

FORGENT NETWORKS INC

Form 10-K/A

January 27, 2009

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**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-K/A**

x **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**



For the fiscal year ended July 31, 2008

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number: 0-20008

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**FORGENT NETWORKS, INC.**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**

(State of other jurisdiction of  
incorporation or organization)

**74-2415696**

(I.R.S. Employer  
Identification No.)

**108 Wild Basin Road**

**Austin, Texas**

(Address of Principal Executive Offices)

**78746**

(Zip Code)

**(512) 437-2700**

(Registrant's Telephone Number, including Area Code)

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT: **None**



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**SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT:**

**Common Stock, \$0.01 par value**

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 ( Exchange Act ) during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filings pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer, as defined in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

Indicate by check mark whether the registrant is a shell company, as defined in Rule 12b-2 of the Exchange Act. Yes  No

The aggregate market value of the 23,565,315 shares of the registrant's Common Stock held by nonaffiliates on January 31, 2008 was approximately \$16,260,067. For purposes of this computation all officers, directors and 5% beneficial owners of the registrant are deemed to be affiliates. Such determination should not be deemed an admission that such officers, directors and beneficial owners are, in fact, affiliates of the registrant.

At October 31, 2008 there were 31,108,839 shares of the registrant's Common Stock, \$.01 par value, issued and outstanding.

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**PART I**



**ITEM 1.**

**BUSINESS**

**GENERAL**



## Edgar Filing: FORGENT NETWORKS INC - Form 10-K/A

Forgent Networks, Inc. a Delaware corporation d/b/a Asure Software ( Forgent or the Company ), is a provider of web-based workforce management solutions and a licensor of intellectual property. The Company was incorporated in 1985 and has principal executive offices located at 108 Wild Basin Road, Austin, Texas 78746. The Company telephone number is (512) 437-2700 and the Company website is www.asuresoftware.com. The Company does not intend for information contained on its website to be part of this Annual Report on Form 10-K (the Report ). Forgent makes available free of charge, on or through its website, its annual report on Form 10-K, its quarterly reports on Form 10-Q, its current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after the Company electronically files such material or furnishes it to the Securities and Exchange Commission.

The Company has two main business segments. First, as a software and services provider, the Company offers web-based workforce management solutions that enable organizations to manage their office environment as well as their human resource and payroll processes effectively and efficiently. Second, as a licensor of intellectual property, Forgent primarily enters into one-time intellectual property license agreements with companies for the Company's patented technologies. In recent years, Forgent's success was largely dependent on its ability to license and commercialize its patent portfolio and other intellectual property. However, with the conclusion of certain patent litigations in fiscal year 2007, the Company has substantially exhausted its existing patent licensing revenue sources.

In September 2007, the Company announced the re-branding of its corporate name to Asure Software. In October 2007, Forgent acquired all of the outstanding capital stock of iSarla Inc., a Delaware corporation and application service provider that offers on-demand software solutions under the trade name iEmployee. These two events were designed to refocus the Company's efforts toward the software and services business and away from the intellectual property licensing business. As a result of the iEmployee acquisition, the Company currently offers two main product lines in its software and services business: NetSimplicity and iEmployee. Forgent's NetSimplicity product line, which is sold through a web and telesales business model, includes its flagship product, Meeting Room Manager ( MRM ), which automates the entire facility scheduling process including reserving rooms, requesting equipment, ordering food, sending invitations and reporting on the meeting environment. The Company also develops and markets NetSimplicity's Visual Asset Manager ( VAM ) product, a web based management tool that enables companies to efficiently inventory, track and manage their fixed, mobile and IT assets across the entire organization. The iEmployee product line is sold through direct sales and resellers. iEmployee's web-based solutions, which include Time & Attendance, Timesheets, Human Resource Benefits, Expenses and others, help simplify the HR process and improve employee productivity by managing and communicating human resources, employee benefits and payroll information.

With the acquisition of iEmployee and the continued growth of its NetSimplicity product line, management believes the Company will be able to grow its software and services segment, which is the primary generator of revenues and cash flows on a going forward basis. Additional business segment information is contained elsewhere in this Report, including under Item 7 of Part II (*Management's Discussion and Analysis of Financial Condition and Results of Operations*) and in the Segment Information footnote in the accompanying financial statements. Forgent also continues to explore other strategic growth opportunities as well as options for increasing return on shareholder value. However, uncertainties and challenges remain and there can be no assurances that Forgent's current strategy will be successful.

On February 4, 2008, Forgent received a Nasdaq deficiency letter indicating that, for 30 consecutive business days, the bid price per share of the Company's common stock closed below the minimum \$1.00 per share requirement. Therefore,

the Company's common stock was subject to potential delisting from the Nasdaq Global Market Exchange pursuant to Nasdaq Marketplace Rule 4450(a)(5). The Company was provided 180 calendar days, or until August 4, 2008, to regain compliance by maintaining a share bid price in excess of \$1.00 for ten consecutive business days. Forgent worked to regain compliance through improving its operating results, but it was unable to

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regain compliance with the minimum bid requirement. Consequently, Forgent applied for a transfer listing on the Nasdaq Capital Market. Nasdaq approved the application and transferred the Company's securities to the Nasdaq Capital Market, effective September 19, 2008. As a result of this transfer, Forgent was provided an additional 180 calendar days, beginning from the original August 4, 2008 deadline, or until February 2, 2009, to regain compliance with the minimum \$1.00 share bid price requirement.

