>3,871</u>
<b>COST OF SALES:</b>		
Intellectual property licensing	2,928	1,425
Software & services	205	851
Other	—	24
Total Cost of Sales	<u>3,133</u>	<u>2,300</u>
<b>GROSS MARGIN</b>	3,322	1,571
<b>OPERATING EXPENSES:</b>		
Selling, general and administrative	2,599	3,033
Research and development	365	1,084
Amortization of intangible assets	12	4
Total Operating Expenses	<u>2,976</u>	<u>4,121</u>
<b>INCOME (LOSS) FROM OPERATIONS</b>	346	(2,550)
<b>OTHER INCOME AND (EXPENSES):</b>		
Interest income	68	62
Other	(12)	(45)
Total Other Income and (Expenses)	<u>56</u>	<u>17</u>
<b>INCOME (LOSS) FROM CONTINUING OPERATIONS, BEFORE INCOME TAXES</b>	402	(2,533)
Provision for income taxes	(14)	—
<b>INCOME (LOSS) FROM CONTINUING OPERATIONS</b>	388	(2,533)
Income from discontinued operations, net of income taxes	—	10
<b>NET INCOME (LOSS)</b>	<u>\$ 388</u>	<u>\$ (2,523)</u>
<b>BASIC AND DILUTED INCOME (LOSS) PER SHARE:</b>		
Income (loss) per share from continuing operations - basic and diluted	\$ 0.02	\$ (0.10)
Income (loss) per share from discontinued operations - basic and diluted	\$ 0.00	\$ 0.00
Net income (loss) per share - basic and diluted	<u>\$ 0.02</u>	<u>\$ (0.10)</u>
<b>WEIGHTED AVERAGE SHARE OUTSTANDING:</b>		
Basic	24,893	24,600
Diluted	24,933	24,600

The accompanying notes are integral part of these consolidated financial statements.

**FORGENT NETWORKS, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Amounts in thousands)

	FOR THE THREE MONTHS ENDED OCTOBER 31,	
	2004	2003
	(UNAUDITED)	
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Income (loss) from continuing operations	\$ 388	\$ (2,533)
Adjustments to reconcile net income (loss) to net cash provided by operations:		
Depreciation and amortization	379	835
Amortization of leasehold advance and lease impairment	(146)	(284)
Provision for doubtful accounts	—	(5)
Amortization of unearned compensation	—	15
Foreign currency translation gain	2	—
Sale of accounts receivable	—	1,746
Changes in operating assets and liabilities:		
Accounts receivable	57	6,676
Prepaid expenses and other current assets	(142)	(223)
Accounts payable	(331)	(1,478)
Accrued expenses and other long-term obligations	(28)	(53)
Deferred revenue	(46)	130
Net cash provided by operating activities	<b>133</b>	<b>4,826</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Net sales (purchases) of short-term investments	932	(3,187)
Net purchases of property and equipment	—	(464)
Issuance of notes receivable	(1)	(4)
Increase in capitalized software	—	(522)
Increase in other assets	—	(200)
Purchase of Network Simplicity Software Inc.	—	(1,965)
Net cash provided by (used in) investing activities	<b>931</b>	<b>(6,342)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Net proceeds from issuance of stock	39	278
Purchase of treasury stock	—	(454)
Proceeds from notes payable	112	84
Payments on notes payable and capital leases	(117)	(166)
Net cash provided by (used in) financing activities	<b>34</b>	<b>(258)</b>
<b>CASH FLOWS FROM DISCONTINUED OPERATIONS:</b>		
Net cash provided by discontinued operations	—	10
Effect of translation exchange rates on cash	8	2
Net increase (decrease) in cash and equivalents	1,106	(1,762)
Cash and equivalents at beginning of period	19,051	21,201
Cash and equivalents at end of period	<b>\$20,157</b>	<b>\$19,439</b>

Certain reclassifications have been made to prior year's financial statement to conform with current year presentation.

The accompanying notes are an integral part of these consolidated financial statements.

**FORGENT NETWORKS, INC.**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Amounts in thousands, except per share and employee data unless otherwise noted)

**NOTE 1 - GENERAL AND BASIS OF FINANCIAL STATEMENTS**

The accompanying unaudited consolidated financial statements have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission and accordingly, do not include all information and footnotes required under accounting principles generally accepted in the United States for complete financial statements. In the opinion of management, these interim financial statements contain all adjustments, consisting of normal, recurring adjustments, necessary for a fair presentation of the financial position of Forgent Networks, Inc. ("Forgent" or the "Company") as of October 31, 2004 and July 31, 2004, and the results of operations and cash flows for the three months ended October 31, 2004 and 2003. The results for interim periods are not necessarily indicative of results for a full fiscal year.

**NOTE 2 - ACQUISITIONS**

During the first fiscal quarter of 2004, Forgent acquired substantially all of the assets and operations of Network Simplicity Software Inc., a privately held provider of web-based scheduling solutions. The acquired software products, targeted for small to medium sized businesses and departments or divisions of large enterprises, are sold under the Company's "NetSimplicity" software product line. This strategic acquisition allowed the Company to expand its market opportunities into the small to medium sized business market.

Forgent purchased Network Simplicity Software Inc. for approximately \$3,315, consisting of \$2,115 in cash and assumed liabilities, and approximately \$1,200 in potential future cash considerations. The \$2,115 was the amount recorded as the purchase price of the acquisition, which was accounted for as a purchase of assets. Accordingly, the purchase price was allocated to the tangible and identifiable intangible assets acquired based on their estimated fair values at the date of acquisition. The intangible assets are being amortized over their estimated lives of two to three years. The following table shows the amounts assigned to each major asset and liability class as of the date of acquisition:

Cash	\$ 55
Accounts receivable, net	137
Prepaid expenses	3
Fixed assets	37
Intangible assets	425
Acquired software	1,570
	<hr/>
<b>Total Assets</b>	<b>\$2,227</b>
	<hr/>
Accounts payable	\$ 15
Accrued liabilities	64
Deferred revenue	33
	<hr/>
<b>Total Liabilities</b>	<b>\$ 112</b>
	<hr/>

During April 2004, \$358 of the potential future cash considerations was earned by the seller of Network Simplicity Software, Inc., recorded as an adjustment to the purchase price and allocated to acquired software. Similarly, during October 2004, \$678 of the potential future cash considerations was earned, recorded as an adjustment to the purchase price and allocated to the acquired software. The remaining \$164 tied to future contingencies will be recorded as additional purchase price when, and if, the amounts are earned and paid.

As a result of the acquisition, Forgent's workforce grew by ten employees and the acquired workforce remained based in Richmond, British Columbia, Canada. Additionally, NetSimplicity's results of operations since October 6, 2003 have been included in the Company's Consolidated Statement of Operations for the three months ended October 31, 2003.

**FORGENT NETWORKS, INC.**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Amounts in thousands, except per share and employee data unless otherwise noted)

**NOTE 3 - DISCONTINUED OPERATIONS**

In July 2003, Forgent sold substantially all of the assets of its videoconferencing hardware services business, based in King of Prussia, Pennsylvania, to an affiliate of Gores Technology Group, a privately held international acquisition and management firm. The divestiture was designed to enable Forgent to focus on growing its intellectual property licensing business, growing its software and services business, increasing its cash balances, improving its overall gross margin and reducing its operating expenses. Related to this transaction, \$1,000 in cash remained held in escrow for indemnity claims as of October 31, 2004. Details of this escrowed fund and other important information are set forth in the Company's proxy statement for fiscal year 2002. Forgent cannot provide any assurances that it will receive some or any of the held funds.

**NOTE 4 - SALE OF ACCOUNTS RECEIVABLE**

During the three months ended October 31, 2003, the Company sold \$1,746 of its outstanding accounts receivable, without any recourse, to Silicon Valley Bank in order to maintain cash balances at levels considered appropriate by management. Silicon Valley Bank purchased the assets at face value, less fees of approximately 1.2% of the face value of the accounts receivable sold and a one-time annual set-up fee of \$10. The Company received proceeds from Silicon Valley Bank of \$1,713. No accounts receivable were sold during the three months ended October 31, 2004.

Under the provisions of Statement of Financial Accounting Standard ("SFAS") No. 140, "*Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*," a transfer of receivables may be accounted for as a sale if the following three conditions are met: (1) the transferred assets are isolated from the transferor, (2) the transferee has the right to pledge or sell the transferred assets and (3) the transferor does not maintain control over the transferred assets. Accordingly, the Company recorded the transfer of the accounts receivable as a sale of assets, excluded the related receivables from the Consolidated Balance Sheet and recorded related expenses of \$24 for the quarter ended October 31, 2003.

**NOTE 5 - COMPREHENSIVE INCOME (LOSS)**

In accordance with the disclosure requirements of SFAS No. 130, "*Reporting Comprehensive Income*," the Company's comprehensive income (loss) is comprised of net income (loss), foreign currency translation adjustments and unrealized gains and losses on short-term investments held as available-for-sale securities. Comprehensive income for the three months ended October 31, 2004 was \$398 and comprehensive loss for the three months ended October 31, 2003 was \$2,521.

**NOTE 6 - RECENT ACCOUNTING PRONOUNCEMENTS**

In March 2004, the Financial Accounting Standard Board ("FASB") issued an exposure draft entitled "*Share-Based Payment, an Amendment of FASB Statements Nos. 123 and 95*," which eliminates the ability to account for share-based compensation transactions using Accounting Principles Board ("APB") Opinion No. 25, "*Accounting for Stock Issued to Employees*." The exposure draft would require stock-based compensation to employees to be recognized as a cost in the financial statements and that such cost should be measured according to the fair value of the stock options. The proposed requirements in the exposure draft would be effective for fiscal years beginning after June 15, 2005, or fiscal year 2006 for the Company. The FASB intends to issue a final statement in late 2004. In order to determine the impact on its consolidated financial statements, Forgent will continue to monitor the progress on this exposure draft.

In March 2004, the Emerging Issues Task Force issued consensus No. 03-1 ("EITF 03-1"), "*The Meaning of Other-Than-Temporary Impairment and its Application to Certain Investments*." The consensus applies to certain investments in debt and security securities accounted for under SFAS No. 115, "*Accounting for Certain Investments in Debt and Equity Securities*," and SFAS No. 124, "*Accounting for Certain Investments Held by Not-for-Profit Organizations*." EITF 03-1 provides a three-step model to evaluate whether an investment is considered impaired, whether that impairment is other than temporary and the measurement of an impairment loss. The impairment accounting guidance is effective for reporting periods beginning after June 15, 2004, or the Company's first fiscal quarter of 2005, and disclosure requirements are effective for annual periods ending after June 15, 2004, or the Company's 2005 fiscal year. The adoption of this interpretation is not expected to have a material effect on the Company's consolidated results of operations, consolidated financial position or consolidated cash flows.

**FORGENT NETWORKS, INC.**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Amounts in thousands, except per share and employee data unless otherwise noted)

**NOTE 7 – STOCK BASED COMPENSATION**

The Company follows APB Opinion No. 25, “Accounting for Stock Issued to Employees” and related interpretations in accounting for stock option grants. As required by SFAS No. 123, “Accounting for Stock-Based Compensation” and SFAS No. 148, “Accounting for Stock-Based Compensation-Transition and Disclosure,” Forgent has determined pro forma net income and net income per common share as if compensation costs had been determined based on the fair value of the options granted to employees and then recognized ratably over the vesting period. The fair value of stock option grants has been estimated at the date of grant using the Black- Scholes multiple option pricing model. Had the compensation costs been recognized as prescribed by SFAS No.123, net income and basic and diluted earnings per share would have changed to the pro forma amounts shown below:

	FOR THE THREE MONTHS ENDED OCTOBER 31,	
	2004	2003
	(UNAUDITED)	
Net earnings (loss)		
Net earnings (loss) as reported	\$ 388	\$ (2,523)
Add: Stock-based employee compensation expense included in reported net earnings (loss), net of related tax effects	\$ —	\$ 15
Deduct: Stock-based employee compensation expense determined under fair value-based method for all awards, net of related tax effects	\$ (177)	\$ (393)
Pro forma	\$ 211	\$ (2,901)
Basic earnings (loss) per common share:		
As reported	\$ 0.02	\$ (0.10)
Pro forma	\$ 0.01	\$ (0.12)
Diluted earnings (loss) per common share:		
As reported	\$ 0.02	\$ (0.10)
Pro forma	\$ 0.01	\$ (0.12)

The assumptions used to calculate the fair value of options granted are evaluated and revised, as necessary, to reflect market conditions and experience.

**NOTE 8- SEGMENT INFORMATION**

Currently, the Company operates in two distinct segments: intellectual property licensing and software and services. Forgent’s intellectual property licensing business is currently focused on generating licensing revenues relating to the Company’s data compression technology embodied in U.S. Patent No. 4,698,672 and its foreign counterparts and is currently conducted through the Company’s wholly-owned subsidiary, Compression Labs, Inc. Forgent’s software and services business currently provides customers with scheduling and asset management software as well as software maintenance and support, installation and training services.



**FORGENT NETWORKS, INC.**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
(Amounts in thousands, except per share and employee data unless otherwise noted)

The Company evaluates the performance as well as the financial results of its segments. Included in the segment operating income (loss) is an allocation of certain corporate operating expenses. The Company does not identify assets or capital expenditures by reportable segments, and the Company's Chief Executive Officer and Chief Financial Officer do not evaluate the segments based on these criteria.

The table below presents segment information about revenue from unaffiliated customers, gross margins and operating income (loss) for the three months ended October 31, 2004 and 2003:

	<b>Intellectual Property Licensing &amp; Other</b>	<b>Software &amp; Services</b>	<b>Total</b>
<b>For the Three Month Period Ending October 31, 2004</b>			
Revenues from unaffiliated customers	\$ 5,856	\$ 599	\$ 6,455
Gross margin	2,928	394	3,322
Operating income (loss)	1,948	(1,602)	346
<b>For the Three Month Period Ending October 31, 2003</b>			
Revenues from unaffiliated customers	\$ 2,872	\$ 999	\$ 3,871
Gross margin	1,423	148	1,571
Operating income (loss)	607	(3,157)	(2,550)

**NOTE 9 – SUBSEQUENT EVENTS**

At the end of the first fiscal quarter, Forgent formally terminated its counsel engaged in connection with the Company's Patent Licensing Program. Subsequently, Forgent entered into discussions with the law firm regarding the termination. Forgent has engaged new counsel to advise it in connection with its Patent Licensing Program and is working with both counsels to ensure a timely and efficient transition in legal services. Presently, the Company has not yet finalized a new overall fee agreement with its new counsel and all other law firms engaged in the licensing and litigation of the '672 patent, and the impact to the Company's financial position as a result of this transition cannot be reasonably estimated.

On November 24, 2004, Forgent entered into a Asset Purchase Agreement to sell a portfolio of patents and other intellectual property (including its ALLIANCE software suite) related to the management and scheduling, planning and execution of audio, video and web conferencing to Tandberg Telecom AS ("Tandberg"), a wholly owned subsidiary of Tandberg ASA. Additionally, the Company released Tandberg from and agreed not to assert claims related to Forgent's retained patents and intellectual property. Forgent received \$3,750 in cash upon closing in November 2004. This transaction allowed the Company to simplify its business, focus on its core operations and generate additional cash. Forgent remains committed to its existing ALLIANCE customers and intends to complete its underlying maintenance agreements as well as assist its customers through the transition to the TANDBERG Management Suite, Tandberg's video-management software.

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**ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following review of Forgent's financial position as of October 31, 2004 and July 31, 2004 and for the three months ended October 31, 2004 and 2003 should be read in conjunction with the Company's Annual Report on Form 10-K and Form 10-K/A for the fiscal year ended July 31, 2004, filed with the Securities and Exchange Commission.

**RESULTS OF OPERATIONS**

The following table sets forth for the periods indicated the percentage of total revenues represented by certain items in Forgent's Consolidated Statements of Operations:

	FOR THE THREE MONTHS ENDED OCTOBER 31,	
	2004	2003
Intellectual property licensing revenues	91%	73%
Software and services revenues	9	26
Other revenues	—	1
Gross margin	51	41
Selling, general and administrative	40	78
Research and development	6	28
Total operating expenses	46	106
Other income, net	1	—
Net income (loss)	6%	(65)%

**THREE MONTHS ENDED OCTOBER 31, 2004 AND 2003**

**Revenues**

Revenues for the three months ended October 31, 2004 were \$6.5 million, an increase of \$2.6 million, or 67%, from the \$3.9 million reported for the three months ended October 31, 2003. Consolidated revenues represent the combined revenues including sales of Forgent's software products, installation and training, and software maintenance services, as well as royalties received from licensing the Company's intellectual property.

Intellectual property licensing revenues were \$5.9 million and \$2.9 million for the three months ended October 31, 2004 and 2003, respectively. Intellectual property licensing revenues as a percentage of total revenues were 91% and 73% for the three months ended October 31, 2004 and 2003, respectively. The first fiscal quarter of 2005 marks the eleventh consecutive quarter that Forgent has generated licensing revenues. As of October 31, 2004, the Company's Patent Licensing Program has generated \$100.4 million in aggregate licensing revenues from 35 companies. These licensing revenues relate to one-time intellectual property license agreements with companies for Forgent's data compression technology embodied in U.S. Patent No. 4,698,672 (the "'672 patent") and its foreign counterparts, which cover several types of products including many digital cameras, personal computers, camera cell phones, scanners, printing devices, video cameras, rendering devices and other technologies. Licensing of the '672 patent is currently conducted through the Company's wholly owned subsidiary, Compression Labs, Inc. ("CLI"). The Company does not anticipate any additional intellectual property licensing revenue from its current licensees, but Forgent will continue to actively seek new licenses from its '672 patent as well as licensing opportunities from other patents in its intellectual property portfolio.

The timing of signing license agreements as well as the variable amount of each license fee continues to pose forecasting challenges. Additionally, the inherent variability of the licensing program causes peaks and valleys in the program's financial performance. The \$3.0 million increase in intellectual property licensing revenues during the three months ended October 31, 2004 as compared to the three months ended October 31, 2003 is due to the change in the number of agreements signed as well as the amount of each license fee received during the two periods. Since April 2004, CLI has initiated litigation against multiple companies for infringement of its '672 patent

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(the “‘672 Litigation”). See Part II – Item 1 “Legal Proceedings.” Additionally, Forgent changed its legal counsel in this litigation at the end of October 2004. Management is working with both counsels to ensure a timely and efficient transition in legal services related to the ‘672 Litigation as well as the on-going negotiations for additional license agreements.

Although there continue to be uncertainties and risks related to the Company’s Patent Licensing Program, management anticipates its licensing program will generate additional intellectual property licensing revenues during the remainder of fiscal year 2005. However, Forgent’s Patent Licensing Program involves risks inherent in intellectual property licensing, including risks of protracted delays, legal challenges that would lead to the disruption or curtailment of the licensing program, increasing expenditures associated with pursuit of the program and other risks that could adversely affect the Company. Additionally, the U.S. ‘672 patent expires in October 2006 and its foreign counterparts expire in September 2007. There can be no assurance that the Company will be able to continue to effectively license its technology to other companies. Additionally, there are no guarantees that the Company can protect its intellectual property rights in its current litigation or prevent the unauthorized use of its technology in the future. However, Forgent will continue to seek to enforce and will pursue its rights through legal action when necessary.

Software and services revenues were \$0.6 million and \$1.0 million for the three months ended October 31, 2004 and 2003, respectively. Software and services revenues as a percentage of total revenues were 9% and 26% for the three months ended October 31, 2004 and 2003, respectively. Revenues from this line of business included sales of Forgent’s NetSimplicity scheduling and asset management software products as well as the Company’s ALLIANCE enterprise meeting automation software products. Also included are software maintenance and support, royalties and services including installation, training and professional services related to ALLIANCE, such as add-on customization and network consulting services.

The \$0.4 million decrease in software and services revenues is due to a \$0.8 million decrease in revenues from the ALLIANCE product line, which is offset by a \$0.4 million increase in revenues from the NetSimplicity product line. During fiscal year 2004, Forgent experienced declining revenues related to ALLIANCE due to price sensitivity, lengthy sales cycles and integration with enterprise infrastructures. The Company decided to cease actively marketing and selling its ALLIANCE software products, which explains the \$0.8 million decrease in ALLIANCE revenues during the three months ended October 31, 2004 as compared to the three months ended October 31, 2003. In November 2004, Forgent sold its ALLIANCE software suite to Tandberg Telecom AS. See Note 8 - “Subsequent Event.” Management anticipates the ALLIANCE revenues will continue to decrease as the ALLIANCE maintenance and support contracts expire.

Since acquiring its Meeting Room Manager and Visual Asset Manager software products in October 2003, Forgent has continued to develop these products, has introduced new related products and increased revenues from its NetSimplicity product line each quarter. During the quarter ended October 31, 2004, NetSimplicity revenues increased \$0.4 million as compared to the quarter ended October 31, 2003. Forgent will continue to target North American and international companies in the healthcare, education, legal, and financial industries, which generated approximately 58.5% of its first fiscal quarter’s sales. Management believes its current software business is a growth business and will continue actively pursuing sales to increase revenues.

### **Gross Margin**

Gross margins for the three months ended October 31, 2004 were \$3.3 million, an increase of \$1.7 million, or 111%, from the \$1.6 million reported for the three months ended October 31, 2003. Gross margins as a percentage of total revenues were 51% and 41% for the three months ended October 31, 2004 and 2003, respectively.

The \$1.7 million increase in the Company’s total gross margin during the quarter ended October 31, 2004, as compared to the quarter ended October 31, 2003, is due primarily to the \$1.5 million increase in gross margin resulting from the patent license agreements obtained during the first fiscal quarter of 2005. The cost of sales on the intellectual property licensing business relates to the legal fees incurred on successfully achieving licensing revenues. The contingent legal fees were based on 50% of the licensing revenues received on signed agreements and were paid to Forgent’s previous counsel pursuant to a fee agreement with such counsel. At the end of the first fiscal quarter, Forgent terminated such counsel and is currently in discussions with the law firm regarding the termination. Forgent is also currently negotiating a new overall fee agreement with its new counsel and all other law firms

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engaged in the licensing and litigation of the '672 patent. Although the new agreement is not finalized, management believes the final agreement will result in higher gross margins for the Company. Because of the inherent risks in licensing intellectual property, including the October 2006 expiration of the U.S. '672 patent and the September 2007 expiration of the patent's foreign counterparts, total gross margins would be adversely affected in the future if licensing revenues decline.