Due to current unprecedented market conditions, on October 16, 2008, Nasdaq suspended the enforcement of its rules requiring a minimum \$1.00 share bid price for all Nasdaq-listed companies. The rules will be reinstated on January 19, 2009. Consequently, on October 22, 2008, Forgent received a Nasdaq letter extending the revised compliance deadline from February 2, 2009 to May 5, 2009. If the Company cannot achieve compliance with the minimum share price requirement by May 5, 2009, Nasdaq will provide written notification that the Company's securities will be de-listed from the Capital Market Exchange.

**SOFTWARE AND SERVICES BUSINESS**

*Products and Services*

As Asure Software, Forgent offers web-based workforce management solutions that enable organizations to manage their office environment as well as their human resource and payroll processes effectively and efficiently. The workforce management solutions include scheduling software, asset management software, human resource and time and attendance software, complementary hardware devices to enhance its software products, software maintenance and support, installation and training and other professional services.

The Company's NetSimplicity line of software products enable corporations, educational institutions, law firms and healthcare facilities, in the United States and worldwide, to more effectively manage shared office space, equipment, assets and resources. Now in its seventh major release, Meeting Room Manager has evolved into a scheduling solution that enables organizations to better manage their meeting environment by managing everything related to the meeting environment, including rooms, catering, A/V, equipment, setup and other resources and services. MRM has a number of interface options including a web-based Microsoft Outlook® or a LCD Panel interface. MRM is marketed both on an in-house installed, perpetual license basis, and on a hosted subscription, software-as-a-service ( SaaS ) basis. The Company also offers complementary LCD panels as optional add-ons as a means to access its scheduling software and book rooms ad hoc via panel interfaces.

In November 2007, the Company introduced its new NetSimplicity Mobile Workforce Manager software, an office hoteling scheduling solution that enables flex-work and mobile employees to secure workspace on demand when they come into the office or travel between company locations. Mobile Workforce Manager presents users a web based office floor plan, allowing users to book available cubes, offices and other shared workspace. Mobile Workforce Manager can be used on a stand-alone basis, or in tandem with MRM, to enable flex-work and mobile workers to also book meeting space from the Mobile Workforce Manager interface.

Visual Asset Manager is a web-based asset management solution that helps customers efficiently administer its assets by automatically locating and tracking IT assets, such as computers and software, and managing these assets as well as other office equipment, furniture and fixed assets across the organization. VAM provides a visual, floor plan oriented, web-based interface that makes the software easy to deploy in any environment. VAM also allows an organization to map and display the locations of each asset on its floor plans and to track maintenance coverage, equipment leases, warranties, repairs and depreciation for each asset in its inventory, in a simple and cost-effective manner. Forgent also offers optional barcode scanners to complement its asset management software.

The Company's iEmployee suite of human resources and time and attendance software enables small to medium businesses to transition to an online, self-service human resources process, thereby improving accuracy and reducing administrative costs. All iEmployee products are offered on a hosted subscription, SaaS basis, which saves customers the need to install software or maintain hardware and provides customers a quick and easy way to implement a fully-automated human resource information system solution. Additionally, iEmployee products are integrated with over 50 leading payroll and benefits providers, allowing customers to advance to online, self-service HR without significant switching costs. The Company's two primary iEmployee products are Time & Attendance and HR & Benefits.

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iEmployee's Time & Attendance solution enables organizations to manage hourly time tracking, project time tracking and paid-time-off in one unified system, thus eliminating paper timekeeping hassles. It provides automated workflows to increase manager and employee productivity and automatically enforces company policies and business rules, eliminating costly time-reporting and calculation errors. In June 2007, the Company introduced the iEmployee EasyTouch Time Clock, a small touch-screen enabled Internet appliance that allows employers to capture employee time punches through a full range of biometric and card recognition options and provides employees with real-time access to schedules, time-off balances and attendance history. The combination of Time & Attendance and EasyTouch Time Clock offers customers a comprehensive web and physical time clock time and attendance system that is affordable and easy to deploy.

By providing HR managers an efficient means to manage the hiring process, performance reviews, bonuses, compensation, open enrollment, employee self-service, and benefits administration, iEmployee's HR & Benefits solution significantly reduces the HR administrative burden, eliminates paper and paper processing costs and simplifies compliance with regulatory statutes. Built on a foundation of effective self-service features that are easy to use, HR & Benefits can transform the human resource process from a focus heavily weighted on paperwork to a direct focus on the employees.

Support and professional services are another key element of Forgent's software and services business. As an extension of its perpetual software product offerings, NetSimplicity offers its customers maintenance and support contracts that provide ready access to qualified support staff, software patches and upgrades to the Company's software products, all without any additional cost to the customer. At the customer's request, the Company provides installation of and training on its products, add-on software customization, and other professional services.

***Product Development***



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The technology industry is characterized by continuing improvements in technology, resulting in the frequent introduction of new products, short product life cycles, changes in customer needs and continual improvement in product performance characteristics. To be successful, Forgent must be cost-effective and timely in enhancing its current software applications, developing new innovative software solutions that address the increasingly sophisticated and varied needs of an evolving range of customers, and anticipating technological advances and evolving industry standards and practices.

NetSimplicity's development team, based in Vancouver, British Columbia, Canada, consists of skilled software developers, testers and technical writers who work closely with the Company's sales and marketing teams to build products based on market requirements and customer feedback. The iEmployee development team, based in Warwick, Rhode Island and Mumbai, India, is staffed with software architects, developers, quality assurance engineers and support specialists who work closely with the Company's customers to enhance the new releases of the iEmployee suite of products.

The Company's research and development strategy is to continue to enhance the functionality of its software products through new releases and new feature developments. Forgent will also continue to evaluate opportunities for developing new software so that organizations may further streamline and automate the tasks associated with administering their businesses. The Company seeks to simultaneously allow organizations to improve their productivity while reducing their costs associated with those business tasks.

Despite the Company's best efforts, there can be no assurance that Forgent will complete its existing and future development efforts or that its new and enhanced software products will adequately meet the requirements of the marketplace and achieve market acceptance. Additionally, Forgent may experience difficulties that could delay or prevent the successful development or introduction of new or enhanced software products. In the case of acquiring new or complementary software products or technologies, the Company may not be able to integrate the acquisitions into its current product lines. Furthermore, despite extensive testing, errors may be found in the Company's new software products or releases after shipment, resulting in a diversion of development resources, increased service costs, loss of revenue and/or delay in market acceptance.

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*Sales and Distribution*



Forgent's software products and services are sold primarily through a direct web and telesales model, which enables the Company to sell its software solutions in an efficient, cost-effective manner. The prospective customer visits one of the Company's two product line websites, either NetSimplicity or iEmployee, gathers the needed product information, and can optionally register for webcasts, product demonstrations, white papers and the like. At that point, the prospective customer provides contact information via the website and a sales representative follows up to provide further information and conclude the sale. In addition to this direct, inside sales model, the Company supplements these efforts with its partner programs described below. By working with these partners, the Company expands the reach of its direct sales force and gains access to key opportunities in major market segments worldwide. The Company has two distinct levels of partners in its Partner Program: Reseller Partners and Referral Partners.

Reseller Partners are companies that represent the Company in geographies outside the United States and in the Federal government and companies with complimentary offerings to either the NetSimplicity product line or the iEmployee product line. Reseller Partners commit to a minimum level of business per year with the Company and receive a channel discount for that commitment. The Company's Reseller Partners outside the United States include: BusinessSolve, Ltd. in the United Kingdom, Novera in Australia, and Isyd in Germany, all of whom represent the NetSimplicity product line. The Company also has several Reseller Partners that represent NetSimplicity software in the Federal government space. Resellers of iEmployee include Ceridian Corporation in the United States, a leading provider of human resource outsourcing solutions.

Referral Partners provide the Company with the name and particular information about a customer and its needs as a sales lead. If the Company accepts the sales lead, registers it for a particular Referral Partner and subsequently makes a sale as a direct result of such a lead, the Company will pay the Referral Partner a sales lead referral fee. Currently, the Company has a number of Referral Partners including PolyVision Corp./Steelcase and e-Innovative Solutions for the NetSimplicity product line and Oasis Advantage for iEmployee's Time & Attendance product.

The Company also has a digital signage solutions partner program, which enables it to resell digital signage hardware to complement MRM. Partners in this program include four vendors: Advantech, Tablet Kiosk, the CRE Group and JANUS Digital Displays. NetSimplicity has experienced successful customer deployments with each vendor's hardware.

### *Competition*



Forgent's NetSimplicity line of scheduling and asset management software products has a competitive advantage in the marketplace by being able to automate business processes that are otherwise typically performed manually or with the assistance of general-purpose office software tools such as Microsoft Outlook®, Exchange® or Excel®. MRM competes with other scheduling software applications offered by companies such as PeopleCube, Dean Evans and Associates, and Emergingsoft. The principal competitive advantages of MRM with respect to these other products include MRM's broad product capabilities, more customizable user interface, and price. VAM currently competes with products offered by companies such as NuMara Software, Archibus, Inc., and Sage Software, Inc. but has advantages over those products in the areas of ease of use, product features and price.