Gross margins as a percentage of revenues for the software segment increased to 66% for the three months ended October 31, 2004 as compared to 15% for the three months ended October 31, 2003. The cost of sales associated with the software and services business is relatively fixed and results primarily from the amortization of the Company's purchased software development costs and intangible assets. During the three months ended October 31, 2004, cost of sales associated with the software segment decreased by \$0.6 million as compared to the three months ended October 31, 2003. In fiscal year 2004, Forgent fully impaired its capitalized software development costs and terminated certain employees related to its ALLIANCE software suite. Thus, approximately \$0.7 million of the decrease in the software segment's total cost of sales resulted from decreases in the amortization of capitalized software development costs and compensation costs during the first fiscal quarter of 2005. Therefore, the \$0.6 million decrease in the cost of sales, coupled with the \$0.4 million decline in software and services revenues as explained above, resulted in a \$0.2 million increase in the software segment's gross margin during the three months ended October 31, 2004, as compared to the three months ended October 31, 2003. Since revenues generated from the software and services business directly affect gross margins and since management anticipates growing revenues for this segment, gross margins from the software and services business are expected to improve.

### **Selling, General and Administrative**

Selling, general and administrative expenses for the three months ended October 31, 2004 were \$2.6 million, a decrease of \$0.4 million, from the \$3.0 million reported for the three months ended October 31, 2003. Selling, general and administrative ("SG&A") expenses as a percentage of revenues were 40% and 78% for the three months ended October 31, 2004 and 2003, respectively.

The \$0.4 million decrease in SG&A expenses is due primarily to a decrease in compensation expenses and an increase in professional fees. During fiscal year 2004, Forgent restructured its software operations and terminated 33 employees in sales and marketing and seven employees in the general and administrative functions. These employment terminations led to decreased compensation expenses during the first fiscal quarter of 2005 to approximately \$0.9 million, the majority of which relate to the termination of the ALLIANCE sales force. Forgent continues to actively pursue sales of its NetSimplicity software products and signed agreements with one new domestic partner and one new international partner to assist in its sales efforts.

The decrease in compensation expenses during the three months ended October 31, 2004 was offset by a \$0.3 million increase in professional fees. This increase primarily relates to increased audit and consulting fees resulting from the implementation of certain Sarbanes-Oxley Act requirements and increased legal and consulting fees related to Forgent's intellectual property licensing business. Due to the current litigation of its '672 patent, management believes legal and consulting fees may continue to increase. However, management continues to evaluate and reduce any unnecessary SG&A expenses that do not directly support the generation of revenues for the Company, including all unproductive infrastructure expenses such as underutilized office space.

### **Research and Development**

Research and development expenses for the three months ended October 31, 2004 were \$0.4 million, a decrease of \$0.7 million, or 66%, from the \$1.1 million reported for the three months ended October 31, 2003. Research and development ("R&D") expenses as a percentage of revenues were 6% and 28% for the three months ended October 31, 2004 and 2003, respectively.

During the three months ended October 31, 2004, Forgent continued developing its Meeting Room Manager ("MRM") product and made significant progress on its next release of MRM, version 6.0. This release, with its new web-based interface and numerous feature enhancements requested by customers, extends MRM's capabilities in ease of use, performance and scalability and is supported by significant architectural improvements that include Microsoft .NET and native SQL server database technologies. An internal quality assurance team and external beta testers are currently testing the new version, which the Company plans to release in January 2005. Also during the first fiscal quarter of 2005, Forgent developed the newest release of its Visual Asset Manager

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("VAM") product. VAM 2004 Plus, which was released in November 2004, includes new features that allow asset managers to track the custodial status of shared assets, track and manage assets across multiple locations, and define subcategories under primary asset categories to facilitate more precise categorization of their assets.

The R&D expenses during the three months ended October 31, 2003 are net of \$0.5 million in costs that were capitalized. Software development costs are capitalized after a product is determined to be technologically feasible and is in the process of being developed for market. At the time the product is released for sale, the capitalized software is amortized over the estimated economic life of the related project, generally three years. As part of the Company's efforts to restructure its software operations in fiscal year 2004, Forgent fully impaired its ALLIANCE capitalized software development costs as of January 31, 2004. As a result, no ALLIANCE R&D costs were capitalized during the first fiscal quarter of 2005. Additionally, no R&D costs related to the NetSimplicity software products have been capitalized, and management currently does not anticipate any to be capitalized in the future.

The \$0.7 million decrease in R&D expenses during the three months ended October 31, 2004, as compared to the three months ended October 31, 2003, is primarily due to a \$0.8 million decrease in compensation expenses. During fiscal year 2004, Forgent restructured its software operations and terminated 22 employees in research and development. Additionally, nine employees terminated their employment voluntarily. These employment terminations caused the decrease in compensation expenses during the first fiscal quarter of 2005. Management will attempt to maintain R&D expenses at reasonable levels in terms of percentage of revenue and anticipates R&D expenses to remain relatively flat during the next fiscal quarter.

### **Net Income (Loss)**

Forgent generated a net income of \$0.4 million, or \$0.02 per share, during the three months ended October 31, 2004 compared to a net loss of \$2.5 million, or \$0.10 per share, during the three months ended October 31, 2003. Net income (loss) as a percentage of total revenues were 6% and (65%) for the three months ended October 31, 2004 and 2003, respectively. The \$2.9 million increase in the Company's net income is primarily attributable to the \$1.8 million increase in gross margin and the \$1.1 million decrease in operating expenses.

During the three months ended October 31, 2004, Forgent's Patent Licensing Program achieved a significant milestone, \$100.4 million in aggregate licensing revenues, while generating additional licensing revenues and earnings to provide a positive cash flow for the Company's stability and growth. Additionally, Forgent reduced operating expenses considerably and maintained healthy cash and working capital balances. Despite these positive financial indicators, uncertainties and challenges remain, and there can be no assurance that the Company can successfully grow its revenues or maintain profitability.

### **LIQUIDITY AND CAPITAL RESOURCES**

On October 31, 2004, Forgent had working capital of \$18.7 million, including \$21.7 million in cash, cash equivalents and short-term investments. Cash provided by operating activities was \$0.1 million for the three months ended October 31, 2004 due primarily to \$0.4 million in net income and \$0.4 million of non-cash depreciation and amortization expenses, which were offset by a \$0.3 million decrease in accounts payable. Cash provided by operating activities was \$4.8 million for the three months ended October 31, 2003 due primarily to a \$6.7 million decrease in accounts receivable and the sale of \$1.7 million in accounts receivable, which were offset by the \$2.5 million in net loss and a \$1.5 million decrease in accounts payable. During the three months ended October 31, 2003, the Company sold \$1.7 million of its outstanding accounts receivable, without any recourse, to Silicon Valley Bank and received net proceeds of \$1.7 million. No accounts receivable were sold during the first fiscal quarter of 2005. During the three months ended October 31, 2004, Forgent collected \$2.9 million in accounts receivable related to its Patent Licensing Program. Management plans to utilize these cash receipts to invest more resources in its licensing program, especially due to anticipated increased expenditures related to the '672 Litigation, and manage its software operations towards profitability. The \$2.9 million in collections and the diligent collection of the Company's other accounts receivable resulted in the Company's days sales outstanding to be five days for the first fiscal quarter of 2005, a decrease of one day from the previous fiscal quarter and a decrease of 24 days from the quarter ended October 31, 2003. Forgent continues to conscientiously collect all of its outstanding receivables.

Cash provided by investing activities was \$0.9 million for the three months ended October 31, 2004 due to \$0.9 million in net sales of short-term investments. Cash used in investing activities was \$6.3 million for the three

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months ended October 31, 2003 due largely to \$3.2 million in net purchases of short-term investments and \$2.0 million paid related to the purchase of Network Simplicity Software Inc. Forgent manages its investments portfolio in order to fulfill corporate liquidity requirements and maximize investment returns while preserving the quality of the portfolio. Since the Company's current operations are not capital intensive, Forgent made no purchases of fixed assets during the three months ended October 31, 2004 and management does not anticipate any significant purchases of fixed assets during the remaining fiscal quarters of 2005.

As of October 31, 2004, the Company leased office space and equipment under non-cancelable operating leases that expire at various dates through 2013. Certain leases obligate the Company to pay property taxes, maintenance and insurance. Additionally, the Company used the proceeds from its notes payable to purchase computers and various equipment. Amounts payable under these leases and notes payable are as follows:

	Payments Due By Period (in thousands)				
	Total	Less than 1 year	1 -3 years	3-5 years	More than 5 years
Operating lease obligations	\$29,052	\$ 4,076	\$ 7,176	\$6,710	\$11,090
Notes payable obligations	709	364	345	—	—
<b>Total</b>	<b>\$29,761</b>	<b>\$ 4,440</b>	<b>\$ 7,521</b>	<b>\$6,710</b>	<b>\$11,090</b>

Forgent may periodically make other commitments and thus become subject to other contractual obligations. However, management believes these commitments and contractual obligations are routine in nature and incidental to the Company's operations.

Cash provided by financing activities was \$34 thousand for the three months ended October 31, 2004 due to \$0.1 million in proceeds received from the issuance of a note payable, which was offset by \$0.1 million in notes payable payments and \$39 thousand in proceeds received from the issuance of stock. Cash used in financing activities was \$0.3 million for the three months ended October 31, 2003 due primarily to \$0.5 million in purchases of treasury stock, which was offset by \$0.3 million in proceeds received from the issuance of stock. Forgent's stock repurchase program allows the Company to purchase up to three million shares of the Company's common stock. During the three months ended October 31, 2003, the Company repurchased 137,085 shares for approximately \$0.5 million. No additional shares were repurchased during the first fiscal quarter of 2005. As of October 31, 2004, Forgent had repurchased 1,754,201 shares and had the approval to repurchase approximately 1.3 million additional shares. Management will continue to evaluate repurchasing additional shares in fiscal year 2005, depending on the Company's cash position, market conditions and other factors.

As of October 31, 2004, Forgent's cash, cash equivalents and short-term investments balance was \$21.7 million, an increase of \$0.2 million, or 0.8%, over the previous quarter ended July 31, 2004. Forgent's principal sources of liquidity at October 31, 2004 consisted of \$21.7 million of cash, cash equivalents and short-term investments and the ability to generate cash from its intellectual property licensing business. Management currently plans to utilize its cash balances to fund operations and consider opportunities to repurchase additional Company stock, pay cash dividends and/or acquire a growing and profitable public or privately held technology business or product line. However, Forgent's ability to generate cash from its intellectual property licensing business is subject to certain risks as discussed under "Risk Factors – Licensing Program" below. Additionally, Forgent's expenditures related to the '672 Litigation could increase as discussed under "Risk Factors – Litigation" below. As previously stated above, there remain risks and uncertainties as to the timing of the receipts of license fees due, in part, to the inherent nature of a patent licensing program. Therefore, there is no assurance that the Company will be able to continue to limit its cash consumption and preserve its cash balances, and it is possible that the Company's business demands may lead to cash utilization at levels greater than recently experienced due to the '672 Litigation, increased expense levels, potential acquisitions and other factors.