Forgent's iEmployee line of human resource and time and attendance software has a competitive advantage in the marketplace by being able to serve organizations looking for specific point-solutions as well as organizations looking for an integrated suite of solutions. By being able to compete tactically with point-solutions and strategically with an integrated suite of solutions, iEmployee can serve the needs of a broad spectrum of companies. While iEmployee has the advantage of flexibility, ease-of-use, affordability and speed of delivery, the Company faces certain challenges with various types of competitors:

- *Vendors with face-to-face sales contact.* In this highly relationship-based sales process, vendors with a field-based sales team who meets and consults with prospects have an advantage. iEmployee does not have a field-based approach to sales but focuses instead on high-touch marketing campaigns and leveraging relationships with channel partners to build relationships with prospects.
- *National payroll processors with loss-leader products.* Large brand and market share vendors (like ADP, Inc.) can offer equivalent point solutions at little or no cost to prospects when in a competitive engagement because these loss leader products become inconsequential next to their core business offerings.

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- *Single application vendors.* Vendors that offer similar point-solutions like Time & Attendance, Employee/Manager Self-Service, Paystubs, etc. can be perceived as better meeting an immediate and specific need.

Since the market for the Company's products and services is subject to rapid technological change and since there are relatively low barriers to entry in the workforce management software market, the Company may encounter new entrants or competition from vendors in some or all aspects of its two product lines. Competition from these potential market entrants may take many forms. Some of the Company's competitors, both current and future, may have greater financial, technical and marketing resources than the Company and, therefore, may be able to respond quicker to new or emerging technologies and changes in customer requirements. As a result, they may compete more effectively on price and other terms. Additionally, those competitors may devote greater resources in developing products or in promoting and selling their products to achieve greater market acceptance. Forgent is actively taking measures to effectively address its competitive challenges. However, there can be no assurance that the Company will be able to achieve or maintain a competitive advantage with respect to any of the competitive factors.

*Marketing*



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The Company's software and services business has a large roster of more than 3,500 domestic and international customers. The consistent growth of the customer base relies on the development and implementation of a comprehensive integrated marketing plan. Although the Company's customers include many Fortune 500 companies, the marketing plan is primarily aimed at reaching small to medium-sized businesses and divisions of enterprise organizations throughout the United States, Europe and Asia/Pacific. The integrated elements of Forgent's marketing plan include a mix of demand generation, public relations and other corporate communications activities to ensure a consistent and accurate flow of information to and from prospects, customers and other key stakeholders. In terms of ongoing demand generation activities, the Company focuses its efforts primarily on Internet pay-per-click advertising, search engine optimization and email marketing. Additional marketing mix elements include e-mail marketing, trade shows and print advertising.

### *Trademarks*



Due to its name change to the use of the d/b/a Asure Software, the Company has applied to register the Asure Software trademark with the U.S. Patent and Trademark Office (the USPTO ). The Company is also pursuing trademark registrations for the Asure Software trademark in other jurisdictions. As a result of the iEmployee acquisition in October 2007, the Company holds the iEmployee trademark.

**INTELLECTUAL PROPERTY LICENSING BUSINESS**

### Patent Licensing Program

The Company has historically expended significant efforts and incurred significant expenses identifying potential licensees and negotiating license agreements. During the negotiations, the Company typically sought consideration for sales made prior to the effective date of the license agreement as well as a license fee or royalties for future sales. Most of Forgent's existing license agreements were fully paid upon signing and did not require further payments. Additionally, Forgent recognized intellectual property licensing revenues and the related cost of sales in the period the license agreements were signed. The cost of sales from the intellectual property licensing business related to **contingent legal fees** incurred on successfully achieving signed agreements as well as legal fees incurred based upon legal counsel's time.

Forgent garnered its licensing revenues primarily from two identified patents: U.S. Patent No. 4,698,672 (the '672 patent'), which relates to technology for compressing, storing and decoding full-color or gray images, and U.S. Patent No 6,285,746 (the '746 patent'), which relates to technology for storing and retrieving multimedia data in a manner that allows playback during recording. The '672 patent expired in October 2006 and the '746 patent, which the Company developed and patented, expires in May 2011.

During fiscal year 2008, the Company did not actively pursue additional license agreements from the '672 patent, the '746 patent or any other patent, but Forgent continues to maintain a portfolio of patents and patent applications. However, there can be no assurance that Forgent's pending patent applications will be issued as

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patents or that the issued patents can be licensed and/or litigated successfully. Furthermore, management believes any additional revenues to be generated from the Company's remaining patent portfolio may be less than those generated historically.

**Litigation**

In June 2006, the United States District Court for the Northern District of California issued its claims construction ruling as to the Company's litigations related to the 672 patent (the 672 Litigation). Such ruling favored the defendants' claims construction in the 672 Litigation, with the Court ruling the claims to be limited to video. As a result of this unfavorable claims construction ruling, Forgent pursued settlement negotiations with the remaining defendants in the 672 Litigation and signed a Patent License and Settlement Agreement with those defendants in October 2006.

In April 2007 and June 2007, Forgent entered into settlement and license agreements with ten of the defendants in the Company's litigation related to the 746 patent (the 746 Litigation). In May 2007, a jury for the United States District Court for the Eastern District of Texas, Tyler Division, found the four asserted claims of the 746 patent to be invalid. This finding was in favor of the two remaining defendants in the 746 Litigation. On August 9, 2007, the Court ordered Forgent to remit payment to the defendant for reimbursement of certain litigation costs. This payment was made on August 23, 2007.

As a result of the above license and settlement agreements signed during fiscal year 2007, the court rulings related to the 672 Litigation and the 746 Litigation, and management's decision not to pursue those litigations further, Forgent considers the 672 Litigation and the 746 Litigation to be concluded.

**EMPLOYEES**

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As of October 15, 2008, the Company had a total of 103 employees, 35 of whom reside in India, in the following departments:

| <b>FUNCTION</b>                             | <b>NUMBER OF<br/>EMPLOYEES</b> |
|---|--------------------------------|
| Research and development                    | 27                             |
| Sales and marketing                         | 32                             |
| Customer service and technical support      | 29                             |
| Finance, human resources and administration | 15                             |
| <b>Total</b>                                | <b>103</b>                     |

The size and composition of Forgent's workforce is continually evaluated and adjusted. The Company also occasionally hires contractors to support its sales and marketing, information technology and administrative functions. Forgent believes it retains the appropriate management team and employees to fully implement its business strategy. None of the Company's employees are represented by a collective bargaining agreement. Forgent has not experienced any work stoppages and considers its relations with its employees to be good.

The future performance of the Company depends largely on its ability to continually and effectively attract, train, retain, motivate and manage highly qualified and experienced technical, sales, marketing and managerial personnel. Forgent's future development and growth depend on the efforts of key management personnel and technical employees. Competition for such personnel is intense. Although the Company does not generally enter into formal employment agreements with key management personnel or technical employees, Forgent uses incentives, including competitive compensation and stock option plans to attract and retain well-qualified employees. However, there can be no assurance that the Company will continue to attract and retain personnel with the requisite capabilities and experience. The loss of one or more of Forgent's key management or technical personnel could have a material and adverse effect on its business and operating results.

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**EXECUTIVE OFFICERS**

Forgent's executive officers are as follows:

Richard N. Snyder, age 63, joined the Company's Board of Directors in December 1997 and became Chairman of the Board in March 2000. In June 2001, Mr. Snyder was named Forgent's President and Chief Executive Officer. Mr. Snyder has over 32 years of senior management experience, including Founder and Chief Executive Officer at Corum Cove Consulting, LLC, Senior Vice President of Worldwide Sales, Marketing, Service and Support at Compaq Computer Corporation, Senior Vice President and General Manager at Dell Americas and Group General Manager of the Deskjet Products Group at Hewlett-Packard. Mr. Snyder received a Masters in Business Administration degree from Saint Mary's College and a Bachelor of Science degree from Southern Illinois University.

Jay C. Peterson, age 51, joined the Company in September 1995 as Manager of Corporate Planning and has served as Forgent's Chief Financial Officer and Vice President of Finance since May 2000. Prior to joining the Company, Mr. Peterson performed as Assistant Controller with the Dell Direct Channel that generated \$1 billion in annual sales at Dell Computer Corporation and held various financial positions during 11 years with IBM Corporation. Mr. Peterson holds a Masters in Business Administration degree and a Bachelor of Arts in Economics degree from the University of Wisconsin.

Nancy L. Harris, age 45, joined the Company in October 2001 as Vice-President of Marketing. She currently serves as Forgent's Chief Operating Officer and Senior Vice-President of Operations and is responsible for the daily operations of the Company's software segment. Ms. Harris has 23 years experience in the software industry, serving in both marketing and development capacities. Prior to joining the Company, Ms. Harris was the Director of Marketing and Product Management at Clear Commerce, an Internet transaction-processing software company (2000 to 2001). Prior to that, Ms. Harris spent eight years with BMC Software in various positions including Director of Field Marketing, Director of Product Marketing and Development Manager. Ms. Harris also spent several years with Andersen Consulting in various capacities. Ms. Harris holds a Masters of Science in Marketing degree and a Bachelor of Science in Journalism degree from Northwestern University.

#### **ITEM 1A. RISK FACTORS**



The Company is a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and is not required to provide the information required under this item.

**ITEM 2. PROPERTIES**

Forgent leases approximately 137,000 square feet in Austin, Texas for use as its headquarters, including its sales and marketing operations. The lease expires in March 2013. Due to the downsizing of the Company on account of past divestitures and restructurings, Forgent has existing unoccupied leased space inventory, which it has actively subleased. During prior fiscal years, management calculated the economic value of the lost sublease rental income and recorded impairment charges to the Consolidated Statement of Operations. As of July 31, 2008, Forgent had \$0.5 million recorded as a liability on the Consolidated Balance Sheet related to these impairment charges at its Austin property. Currently, the Company occupies approximately 19,000 square feet, subleases approximately 91,000 square feet and anticipates continuing to sublease the remaining under-utilized space.