## **CRITICAL ACCOUNTING POLICIES**

The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States and include the accounts of Forgent's wholly owned subsidiaries. All significant intercompany transactions and balances have been eliminated in the consolidation. Preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of the assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The more significant estimates made by management include the valuation allowance for the gross deferred tax asset, contingency reserves, useful lives of fixed assets, the determination of the fair value of its long-lived assets, including its intangible assets and the loss from its impairments. These estimates could be materially different under different conditions and assumptions. Additionally, the actual amounts could differ from the estimates made. Management periodically evaluates estimates used in the preparation of the financial statements for continued reasonableness. Appropriate adjustments, if any, to the estimates used are made prospectively based upon such periodic evaluation.

Management believes the following represent Forgent's critical accounting policies:

### **Revenue Recognition**

The Company recognizes revenue when persuasive evidence of an arrangement exists, delivery has occurred, the fee is fixed or determinable and collectibility is probable. The Company recognizes software revenue in accordance with Statement of Position ("SOP") 97-2, "*Software Revenue Recognition*," as amended by SOP 98-4, "*Deferral of the Effective Date of a Provision of SOP 97-2*," and SOP 98-9, "*Modification of SOP 97-2 With Respect to Certain Transactions*," and Securities and Exchange Commission Staff Accounting Bulletin 104, "*Revenue Recognition*."

Intellectual property licensing revenue is derived from the Company's Patent Licensing Program, which is currently focused on generating licensing revenues relating to the Company's data compression technology embodied in U.S. Patent No. 4,698,672, and its foreign counterparts and is currently conducted through the Company's wholly-owned subsidiary, Compression Labs, Inc. Gross intellectual property licensing revenue is recognized at the time a license agreement has been executed and related costs are recorded as cost of sales. The cost of sales on the intellectual property licensing business relates to the legal fees incurred on successfully achieving signed agreements. The contingent legal fees were based on 50% of the licensing revenues received on signed agreements and were paid to Forgent's previous counsel pursuant to a fee agreement with such counsel. Forgent has terminated such counsel and is currently in discussions with the law firm regarding the termination.

Software and service revenue consists of license and service fees. License fee revenue is earned through the licensing or right to use the Company's software and from the sale of specific software products. Service fee income is earned through the sale of maintenance and technical support, training and installation. The Company allocates the total fee to the various elements based on the relative fair values of the elements specific to the Company. The Company determines the fair value of each element in the arrangement based on vendor-specific objective evidence ("VSOE") of fair value. When VSOE of fair value for the license element is not available, license revenue is recognized using the residual method. Under the residual method, the contract value is first allocated to the undelivered elements (maintenance and service elements) based upon their VSOE of fair value; the remaining contract value, including any discount, is allocated to the delivered element. For maintenance, VSOE of fair value is based upon the renewal rate specified in each contract. For training and installation services, VSOE of fair value is based upon the rates charged for these services when sold separately. Revenue allocated to maintenance and technical support is recognized ratably over the maintenance term (typically one year). Revenue allocated to installation and training is recognized upon completion of these services due to their short-term nature. The Company's training and installation services are not essential to the functionality of its products as such services can be provided by a third party or the customers themselves. For instances in which VSOE cannot be determined for undelivered elements, and these undelivered elements do not provide significant customization or modification of its software product, Forgent recognizes the entire contract amount ratably over the period during which the services are expected to be performed.

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The Company does not recognize revenue for agreements with rights of return, refundable fees, cancellation rights or acceptance clauses until such rights of return, refund or cancellation have expired or acceptance has occurred. The Company's arrangements with resellers do not allow for any rights of return.

Deferred revenue includes amounts received from customers in excess of revenue recognized, and is comprised of deferred maintenance, service and other revenue. Deferred revenues are recognized in the Consolidated Statement of Operations over the terms of the arrangements, primarily ranging from one to three years.

### **Impairment of Goodwill, Intangible Assets and Long-Lived Assets**

Since goodwill and other intangible assets with indefinite lives are no longer required to be amortized under SFAS No. 142, "*Goodwill and Other Intangible Assets*," the Company reviews its goodwill and these intangible assets for possible impairment on an annual basis, or whenever specific events warrant. Events that may create an impairment review include, but are not limited to: significant and sustained decline in the Company's stock price or market capitalization, significant underperformance of operating units and significant changes in market conditions and trends. Forgent uses a two-step process and a discounted cash flow model to evaluate its assets for impairment. If the carrying amount of the goodwill or asset exceeds its implied fair value, an impairment loss is recognized in an amount equal to the excess during that fiscal period. Intangible assets that are not deemed to have indefinite lives will continue to be amortized over their useful lives and are tested for impairment in accordance with SFAS No. 144, "*Accounting for the Impairment or Disposal of Long-Lived Assets*."

In accordance with SFAS No. 144, Forgent reviews and evaluates its long-lived assets for impairment whenever events or changes in circumstances indicate that their net book value may not be recoverable. When such factors and circumstances exist, including those noted above, the Company compares the assets' carrying amounts against the estimated undiscounted cash flows to be generated by those assets over their estimated useful lives. If the carrying amounts are greater than the fair value of those assets, the excess is recorded as an impairment in that fiscal period.

### **Allowance for Doubtful Accounts**

The Company maintains an allowance for doubtful accounts to estimate losses from uncollectable customer accounts receivables. This estimate is based in the aggregate, on historical collection experience, age of receivables and general economic conditions. It also considers an individual customer's payment experience, credit-worthiness and age of receivable balances.

### **RISK FACTORS**

There are many factors that affect the Company's business, prospects, liquidity and the results of its operations, some of which are beyond the control of the Company. The following is a discussion of some, but not all, of these and other important risk factors that may cause the actual results of the Company's operations in future periods to differ materially from those currently expected or desired. Additional risks not presently known to management or risks that are currently believed to be immaterial, but which may become more material, may also affect the Company's business prospects and results of operations.

#### **Licensing Program**

The Company's Patent Licensing Program involves risks inherent in licensing intellectual property, including risks of protracted delays, legal challenges that would lead to disruption or curtailment of the program, increasing expenditures associated with the pursuit of the program and other risks that could adversely affect the Company. Thus, there can be no assurance that the Company will be able to continue to license its technology to others. See Part II, Item 1 "Legal Proceedings" for information regarding the commencement by the Federal Trade Commission of a non-public investigation associated with the Company's Patent Licensing Program. If the Company fails to meet the expectations of securities analysts or investors, the market price of Forgent's common stock may decrease significantly. Quarterly operating results may fail to meet these expectations for a number of reasons, including the unwillingness or inability of licensees to pay for the license and other fees, a decline in the demand for the Company's patented technology, higher than expected operating expenses and license delays due to legal and other factors. Additionally, there are no guarantees that the Company can protect its intellectual property rights in its current litigation or prevent the unauthorized use of its technology in the future. However, Forgent will continue to seek to enforce and will pursue its rights through the legal system when necessary.



## **Litigation**

The Company has initiated the '672 Litigation against multiple companies for infringement of its '672 patent. As with any litigation, the outcome is uncertain, and although the Company intends to vigorously pursue its claims, there can be no assurance or certainty that the Company will prevail. Additionally, unintended consequences of the Company's initiating the '672 Litigation may adversely affect the Company's business, including, without limitation, that the Company may have to devote significant time and financial resources to pursuing the '672 Litigation, that the Company may become subject to counterclaims or lawsuits and that the expenses of pursuing the '672 Litigation could increase based upon new developments occurring. These, and other factors not currently known to or deemed material by management, could have a material and adverse impact on the Company's business, prospects, liquidity and results of operations.

## **Licensing Cycle**

Forgent's licensing cycle for its Patent Licensing Program is lengthy and costly, including expenditures related to various consultant fees, travel costs and certain legal costs. Due to multiple negotiations and legal due diligence required, the licensing process cannot necessarily be expedited. As a result, the Company's intellectual property licensing revenues may fluctuate from quarter to quarter, making it difficult for Forgent to predict its revenues, which could cause the Company to miss analysts' expectations. Additionally, these fluctuations and missed expectations may lead to reduced prices for the Company's common stock.

## **Counsel for Patent Licensing Program**

On October 27, 2004, Forgent formally terminated its previous counsel engaged in connection with the Company's Patent Licensing Program and is currently in discussions with the law firm regarding the termination. Forgent has engaged new counsel to advise it in connection with its Patent Licensing Program and is working with both counsels to ensure a timely and efficient transition in legal services. Presently, the Company has not yet finalized a new fee agreement with its new counsel. The Patent Licensing Program is dependent on intensive legal due diligence and negotiations. The transition in the provision of legal services to Forgent caused by this termination may cause delays in Forgent's ability to proceed with its Patent Licensing Program, which could have a material and adverse impact on the Company's business, liquidity and results of operations.

## **Patents and Trademarks**

The Company's success and ability to compete are substantially dependent on its proprietary technology and trademarks. The Company seeks to protect these assets through a combination of patent and trademark laws, as well as confidentiality procedures and contractual provisions. These legal protections afford only limited protection and enforcement of these rights may be time consuming and expensive. Furthermore, despite best efforts, the Company may be unable to prevent third parties from infringing upon or misappropriating its intellectual property. Also, competitors may independently develop similar, but not infringing, technology, duplicate products or design around the Company's patents or other intellectual property.

Additionally, the Company's patent applications or trademark registrations may not be approved. Moreover, even if approved, the resulting patents or trademarks may not provide Forgent with any competitive advantage or may be challenged by third parties. If challenged, patents might not be upheld or claims could be narrowed. Any litigation surrounding the Company's rights would force Forgent to divert important financial and other resources away from business operations.

## **General Economic and Industry Conditions**

Any adverse change in general economic, business or industry conditions could have a material effect on the Company's business, prospects and financial performance if those conditions cause customers or potential customers to reduce or delay their purchases of scheduling software and related services. Given competing priorities within limited budgets, businesses may choose to curtail their capital spending. If so, a general reduction in information technology spending could have an adverse effect on the demand for the Company's products and services and could result in declining revenues and earnings for the Company.

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### **Acquisition Integration**

The Company has made, and will continue to evaluate and may make, strategic acquisitions in public and privately held technology companies. Some of these acquisitions may be in markets or businesses that the Company had not previously participated in and thus may require additional employees and/or skill sets that the Company does not currently possess. In addition, some of these acquisitions may be in regulated or other specialized industries. Some of these companies may also be early-stage ventures with unproven business models, have products that are not yet fully developed, or have products that have not yet achieved market acceptance. Any acquisitions of this type are inherently risky. Additionally, the Company may encounter a number of other risks associated with acquisitions, including (1) diversion of management's attention; (2) failure to retain and motivate key acquired personnel; (3) failure to integrate acquired operations, products and technologies; (4) risks associated with unanticipated events, circumstances or legal liabilities; (5) client satisfaction or performance problems within the acquired business; and (6) amortization of acquired intangible assets. These difficulties could disrupt Forgent's ongoing business, distract existing management and employees, require increased capital expenditures or increase the Company's expenses and/or materially and adversely affect results of operations and liquidity. Accordingly, there can be no assurances that any of the Company's investments or acquisitions will be successful, that the Company will be able to recover the amounts invested or that any acquisition would be profitable.