Forgent also leases approximately 4,000 square feet of office space in Vancouver, British Columbia, Canada. The Canadian facility provides office space for sales and development efforts. As a result of the iEmployee acquisition in October 2007, the Company currently leases approximately 5,000 square feet in Seekonk, Massachusetts for sales and development efforts and approximately 3,000 square feet in Mumbai, India for sales, marketing, development and support efforts. In October 2008, Forgent signed a lease for approximately 5,000 square feet of office space in Warwick, Rhode Island and is in the process of relocating its operations at the Seekonk office to the Warwick office.

Management believes that the leased properties described above are adequate to meet Forgent's current operational requirements and can accommodate further physical expansion of office space as needed.

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**ITEM 3. LEGAL PROCEEDINGS**

Forgent is the defendant or plaintiff in various actions that arose in the normal course of business. With the exception of the proceedings described below, none of the pending legal proceedings to which the Company is a party are material to the Company.

**Litigation with Jenkens & Gilchrist, P.C.**

On July 16, 2007, Jenkens & Gilchrist, P.C. ( Jenkens ), Forgent's former legal counsel, filed a complaint against Forgent and Compressions Labs, Inc., in the District Court of Dallas County, Texas. In its complaint, Jenkens alleges a breach of contract and is seeking a declaratory judgment. Forgent disputes Jenkens claims and is seeking relief through the court system.

After Forgent terminated Jenkens, the Company entered into a Resolution Agreement with Jenkens in December 2004. Under the Resolution Agreement, the Company believes Jenkens is entitled to \$1.4 million for contingency fees and expenses related to the settlements from the litigation regarding the Company's DVR patents. Jenkens interprets the Resolution Agreement on broader terms and believes it is entitled to \$3.4 million, including attorneys' fees and interest.

On March 3, 2008, Forgent and Jenkens appeared before the Court regarding a hearing on the motion for summary judgment filed by Jenkens. On May 20, 2008, the Court granted Jenkens' motion and ordered Forgent to pay Jenkens \$2.8 million for recoveries related to the 746 patent and other amounts including attorney's fees and interest. Forgent appealed this Court order, and on September 3, 2008, the Court granted Forgent's Motion to Reconsider Order. The trial date for this litigation is currently scheduled for April 27, 2009.

Management currently cannot predict how long it ultimately will take to resolve the Jenkens lawsuit. Until the Jenkens litigation is finalized, the related contingency fees and expenses may be adjusted in a future period and could have a material impact to the Company's consolidated financial statements.

**Litigation with Wild Basin**

On September 6, 2007, Forgent filed a petition against Wild Basin One & Two, Ltd. ( Wild Basin ) in the District Court of Travis County, Texas. The petition claimed Wild Basin was in breach of contract relating to Forgent's lease agreement by unreasonably withholding and delaying its consent to Forgent's lease assignment to a third party. On October 19, 2007, Forgent amended its petition to include claims of fraud and breach of fiduciary duty against Wild Basin.

On June 2, 2008, Wild Basin filed a counterclaim seeking a declaratory judgment that it had complied with its obligations under the lease and was seeking the recovery of attorney's fees. On June 5, 2008, Forgent amended its petition to request the Court make declaratory judgments on several issues in the case and to include as a breach of contract claim its claim for withholding amounts that should have been distributed by Wild Basin in the past pursuant to the lease. Forgent sought to recover all damages as a result of the delay in closing its pending assignment and amounts not distributed in the past, among other damages.

The trial for this litigation commenced on September 22, 2008. Prior to the conclusion of the trial, Forgent and Wild Basin reached a settlement agreement, effective September 25, 2008. This settlement agreement requires, among other terms, that Wild Basin consents to Forgent's lease assignment. In return, Forgent will pay Wild Basin \$75 thousand. Both parties agreed to mutually release claims against each other. As required by the settlement agreement, Forgent expects to finalize the lease assignment by December 31, 2008. However, there is no assurance that Forgent will finalize the lease assignment, or if finalized, that it will occur by the December 31, 2008 deadline.

**Re-examination of United States Patent No. 6,285,746**



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On October 2, 2006, the United States Patent and Trademark Office (the USPTO ) ordered an *inter partes* re-examination of the 746 patent and issued its first office action related to this re-examination on October 30, 2006. This first action, which is not the final conclusion of the re-examination, rejected the five claims in the

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746 patent. Forgent responded to the USPTO. On September 4, 2008, the Company received a Notification of Defective Paper in Re-exam from the USPTO. Since management determined little benefit may be achieved in the future from upholding its claims, Forgent does not plan to pursue this matter further.

**Re-examination of United States Patent No. 4,698,672**

On January 31, 2006, the USPTO granted a petition to re-examine the 672 patent and subsequently issued its first office action on May 25, 2006. Forgent responded to this first office action, which confirmed 27 of the 46 claims in the 672 patent. On March 26, 2007, the USPTO issued its final office action, which affirmed its first office action. Forgent responded to the USPTO on May 11, 2007. On January 11, 2008, the Company received the USPTO's notice of intent to issue an Ex-Parte Reexamination Certificate. On April 15, 2008 Forgent received the USPTO's Ex-Parte Reexamination Certificate, which affirmed its previous office actions. The Company currently has no plans to pursue this matter further.