### **Software Marketing and Sales**

The future success of the Company's software segment will be dependent in significant part on its ability to generate demand for its software products and services. To this end, Forgent's sales operations must increase market awareness of its products to generate increased revenue. All sales new hires will require training and may take time to achieve full productivity. Forgent cannot be certain that its new hires will become as productive as necessary or that it will be able to hire enough qualified individuals or retain existing employees in the future. The Company cannot be certain that it will be successful in its efforts to market and sell its products, and if it is not successful in building greater market awareness and generating increased sales, future results of operations will be adversely affected.

### **Increased Business from Current and New Customers**

Forgent's business model depends on the expanded use of its software within its current and new customers' organizations. Therefore, Forgent must execute on its growth objectives, including growth from its acquired companies or assets. If the Company fails to grow its customer base or generate repeat and expanded business from its current customers, Forgent's business and operating results could be adversely affected. Since the Company's maintenance and other service fees depend largely on the size and number of licenses that are sold, any downturn in Forgent's software license revenue would negatively impact the Company's deployment services revenue and future maintenance revenue. Additionally, if customers elect not to renew their maintenance agreements, Forgent's maintenance revenue could be adversely affected.

### **Software Development**

Forgent expects that its future financial performance will depend, in part, on revenue generated from its existing and future software products and the related products that the Company plans to develop or acquire. There are significant risks inherent in any new product introduction, such as with Forgent's NetSimplicity software products. To be successful, Forgent must be cost-effective and timely in enhancing its existing software applications, developing new software technology and solutions that address the increasingly sophisticated and varied needs of its existing and prospective clients, and anticipating technological advances and evolving industry standards and practices. Forgent may need to invest further in research and development in order to keep its software applications and solutions viable in the rapidly changing marketplace. This research and development effort may require significant resources and could ultimately be unsuccessful. Such significant investment could adversely affect the Company's operating results as well as its liquidity.

Additionally, Forgent cannot be certain that its existing or future products offerings will meet customer performance needs or expectations when shipped or that they will be free of significant software defects or bugs. If

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the Company's products do not meet customer needs or expectations, for whatever reason, the Company's sales would be adversely affected and furthermore, upgrading or enhancing the Company's products could be costly and time consuming. Such upgrades or enhancements could have an adverse effect on the Company's results of operations and liquidity.

### **Quarterly Revenues and Operating Results**

In the past, Forgent's revenues and operating results have varied significantly from quarter to quarter. Additionally, management expects that revenues and operating results will continue to fluctuate significantly from quarter to quarter. These fluctuations may lead to reduced prices for the Company's common stock. Several factors may cause the quarterly results to fluctuate, including:

- timing of intellectual property license agreements and related recording of licensing revenues;
- timing and costs related to the '672 Litigation;
- market demand for the Company's software products and services;
- timing of customers' budget cycles;
- timing of customer orders and deployment of Forgent's software products;
- the mix of software license and services revenue;
- seasonal fluctuations in capital spending;
- changes in the rapidly evolving market for web-based applications;
- management's ability to manage operating costs, a large portion of which are relatively fixed in advance of any particular quarter;
- timing and costs related to possible acquisitions of technology or businesses;
- costs of attracting, retaining and training skilled personnel;
- management's ability to manage future growth; and
- general economic climate.

Some of these factors are within management's control while others are not. Accordingly, management believes that quarter-to-quarter comparisons of the Company's revenues and operating results are not necessarily meaningful. Therefore, investors should not rely on the results of any particular quarter as an indication of future performance.

### **Key Personnel and Senior Management**

Forgent's success depends upon its ability to attract, hire and retain highly trained and experienced software developers and engineers to design and develop software applications in order to keep pace with client demand for rapidly evolving technologies and varying client needs. The Company's operations are also dependent on the continued efforts of its executive officers and senior management. Additionally, Forgent will likely depend on the senior management of any business it may acquire in the future. If any of the Company's key personnel or senior management are unable or unwilling to continue in his or her present role, or if Forgent is unable to retain or hire, train and integrate new personnel effectively, Forgent's business could be adversely affected.

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### **Technological Changes and Product Transitions**

The technology industry is characterized by continuing improvements in technology, which results in the frequent introduction of new products, short product life cycles and continual improvement in product performance characteristics. If the Company fails to anticipate and respond effectively to these improvements and new product introductions, these improvements could render the Company's products noncompetitive. While Forgent believes that its experience over the past few years as a provider of software and services and its prior experience in the videoconferencing industry affords it a competitive advantage over some of its competitors, rapid changes in technology present challenges and risks for the Company.

### **Competition and New Entrants**

The Company may encounter new entrants or competition from competitors in some or all aspects of its business, including any business that Forgent may acquire. The Company currently competes on the basis of price, technology, availability, performance, quality, reliability, service and support. The Company believes that its experience and business model creates a competitive advantage over its competitors. However, there can be no assurance that the Company will be able to maintain this advantage. Many of the Company's current and possibly future competitors have greater resources than the Company and, therefore, may be able to compete more effectively on price and other terms.

### **Limited Operating History**

Although founded in 1985, Forgent has a limited operating history in its current lines of business due to the Company's transition to a licensor of intellectual property and a provider of scheduling and asset management software and services. As a result of this limited operating history, Forgent cannot forecast revenue and operating expenses based on historical results. Additionally, the Company's ability to forecast quarterly revenue accurately is limited because of the relative unpredictability of its intellectual property licensing revenues. The Company's business, operating results and financial condition will be materially adversely affected if revenues do not meet projections and if results in a given quarter do not meet expectations.

### **Divestiture Transactions**

As a result of Forgent's transition to a licensor of intellectual property and a provider of scheduling and asset management software and services, the Company has divested certain non-core operations, including a videoconferencing endpoint manufacturing business, an integration business and a videoconferencing hardware services business. There can be no assurance that, having divested such non-core operations, Forgent will be able to achieve greater or any profitability, strengthen its core operations or compete more effectively in existing or new markets. In addition, the Company continues to evaluate the profitability realized or that is likely to be realized by its existing businesses and operations. Forgent reviews from a strategic standpoint, which, if any, of its businesses or operations should be divested. Entering into, evaluating or consummating divestiture transactions may entail risks and uncertainties in addition to those which may result from the divestiture-related change in the Company's business operations, including but not limited to extraordinary transaction costs, unknown indemnification liabilities and unforeseen administrative complications, any of which could result in reduced revenues, increased charges or post-transaction administrative costs, or could otherwise have a material adverse effect on Forgent's business, financial condition or results of operations.

### **Recently Proposed and Enacted Laws and Regulations**

As a result of assessing, implementing and complying with recently proposed and enacted changes in the laws and regulations affecting public companies, including but not limited to, the Sarbanes-Oxley Act of 2002, management anticipates increased accounting, audit and legal fees, as well as increased costs for certain types of insurance. Additionally, the new and proposed rules could also make it more difficult for Forgent to retain qualified individuals to serve on its Board of Directors. Although management continually monitors and evaluates developments with respect to these new and proposed laws and regulations, management cannot estimate the amount of the additional costs the Company may incur or the timing of such costs at this time. However, such increased costs could materially affect Forgent's results of operations.

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Due to the risk factors noted above and elsewhere in the Management's Discussion and Analysis of Financial Condition and Results of Operations, Forgent's past earnings and stock price have been, and future earnings and stock price potentially may be, subject to significant volatility, particularly on a quarterly basis. Past financial performance should not be considered a reliable indicator of future performance and investors are cautioned in using historical trends to anticipate results or trends in future periods. Any shortfall in revenue or earnings from the levels anticipated by securities analysts could have an immediate and significant effect on the trading price of the Company's common stock in any given period.

### **CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS**

Certain statements in this Report on Form 10-Q represent forward-looking statements under Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These statements involve known and unknown risks, uncertainties and other factors that may cause actual results of operations, levels of activity, economic performance, financial condition or achievements to be materially different from future results of operations, levels of activity, economic performance, financial condition or achievements as expressed or implied by such forward-looking statements.

Whenever possible, Forgent attempted to identify these forward-looking statements with the words "believes," "estimates," "plans," "expects," "anticipates," "may," "could" and other similar expressions. Although these forward-looking statements reflect management's current plans and expectations, which are believed to be reasonable as of the filing date of this Report, they inherently are subject to certain risks and uncertainties. Such risks and uncertainties include, but are not limited to, those described under "Risk Factors" and other risks indicated in Forgent's filings with the Securities and Exchange Commission from time to time. These risks and uncertainties are beyond the Company's control, and in many cases, management cannot predict all of the risks and uncertainties that could cause actual results to differ materially from those contemplated, projected, anticipated, planned or budgeted in any such forward-looking statements. Additionally, Forgent does not assume responsibility for the accuracy and completeness of such statements and is under no obligation to update any of the forward-looking statements after the date of this Form 10-Q to conform such statements to actual results.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

The Company's primary market risk exposure relates to interest rate risk. Forgent's interest income is sensitive to changes in U.S. interest rates. However, due to the short-term nature of the Company's investments, Forgent does not consider these risks to be significant. For additional Quantitative and Qualitative Disclosures about Market Risk, reference is made to Part II, Item 7A, Quantitative and Qualitative Disclosures about Market Risk, in the Company's Annual Report on Form 10-K for the year ended July 31, 2004.

### **ITEM 4. CONTROLS AND PROCEDURES**

Under the supervision and with the participation of the Company's Chief Executive Officer and Chief Financial Officer, management of the Company has evaluated the effectiveness of the Company's disclosure controls and procedures (as defined in Rule 13a-15(e) and Rule 15d-15 under the Securities Exchange Act of 1934) as of a date within 90 days prior to the filing date of this report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of the date of the evaluation, the Company's disclosure controls and procedures are effective in timely alerting them to the material information relating to the Company required to be included in its periodic filings with the Securities and Exchange Commission. No changes were made in the Company's internal controls over financial reporting during the quarter ended October 31, 2004, that have materially affected, or is reasonably likely to materially affect, the Company's internal controls over financial reporting.

## PART II — OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

The Company is the defendant or plaintiff in various actions that arose in the normal course of business. In the opinion of management, the ultimate disposition of these matters, including those discussed below, may have a material adverse effect on the Company's financial condition or results of operations. With the exception of the proceedings described below, none of the pending legal proceedings to which the Company is a party involves claims for damages in excess of 10% of the Company's current assets for the period covered by this report.