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

None.

**PART II**



**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY,  
RELATED STOCKHOLDER MATTERS, AND ISSUER  
PURCHASES OF EQUITY SECURITIES**

**MARKET INFORMATION**

The common stock of the Company was traded in the NASDAQ-National Market System under the symbol **FORG** . Forgent changed its name to Asure Software, effective September 13, 2007, and is currently trading in the NASDAQ Capital Market System under the symbol **ASUR** . The following table sets forth the high and low sales prices for the Company's common stock for each full fiscal quarter of 2008 and 2007:

|             | FISCAL YEAR<br>2008 |         | FISCAL YEAR<br>2007 |         |
|-------------|---------------------|---------|---------------------|---------|
|             | HIGH                | LOW     | HIGH                | LOW     |
| 1st Quarter | \$ 1.49             | \$ 0.65 | \$ 0.70             | \$ 0.34 |
| 2nd Quarter | \$ 1.39             | \$ 0.65 | \$ 2.00             | \$ 0.42 |
| 3rd Quarter | \$ 0.90             | \$ 0.29 | \$ 1.67             | \$ 0.82 |
| 4th Quarter | \$ 0.57             | \$ 0.28 | \$ 1.38             | \$ 0.80 |

### **DIVIDENDS**

The Company has not paid cash dividends on its common stock during fiscal years 2008 and 2007, and presently intends to continue a policy of retaining earnings for reinvestment in its business, rather than paying cash dividends.

### **HOLDERS**

As of October 23, 2008, there were approximately 10,054 stockholders of record of the Company's common stock.

### **SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS**

See *Equity Compensation Plan Information* under Item 12 of Part III of this Report (*Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters*).

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**RECENT SALES OF UNREGISTERED SECURITIES**

None.

**ISSUER PURCHASES OF EQUITY SECURITIES**

None.

**ITEM 6. SELECTED FINANCIAL DATA**

The Company is a smaller reporting company as defined by Rule 12-b-2 of the Exchange Act and is not required to provide the information required under this item.

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**ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

Certain statements in this Report represent forward-looking statements. 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.

Forgent has attempted to identify these forward-looking statements with the words believes, estimates, plans, expects, anticipates, may, 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. Additionally, Forgent is under no obligation to update any of the forward-looking statements after the date of this Form 10-K to conform such statements to actual results.

**RESULTS OF OPERATIONS**



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

|  | FOR THE YEAR ENDED |       |
|--|--------------------|-------|
|  | JULY 31,           |       |
|  | 2008               | 2007  |
| Software & services revenues             | 100.0%             | 10.5% |
| Intellectual property licensing revenues |                    | 89.5  |
| Gross margin                             | 78.0               | 52.4  |
| Selling, general and administrative      | 110.4              | 29.7  |
| Research and development                 | 21.1               | 1.5   |
| Impairment of assets                     | 72.6               |       |
| Amortization of intangible assets        | 4.8                | 0.0   |
| Total operating expenses                 | 208.9              | 31.2  |
| Other income, net                        | 6.3                | 9.4   |
| Net (loss) income                        | (124.8)%           | 30.3% |

**FOR THE YEARS ENDED JULY 31, 2008 AND 2007**



**Overview**

During the year ended July 31, 2008, Forgent successfully augmented its software and services business by acquiring the iEmployee operations and growing its NetSimplicity's operations. In addition to increasing its software and services revenues by 139.9% over fiscal year 2007, fiscal year 2008 was focused on managing and reducing unnecessary costs. While integrating the iEmployee operations, management explored and implemented strategies to maximize efficiencies throughout the Company. Forgent eliminated personnel, facilities, infrastructure and processes that duplicated or lengthened the Company's existing tasks and responsibilities, thus reducing excessive costs.

Throughout fiscal year 2008, Forgent expended significant time and effort to defend its rights to assign its Wild Basin lease to a third party. The culmination of these efforts resulted in a settlement agreement reached in September 2008 and requires Wild Basin to consent to Forgent's lease assignment, among other terms. Management anticipates significant expense and cash savings in fiscal year 2009 once the lease assignment is finalized. However, there is no assurance that Forgent will finalize the lease assignment, or if finalized, that it will occur by the December 31, 2008 deadline.

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Forgent will continue to implement its corporate strategy for growing its software and services business. Management plans to modestly invest in areas that directly generate revenue and positive cash flows for the Company to grow organically, as well as consider exploring potential opportunities to acquire a growing and profitable public or privately held technological business or product line that complements Forgent's existing product lines. However, uncertainties and challenges remain, and there can be no assurance that the Company can successfully grow its revenues or achieve profitability during fiscal year 2009.