#### **Litigation of United States Patent No. 4,698,672**

In April 2004, Forgent's wholly-owned subsidiary, Compression Labs, Inc. ("CLI"), initiated litigation against 31 companies for infringement of United States Patent No. 4,698,672 (the "'672 patent") in the United States District Court for the Eastern District of Texas, Marshall Division, seeking injunctive relief against sales of infringing products and monetary damages, among other relief sought. The defendants are Adobe Systems Incorporated; Agfa Corporation; Apple Computer, Incorporated; Axis Communications, Incorporated; Cannon USA; Concord Camera Corporation; Creative Labs, Incorporated; Dell Incorporated; Eastman Kodak Company; Fuji Photo Film Co U.S.A.; Fujitsu Computer Products of America; Gateway, Inc.; Hewlett-Packard Company; International Business Machines Corp.; JASC Software; JVC Americas Corporation; Kyocera Wireless Corporation; Macromedia, Inc.; Matsushita Electric Corporation of America; Océ North America, Incorporated; Onkyo Corporation; PalmOne, Inc.; Panasonic Communications Corporation of America; Panasonic Mobile Communications Development Corporation of USA; Ricoh Corporation; Riverdeep, Incorporated (d.b.a. Broderbund); Savin Corporation; Thomson S.A.; Toshiba Corporation; and Xerox Corporation. In August 2004, CLI initiated litigation against another 11 companies for infringement of the '672 patent. The defendants in this case are Acer America Corporation; AudioVox Corporation; BancTec, Inc.; BenQ America Corporation; Color Dreams, Inc. (d/b/a StarDot Technologies); Google Inc.; ScanSoft, Inc.; Sun Microsystems Inc.; TiVo Inc.; Veo Inc.; and Yahoo! Inc. Forgent has since settled with defendants Adobe Systems, Inc. and Macromedia, Inc. In November 2004, CLI initiated litigation against Creo, Inc. and Creo Americas, Inc. for infringement of the '672 patent.

In three separate lawsuits filed in July, August and September of 2004, 25 of the defendants in the Texas litigation sued CLI and Forgent in the United States District Court for Delaware, seeking declaratory relief that the '672 patent is not infringed, is unenforceable, and is invalid, among other claims for relief. Additionally, in July and September 2004, two other defendants in the Texas litigation filed suit against CLI and Forgent in the San Jose and Oakland Divisions of the United States District Court for Northern California, seeking similar declaratory relief. Forgent and CLI have moved to stay, dismiss or transfer the Delaware actions, asserting that all such issues should be heard in the U.S. District for the Eastern District, Marshall Division, rather than in Delaware.

On September 27, 2004, two defendants in the Texas litigation filed a motion with the Judicial Panel on Multidistrict Litigation requesting the court to transfer the three Texas cases described above to either the Delaware or California courts, where the actions filed by the defendants are pending. On October 22, 2004, the Company filed its response opposing transfer of the '672 patent litigation to Delaware or California, and the remaining defendants in the Texas litigation filed a response joining in the motion to transfer the '672 patent litigation to Delaware or California. On November 30, 2004, the California District Court stayed all proceedings pending in that court, pending a decision from the Judicial Panel on Multidistrict Litigation.

Although Forgent is currently unaware of any other suits against CLI and itself regarding the '672 patent, it is possible that other defendants, and/or other accused infringers, could join in the pending Delaware actions or file similar suits for declaratory relief in Delaware or elsewhere.

#### **Federal Trade Commission Inquiry**

In December 2003, the Company received notification from the Federal Trade Commission (the "FTC") that it is conducting a non-public investigation to determine whether the Company may have engaged in violation of the Federal Trade Commission Act by reason of the alleged involvement of CLI in the JPEG standard-setting process during the 1980's and very early 1990's and its subsequent licensing of the '672 patent, which the Company

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believes is infringed by the implementation of that standard. If the FTC proceeds with an investigation and thereafter determines that the Company acted improperly, further proceedings before the FTC could ensue, which could result in a challenge to the Company's '672 patent licensing program. The Company believes that CLI has not acted improperly and advised the FTC as such. In April 2004, Forgent received a Subpoena Duces Tecum ("Subpoena") and a Civil Investigative Demand ("CID") in this FTC proceeding. The Company responded in May 2004 by filing a petition to quash and/or limit the Subpoena and CID. On November 9, 2004, the FTC issued a ruling denying Forgent's Petition to Quash, and established January 10, 2005, as the date for Forgent to comply with the Subpoena, and January 20, 2005, to comply with the CID. The Company is taking steps to comply with the Subpoena and CID.

**Estate of Gordon Matthews**

In February 2003, the Company received a letter from legal counsel for the independent executrix of the Estate of Gordon Matthews, asserting that the Company was obligated to pay the independent executrix of the Estate of Gordon Matthews for the asserted value of services claimed to have been rendered by Mr. Matthews in connection with his alleged involvement in the Company's Patent Licensing Program. In February 2003, the Company initiated an action in the 261st District Court in Travis County Texas, styled Forgent Networks, Inc. v. Monika Matthews, et al., for the purposes of declaring that the Company has no obligation to the defendant. In that action, the defendant has filed a counter claim asserting that the independent executrix of the Estate of Gordon Matthews is entitled to recover in quantum meruit for the reasonable value of the work and services claimed to have been provided by Gordon Matthews, a former member of the board of directors and consultant to the Company, which the defendant asserts is at least \$5.0 million. The Company does not believe the counter claim has merit and intends to continue to vigorously pursue declaratory relief from the court that no liability is due to the independent executrix of the Estate of Gordon Matthews.

**ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

None

**ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None

**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

None

**ITEM 5. OTHER INFORMATION**

None

**ITEM 6. EXHIBITS**

(a) Exhibits:

- 3.1 Restated Certificate of Incorporation
- 3.2 Restated Bylaws
- 31.1 Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 31.2 Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1 Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 32.2 Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

December 15, 2004

FORGENT NETWORKS, INC.

By: /s/ RICHARD N. SNYDER

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Richard N. Snyder  
Chief Executive Officer

December 15, 2004

By: /s/ JAY C. PETERSON

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Jay C. Peterson  
Chief Financial Officer



**INDEX TO EXHIBITS**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>
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## RESTATED CERTIFICATE OF INCORPORATION

OF

## FORGENT NETWORKS, INC.

FIRST: The name of the Corporation (the "*Corporation*") is Forgent Networks, Inc., formerly known as VTEL Corporation.

SECOND: The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the city of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The Corporation shall have the authority to issue two (2) classes of shares to be designated, respectively, "*Preferred Stock*" and "*Common Stock*." All of said shares shall be One Cent (\$.01) par value each. The total number of shares of capital stock which the Corporation shall have the authority to issue is Fifty Million (50,000,000), which shall consist of Forty Million (40,000,000) shares of Common Stock and Ten Million (10,000,000) shares of Preferred Stock.

FIFTH: The relative preferences, powers, rights, qualifications, limitations and restrictions in respect of the Common Stock and the Preferred Stock are as follows:

The Preferred Stock authorized by this Restated Certificate of Incorporation may be issued from time to time in one or more series. The Board of Directors of the Corporation (the "*Board of Directors*") is hereby authorized to fix or alter the dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption, including sinking fund provisions, the redemption price or prices, the liquidation preferences and the other preferences, powers, rights, qualifications, limitations and restrictions of any wholly unissued class or series of Preferred Stock and the number of shares constituting any such series and the designation thereof, or any of them.

The Board of Directors is further authorized to increase or decrease the number of shares of any series of Preferred Stock, the number of which was fixed by it, subsequent to the issue of shares of that series, but not below the number of shares of such series then outstanding, subject to the limitations and restrictions stated in the resolution of the Board of Directors originally fixing the number of shares of such series. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

SIXTH: Elections of directors need not be by ballot unless the By-Laws of the Corporation shall so provide.

SEVENTH: The Board of Directors of the Corporation may make By-Laws and from time to time may alter, amend or repeal By-Laws.

EIGHTH: No director of the Corporation shall have personal liability to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that nothing in this Article 8 shall eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under § 174 of the Delaware General Corporation Law (the "DGCL"), or (iv) for any transaction from which the director derived an improper personal benefit. In the event the DGCL is amended after the date hereof so as to authorize corporate action further eliminating or limiting the liability of directors of the Corporation, the liability of the directors shall thereupon be eliminated or limited to the maximum extent permitted by the DGCL, as so amended from time to time.

NINTH: The Corporation shall indemnify any person:

(a) who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe his action was unlawful, or

(b) who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matters as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subparagraphs (a) and (b) of this Article 9, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Any indemnification under subparagraphs (a) and (b) of this Article 9 (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subparagraphs (a) and (b) of this Article 9. Such determination shall be made (i) by the Board of Directors by a majority vote of the quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (iii) by the stockholders.

Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or

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officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Article 9. Such expenses (including attorneys' fees) incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article 9 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article 9.

For purposes of this Article 9, references to "*the Corporation*" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article 9 with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

For purposes of this Article 9, references to "*other enterprises*" shall include employee benefit plans; references to "*finances*" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "*servicing at the request of the Corporation*" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "*not opposed to the best interests of the Corporation*" as referred to in this Article 9.

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article 9 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

TENTH: Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of § 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under the provisions of § 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

RESTATED BYLAWS  
OF  
FORGENT NETWORKS, INC.  
A DELAWARE CORPORATION

ARTICLE I

OFFICES

The Corporation shall maintain a registered office in the State of Delaware as required by law. The Corporation may also have offices at other places, within and without the State of Delaware, as the Board of Directors may determine.

ARTICLE II

STOCKHOLDERS

Section 1. Place of Meetings. Meetings of the stockholders shall be held at such times and places, within or without the State of Delaware, as may be fixed from time to time by the Board of Directors.

Section 2. Annual Meetings. The annual meeting of the stockholders of the Corporation for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at such place, on such date and at such time as may from time to time be fixed by the Board of Directors, the Chairman of the Board or the President.

Section 3. Special Meetings. Except as otherwise required by law and subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, special meetings of the stockholders for any purpose or purposes may be called only by the Chairman of the Board or the President, or the Secretary of the Corporation at the request of the Board of Directors. Special meetings of the stockholders may be held at such place, on such date and at such time as fixed by the appropriate person calling such special meeting of the stockholders. Only such business as is specified in the notice of any special meeting of the stockholders shall come before such meeting.

Section 4. Notice of Meetings. Written notice of all meetings of stockholders shall be mailed to or personally delivered to each stockholder entitled to vote thereat at least ten (10), but not more than sixty (60) days prior to the meeting. Notice of any special meeting shall state in general terms the purpose or purposes for which the meeting is to be held, and no other business shall be transacted except as stated in such notice. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting of which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new

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record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 5. Quorum. The holders of a majority of the issued and outstanding shares of the capital stock of the Corporation entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders; but, if there be less than a quorum, the holders of a majority of the shares so present or represented may adjourn the meeting from time to time, until a quorum shall be present, whereupon the meeting may be held, as adjourned, without further notice, except as required by law, and any business may be transacted that might have been transacted on the original date of the meeting.

Section 6. List of Stockholders Entitled to Vote. The officer or agent having charge of the stock transfer books of the Corporation shall make, at least ten (10) days before each meeting of stockholders, a complete list of the stockholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, and showing the address of and the number of shares held by each stockholder. Such list shall be open to examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of ten (10) days prior to such meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any stockholder during the whole time of the meeting. The original stock transfer books shall be the only evidence as to who are the stockholders entitled to examine such list or the stock transfer books or to vote at any meeting of stockholders. Failure to comply with any requirements of this Section 6 shall not affect the validity of any action taken at such meeting.

Section 7. Voting. At all meetings of the stockholders every registered owner of shares entitled to vote may vote in person or by proxy and shall have one vote for each such share standing in his name on the books of the Corporation as of the record date for determining the stockholders entitled to vote at such meeting. Except as otherwise required by statute, by the Certificate of Incorporation or these Bylaws, all matters coming before any meeting of the stockholders shall be decided by the vote of the holders of a majority of the shares of capital stock of the Corporation present in person or by proxy at such meeting and voting thereon, a quorum being present.

Section 8. Presiding Officer. The Chief Executive Officer shall preside at all meetings of the stockholders. In the absence of the Chief Executive Officer, the President shall act as chairman of the meeting. In the absence of the Chief Executive Officer and the President, the Board of Directors may appoint any other officer or person to act as chairman of any meeting.

Section 9. Secretary of Meeting. The Secretary or an Assistant Secretary of the Corporation shall act as secretary of all meetings of the stockholders; and, in their absence, the chairman of the meeting shall appoint a person to act as secretary of the meeting.

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Section 10. Stockholder Nomination of Director Candidates.

(1) Only persons who are nominated in accordance with the procedures set forth in these Bylaws shall be eligible to serve as Directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders (a) by or at the direction of the Board of Directors or (b) by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Bylaw, who shall be entitled to vote for the election of directors at the meeting and who complies with the notice procedures set forth in this Bylaw.

(2) Nominations by stockholders shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the Corporation (a) in the case of an annual meeting, not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is changed by more than 30 days from such anniversary date, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the earlier of the date on which notice of the date of the meeting was mailed or public disclosure was made, and (b) in the case of a special meeting at which directors are to be elected, not later than the close of business on the 10th day following the earlier of the day on which notice of the date of the meeting was mailed or public disclosure was made. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (b) as to the stockholder giving the notice (i) the name and address, as they appear on the Corporation's books, of such stockholder and (ii) the class and number of shares of the Corporation which are beneficially owned by such stockholder and also which are owned of record by such stockholder; and (c) as to the beneficial owner, if any, on whose behalf the nomination is made, (i) the name and address of such person and (ii) the class and number of shares of the Corporation which are beneficially owned by such person. At the request of the Board of Directors, any person nominated by the Board of Directors for election as a director shall furnish to the Secretary of the Corporation that information required to be set forth in a stockholder's notice of nomination which pertains to the nominee.

(3) No person shall be eligible to serve as a director of the Corporation unless nominated in accordance with the procedures set forth in this Bylaw. The Chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by these Bylaws, and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Bylaw, a stockholder shall also comply with all applicable requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder with respect to the matters set forth in this Bylaw.

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Section 11. Notice of Stockholder Business.

(1) At an annual meeting of the stockholders, only such business shall be conducted as shall have been brought before the meeting (a) pursuant to the Corporation's notice of meeting, (b) by or at the direction of the Board of Directors or (c) by any stockholder of the Corporation who is a stockholder of record at the time of giving of the notice provided for in this Bylaw, who shall be entitled to vote at such meeting and who complies with the notice procedures set forth in this Bylaw.

(2) For business to be properly brought before an annual meeting by a stockholder pursuant to clause (c) of paragraph 1 of this Bylaw, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the meeting is changed by more than 30 days from such anniversary date, notice by the stockholder to be timely must be received no later than the close of business on the 10th day following the earlier of the day on which notice of the date of the meeting was mailed or public disclosure was made. A stockholder's notice to the secretary shall set forth as to each matter the stockholder proposes to bring before the meeting (a) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting, (b) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business, and the name and address of the beneficial owner, if any, on whose behalf the proposal is made, (c) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder of record and by the beneficial owner, if any, on whose behalf the proposal is made and (d) any material interest of such stockholder of record and the beneficial owner, if any, on whose behalf the proposal is made in such business.

(3) Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with the procedures set forth in this Bylaw. The Chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the procedures prescribed by these Bylaws, and if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Bylaw, a stockholder shall also comply with all applicable requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder with respect to the matters set forth in this Bylaw.

Section 12. Regulation of Action by Written Consent.

(1) Action by Written Consent. Any action which is required to be or may be taken at any annual or special meeting of stockholders of the Corporation may be taken without a meeting, without prior notice to stockholders and without a vote if consents in writing, setting forth the action so taken, shall have been signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or to take such action at a meeting at which all shares entitled to vote thereon were present and voted.



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(2) Duration and Revocation of Consents. In order that the Corporation's stockholders shall have an opportunity to receive and consider the information germane to an informed judgment as to whether to give a written consent, any corporate action to be taken by written consent shall not be effective until, and the stockholders of the Corporation shall be able to give or revoke written consents for, at least twenty (20) days from the date of the commencement of a solicitation (as such term is defined in Rule 14a-1(k) promulgated under the Securities Exchange Act of 1934, as amended) of consents, other than corporate action by written consent taken pursuant to solicitations of not more than ten (10) persons. For purposes of this subsection (2) and subsection (3) of this Section 12, a consent solicitation shall be deemed to have commenced when a proxy statement or information statement containing the information required by law is first furnished to the Corporation's stockholders.

Consents to corporate action shall be valid for a maximum of sixty (60) days after the date of the earliest dated consent delivered to the Corporation in the manner provided in Section 228(c) of the Delaware General Corporation Law. Consents may be revoked by written notice (i) to the Corporation, (ii) to the stockholder or stockholders soliciting consents or soliciting revocations in opposition to action by consent proposed by the Corporation (the "Soliciting Stockholders"), or (iii) to a proxy solicitor or other agent designated by the Corporation or the Soliciting Stockholders.

Notwithstanding the foregoing, if independent counsel to the Corporation delivers to the Corporation a written opinion stating, or a court of competent jurisdiction determines, that this subsection or subsection (3) of this Section 12, or any portion thereof, is illegal with respect to any corporate action to be taken by written consent for which a consent has theretofore been delivered to the Corporation, in the manner provided in Section 228(c) of the Delaware General Corporation Law, whether prior or subsequent to the date of the adoption of this subsection and subsection (3) of this Section 12, then this subsection or subsection (3) of this Section 12, or such portion thereof, as the case may be, shall after the date of such delivery of such opinion or such determination be null and void and of no effect with respect to any other corporate action to be taken by written consent.

(3) Inspectors of Election; Procedures for Counting Consents. Within three (3) business days after receipt of the earliest dated consent delivered to the Corporation in the manner provided in Section 228(c) of the Delaware General Corporation Law or the determination by the Board of Directors of the Corporation that the corporation should seek corporate action by written consent, as the case may be, the Secretary shall engage nationally recognized independent inspectors of elections for the purpose of performing a ministerial review of the validity of the consents and revocations. The cost of retaining inspectors of election shall be borne by the Corporation.

Consents and revocations shall be delivered to the inspectors upon receipt by the Corporation, the Soliciting Stockholders or their proxy solicitors or other designated agents. As soon as consents and revocations are received, the inspectors shall review the consents and revocations and shall maintain a count of the number of valid and unrevoked consents. The inspectors shall keep such count confidential and shall not reveal the count to the Corporation, the Soliciting Stockholder or their representatives or any other entity. As soon as practicable after the earlier if (i) sixty (60) days after the date of the earliest dated consent delivered to the

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Corporation in the manner provided in Section 228(c) of the Delaware General Corporation Law or (ii) a written request therefor by the Corporation or the Soliciting Stockholders (whichever is soliciting consents) (which request may be made no earlier than twenty (20) days after the commencement of the applicable solicitation of consents, except in the case of corporate action by written consent taken pursuant to solicitation of not more than ten (10) persons), notice of which request shall be given to the party opposing the solicitation of consents, if any, which request shall state that the Corporation or Soliciting Stockholders, as the case may be, have a good faith belief that the requisite number of valid and unrevoked consents to authorize or take the action specified in the consents has been received in accordance with these Bylaws, the inspectors shall issue a preliminary report to the corporation and the Soliciting Stockholders stating: (i) the number of valid consents; (ii) the number of valid revocations; (iii) the number of valid and unrevoked consents; (iv) the number of invalid consents; (v) the number of invalid revocations; (vi) whether, based on their preliminary count, the requisite number of valid and unrevoked consents has been obtained to authorize or take the action specified in the consents.

Unless the Corporation and the Soliciting Stockholders shall agree to a shorter or longer period, the Corporation and the Soliciting Stockholders shall have 48 hours to review the consents and revocations and to advise the inspectors and the opposing party in writing as to whether they intend to challenge the preliminary report of the inspectors. If no written notice of an intention to challenge the preliminary report is received within 48 hours after the inspectors' issuance of the preliminary report, the inspectors shall issue to the Corporation and the Soliciting Stockholders their final report containing the information from the inspectors' determination with respect to whether the requisite number of valid and unrevoked consents was obtained to authorize and take the action specified in the consents. If the Corporation or the Soliciting Stockholders issue written notice of an intention to challenge the inspectors' preliminary report within 48 hours after the issuance of that report, a challenge session shall be scheduled by the inspectors as promptly as practicable. A transcript of the challenge session shall be recorded by a certified court reporter. Following completion of the challenge session, the inspectors shall as promptly as practicable issue their final report to the Soliciting Stockholders and the Corporation, which report shall contain the information included in the preliminary report, plus all changes in the vote totals as a result of the challenge and a certification of whether the requisite number of valid and unrevoked consents was obtained to authorize or take the action specified in the consents. A copy of the final report of the inspectors shall be included in the book in which the proceedings of meetings of stockholders are recorded.

The Corporation shall give prompt notice to the stockholders of the results of any consent solicitation or the taking of the corporate action without a meeting and by less than unanimous written consent.

### ARTICLE III

#### DIRECTORS

Section 1. Board of Directors. The property, business and affairs of the Corporation shall be managed and controlled by the Board of Directors, which may exercise all such powers

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of the Corporation and do all such lawful acts and things on its behalf as are not, by statute or the Certificate of Incorporation or these Bylaws, directed or required to be exercised or done by the stockholders.

Section 2. Number; Tenure. The Board of Directors shall consist of up to seven (7) directors. Directors need not be stockholders of the Corporation or residents of a particular state. Unless sooner removed by action of the stockholders, members of the Board of Directors shall hold office until the next annual meeting of stockholders and until their successors shall have been elected and qualified.

Section 3. Vacancies. Any vacancy in the Board of Directors occurring by reason of the death, resignation or disqualification of any director, the removal of any director from office for cause or without cause, an increase in the number of directors, or otherwise, may be filled by the stockholders at a special meeting called for that purpose or by the directors at any annual, regular or special meeting. Each director elected to fill a vacancy shall hold office for a term expiring at the next succeeding annual meeting of stockholders and until his successor is elected and has qualified or until his earlier displacement from office by resignation, removal or otherwise.

Section 4. Resignation and Removal. Any director may resign at any time by written notice to the Corporation. Any director or the entire board of directors may be removed, for cause or without cause, by the holders of a majority of the shares then entitled to vote at a special meeting called for that purpose.

Section 5. Place of Meetings. The Board of Directors may hold meetings within or without the State of Delaware.

Section 6. Annual Meeting. The annual meeting of the Board of Directors, of which no notice shall be necessary, shall be held immediately following the annual meeting of stockholders or immediately following any adjournment thereof at which directors shall have been elected for the ensuing year, or at such other time and place as may be designated in a notice of meeting, for the purpose of the organization of the Board and the election or appointment of officers for the ensuing year, and for the transaction of such other business as may be brought before such meeting.

Section 7. Regular Meetings. Regular meetings of the Board of Directors, other than the annual meeting, shall be held monthly at such times and places and on such notice, if any, as the Board of Directors may from time to time determine.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, and shall be called by the Secretary upon written request by a majority of the total number of directors. Notice shall be given of the time and place of each special meeting by mailing the same at least three (3) days before the meeting or by telephoning, telegraphing or delivering personally the same at least one (1) day before the meeting to each director. Except as otherwise specified in the notice thereof, or as required by law, the Certificate of Incorporation or these Bylaws, any and all business may be transacted at any special meeting.

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Section 9. Quorum; Voting. A majority of the total number of directors shall constitute a quorum for the transaction of business, but less than a quorum may adjourn any meeting from time to time until a quorum shall be present, whereupon the meeting may be held, as adjourned, without further notice. Except as otherwise required by statute, the Certificate of Incorporation or these Bylaws, all matters coming before any meeting of the Board of Directors shall be decided by the vote of a majority of the directors present at the meeting, a quorum being present.

Section 10. Compensation. Outside directors shall not receive compensation for their services or reimbursement for their expenses as directors or as members of any committee appointed by the Board, and no shareholder permitted or authorized to attend any directors' meeting shall be reimbursed for their expenses incurred in attending such directors' meetings. The foregoing shall not be construed as prohibiting the payment to any director of compensation for services rendered in any other capacity.

Section 11. Advisory Directors. The Board of Directors may from time to time elect one (1) or more Advisory Directors, which Advisory Directors shall hold office until the next Annual Meeting of the Board of Directors. Advisory Directors shall be given all notices of meetings of the Board of Directors as are given to directors in general, but shall not be counted in determining whether a quorum of the Board of Directors is present at a meeting. Advisory Directors shall have no voting rights.

Section 12. Voting Shares of Other Corporations. The Board of Directors of this Corporation shall have full power and authority on behalf of the Corporation, acting by or through a nominee of the Corporation or by proxy or proxies appointed by it, to vote, act and consent with respect to any shares of stock of other corporations which this Corporation may own or as to which this Corporation otherwise has the right to vote, act or consent.

#### ARTICLE IV

##### COMMITTEES OF THE BOARD

Section 1. Designation. The Board of Directors, by resolution passed by a majority of the whole Board, may designate from among its members such committees as the Board may determine, to have such powers and duties as shall from time to time be prescribed by the Board to the extent permitted by statute.

Section 2. Quorum; Tenure. A majority of the whole committee shall constitute a quorum for the transaction of business of any committee and may fix its rules of procedure. All actions by any committee shall be reported to the Board of Directors. The Board of Directors may discharge any committee or any members thereof either with or without cause at any time.

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ARTICLE V

OFFICERS

Section 1. Officers: Compensation. The officers of the Corporation shall be elected by the Board of Directors, and shall consist of a Chairman of the Board, a Chief Executive Officer, a President, one or more Vice-Presidents, one or more of whom may be designated Executive or Senior Vice-President, a Secretary, a Treasurer, and such other officers, assistant officers and agents as the Board of Directors may from time to time designate. All officers shall hold office until their successors are elected and qualified, or until earlier displacement from office by resignation, removal or otherwise. Two (2) or more offices may be held by the same person. The salaries of the officers shall be determined by the Board of Directors, and may be altered by the Board from time to time except as otherwise provided by contract. All officers shall be entitled to be paid or reimbursed for all costs and expenditures incurred in the Corporation's business.

Section 2. Vacancies. Whenever any vacancies shall occur in any office by death, resignation, removal for or without cause, increase in the number of officers of the Corporation, or otherwise, the same shall be filled by the Board of Directors, and the officer so elected shall hold office until his successor is chosen and qualified.

Section 3. Chairman of the Board. The Chairman of the Board of Directors shall preside at all meetings of the Board of Directors.

Section 4. Chief Executive Officer. The Chief Executive Officer shall be the chief executive officer of the Corporation, shall preside at all meetings of the stockholders and the Board of Directors and shall be an ex officio member of all standing committees. He shall have general and active management of the business and affairs of the Corporation, and shall see to it that all resolutions and orders of the Board of Directors are carried into effect. He may sign, with the Secretary or any other proper officer of the Corporation thereunto authorized by the Board of Directors, certificates for shares of the Corporation. He may sign any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed and executed. He shall perform all duties as may be prescribed by the Board of Directors from time to time.

Section 5. President. The President may perform the usual and customary duties that pertain to such office (but no unusual or extraordinary duties or powers conferred by the Board of Directors upon the Chief Executive Officer) and under the direction and subject to the control of the Board of Directors, such other duties as may be assigned to him.

Section 6. Vice-Presidents. Any Vice-President may perform the usual and customary duties that pertain to such office (but no unusual or extraordinary duties or powers conferred by the Board of Directors upon the President) and, under the direction and subject to the control of the Board of Directors, such other duties as may be assigned to him.

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Section 7. Secretary. It shall be the duty of the Secretary to attend all meetings of the stockholders and Board of Directors and record correctly the proceedings had at such meetings in a book suitable for that purpose. It shall also be the duty of the Secretary to attest with his signature all stock certificates issued by the Corporation and to keep a stock ledger in which shall be correctly recorded all transactions pertaining to the capital stock of the Corporation. He may but is not required to attest with his signature all deeds, conveyances or other instruments requiring the seal of the Corporation. The person holding the office of Secretary shall also perform, under the direction and subject to the control of the Board of Directors, such other duties as may be assigned to him. The duties of the Secretary may also be performed by any Assistant Secretary.

Section 8. Treasurer. The Treasurer shall keep such moneys of the Corporation as may be entrusted to his keeping and account for the same. He shall be prepared at all times to give information as to the condition of the Corporation and shall make an annual report of the entire business and financial condition of the Corporation. The person holding the office of Treasurer shall also perform, under the direction and subject to the control of the Board of Directors, such other duties as may be assigned to him. The duties of the Treasurer may also be performed by any Assistant Treasurer.

Section 9. Tenure; Removal. The term of all officers shall be for one year, and until their respective successors are chosen and qualify. Any officer or agent shall be subject to removal for or without cause at any time by the affirmative vote of a majority of the whole Board of Directors. Vacancies in any office may be filled at any regular or special meeting of the Board.

## ARTICLE VI

### CAPITAL STOCK

Section 1. Certificates. Certificates for capital stock of the Corporation shall be in such form as the Board of Directors may from time to time prescribe and shall be signed by the Chief Executive Officer, the President or a Vice President and by the Secretary or an Assistant Secretary.

Section 2. Stock Records. The names and addresses of shareholders as they appear on the stock certificate records of the Corporation shall be the official list of shareholders of record of the Corporation for all purposes. The Corporation shall be entitled to treat the holder of record of any shares of the Corporation as the owner thereof for all purposes, and shall not be bound to recognize any equitable or other claim to, or interest in, such shares or any rights deriving from such shares, on the part of any other person, including (but without limitation) a purchaser, assignee or transferee, unless and until such other person becomes the holder of record of such shares, whether or not the Corporation shall have either actual or constructive notice of the interest of such other person.

Section 3. Transfer. Shares of capital stock of the Corporation shall be transferable on the books of the Corporation only by the holder of record thereof in person or by his duly authorized attorney, upon surrender and cancellation of certificates for a like number of shares, with an assignment or power of transfer endorsed thereon or delivered therewith, duly executed,

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and with such proof of the authenticity of the signature and of authority to transfer, and of payment of transfer taxes, as the Corporation or its officers may require.

Section 4. Lost Certificates. In case any certificate for the capital stock of the Corporation shall be lost, stolen or destroyed, the Corporation may require such proof of the fact and such indemnity to be given to it as shall be deemed necessary or advisable by it.

Section 5. Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action.

#### ARTICLE VII

##### MISCELLANEOUS

Section 1. Fiscal Year. The Board of Directors shall have power to fix, and from time to time change, the fiscal year of the Corporation.

Section 2. Notices. Notices to directors and stockholders shall be in writing and may be delivered personally or by mail. Notice by mail shall be deemed to be given at the time when deposited in the U.S. mail, postage prepaid, addressed to directors or stockholders at their respective addresses appearing on the books of the Corporation. Notice of a special meeting of the Board of Directors may be given in the manner provided for in Article III, Section 8, of these Bylaws. An affidavit of the secretary or an assistant secretary or of the transfer agent of the Corporation that the notice has been given, in the absence of fraud, shall be prima facie evidence of the facts stated therein.

Section 3. Waiver of Notice. Any notice required to be given under the provisions of these Bylaws or otherwise may be waived by the stockholder, director, member of any committee or officer to whom such notice is required to be given, before or after the meeting or other action of which notice was required to be given.

#### ARTICLE VIII

##### AMENDMENT

The Bylaws may be amended or repealed by the directors or by the stockholders, provided that, in the case of an amendment or repeal of the Bylaws by the stockholders, notice of the proposed alteration or repeal shall have been given in the notice of such meeting of stockholders.

**CERTIFICATION OF PERIODIC REPORT  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, the undersigned Richard N. Snyder, Chief Executive Officer, of Forgent Networks, Inc. (the "Company"), certify that:

1. I have reviewed this quarterly report on Form 10-Q of the Company (the "Report");
2. Based on my knowledge, the Report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the periods covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in the Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in the Report;
4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and we have (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within these entities, particularly during the period in which the Report is being prepared; (b) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in the Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by the Report based on such evaluation; and (c) disclosed in the Report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the quarter ended October 31, 2004) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal controls over financial reporting, to the Company's auditors and to the Audit Committee of the Board of Directors: (a) all significant deficiencies or material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls.

/s/ RICHARD N. SNYDER

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Richard N. Snyder  
Chief Executive Officer  
December 15, 2004



**CERTIFICATION OF PERIODIC REPORT  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, the undersigned, Jay C. Peterson, Chief Financial Officer, of Forgent Networks, Inc. (the "Company"), certify, that:

1. I have reviewed this quarterly report on Form 10-Q of the Company (the "Report");
2. Based on my knowledge, the Report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the periods covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in the Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in the Report;
4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and we have (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within these entities, particularly during the period in which the Report is being prepared; (b) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in the Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by the Report based on such evaluation; and (c) disclosed in the Report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the quarter ended October 31, 2004) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal controls over financial reporting, to the Company's auditors and to the Audit Committee of the Board of Directors: (a) all significant deficiencies or material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls.

/s/ JAY C. PETERSON

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Jay C. Peterson  
Chief Financial Officer  
December 15, 2004

**CERTIFICATION OF PERIODIC REPORT  
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, the undersigned, Richard N. Snyder, Chief Executive Officer, of Forgent Networks, Inc. (the "Company"), does hereby certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

1. The quarterly report on Form 10-Q of the Company for the period ended October 31, 2004 (the "Report") fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 as amended (15 U.S.C. 78m or 78o(d)), and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ RICHARD N. SNYDER

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Richard N. Snyder  
Chief Executive Officer  
December 15, 2004

**CERTIFICATION OF PERIODIC REPORT  
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, the undersigned, Jay C. Peterson, Chief Financial Officer, of Forgent Networks, Inc. (the "Company"), does hereby certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

1. The quarterly report on Form 10-Q of the Company for the period ended October 31, 2004 (the "Report") fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 as amended (15 U.S.C. 78m or 78o(d)), and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ JAY C. PETERSON

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Jay C. Peterson  
Chief Financial Officer  
December 15, 2004