**Revenues**



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Consolidated revenues were \$10.2 million in fiscal year 2008 and \$40.4 million in fiscal year 2007. The decrease was \$30.2 million, or 74.8%. Consolidated revenues represent the combined revenues of the Company and its subsidiaries, including sales of the Company's scheduling software, asset management software, human resource and time and attendance software, complementary hardware devices to enhance its software products, software maintenance and support services, installation and training services and other professional services, as well as royalties and settlements received from licensing the Company's intellectual property.

### *Software and Services Business*

Software and services revenues were \$10.2 million in fiscal year 2008 and \$4.2 million in fiscal year 2007. The increase was \$5.9 million, or 139.9%. Software and services revenues represented 100.0% and 10.5% of total revenues for the years ended July 31, 2008 and 2007, respectively. Revenues from this line of business include sales of Forgent's NetSimplicity scheduling and asset management software, including Meeting Room Manager (MRM) and Visual Asset Manager (VAM), and sales of the Company's iEmployee human resource and time and attendance software, including Time & Attendance, HR & Benefits and Pay Stubs. Also included in this segment's revenues are software maintenance and support services, installation and training, complementary hardware devices and other professional services.

During the year ended July 31, 2008, increases in software subscription revenues, software license revenues and maintenance revenues accounted for approximately 87.6% of the \$5.9 million increase in revenues. In October 2007, the Company acquired the iEmployee human resource and time and attendance software. This software, as well as the Company's MRM On Demand software, is delivered to customers under the SaaS model, which is software as a service on a subscription basis. The SaaS model allows customers to use Forgent's software without installing or maintaining it on their own servers. The acquisition of iEmployee and the continued growth of MRM On Demand led to a \$4.0 million increase in software subscription revenues for the year ended July 31, 2008.

Software license revenues increased by \$0.7 million for the year ended July 31, 2008. During fiscal year 2008, Forgent further enhanced the MRM Outlook® Scheduling functionality by introducing new flexible and customizable fields. These enhanced features continue to attract enterprise companies and Forgent continues to generate increased sales to this market segment, including Fortune 500 companies. Although the number of software license sales was relatively consistent in fiscal years 2008 and 2007, the sales to corporate customers drove software sales with higher average sales prices during the year ended July 31, 2008, as compared to the average sales prices during the year ended July 31, 2007. Additionally, Forgent focused sales to school districts and municipalities, which significantly increased license revenues from NetSimplicity's VAM asset management software.

During fiscal year 2008, Forgent continued to proactively contact and notify its existing customers of upcoming expirations on their maintenance and support contracts. The increase in software sales, as well as the continued pursuit of maintenance renewals, led to additional sales of maintenance and support contracts, which increased maintenance revenues by \$0.5 million for the year ended July 31, 2008.

Forgent currently has distribution partners in the United Kingdom, Australia, and Germany. These partners and the internal sales team generated revenues from international customers, which represent approximately 11.5% and 24.7% of the software and services segment's revenues during fiscal years 2008 and 2007, respectively. The Company continues to foster relationships with other foreign distribution partners in order to increase its international presence and sales. Forgent will continue to target North American and international companies in the corporate,

education, healthcare, government, legal and non-profit industries. Forgent will continue to target small

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and medium businesses and divisions of enterprises and utilize marketing programs in certain vertical markets as appropriate.

As of July 31, 2008, Forgent has fully integrated the iEmployee operations. The Company will continue to develop its NetSimplicity and iEmployee sales force to increase sales performance and will continue to release new software updates and enhancements for all of its software products. Additionally, the Company continues to explore other opportunities to acquire additional profitable businesses, products or technologies to complement its current software and services operations. As the Company continues to make progress on its corporate strategy, management believes Forgent will be able to promote growth and sustain future operations.

***Intellectual Property Licensing Business***

Intellectual property licensing revenues were \$0.0 million in fiscal year 2008 and \$36.2 million in fiscal year 2007. Intellectual property licensing revenues represented 0.0% and 89.5% of total revenues for the years ended July 31, 2008 and 2007, respectively.

Forgent's licensing revenues relate primarily to one-time intellectual property license agreements with multiple companies in Asia, Europe and the United States for Forgent's technologies embodied in U.S. Patent No. 4,698,672 (the '672 patent') and its foreign counterparts as well as in U.S. Patent No 6,285,746 (the '746 patent'). These one-time license agreements generated approximately 99.6% of the intellectual property licensing segment's licensing revenues for the year ended July 31, 2007. Additionally, the '672 patent was included in a group of Moving Picture Experts Group (MPEG) patents that garners royalties. Forgent's licensing revenues include royalties received from the MPEG-2 consortium. Since the '672 patent expired in October 2006 in the United States, Forgent did not receive any royalties from the consortium during fiscal year 2008.

During fiscal year 2007, Forgent's intellectual property licensing business was in legal proceedings with multiple companies in the United States District Court for the Eastern District of Texas, Tyler Division (the '746 Litigation'), regarding the infringement of its '746 patent and in legal proceedings with multiple other companies in the United States District Court for the Northern District of California (the '672 Litigation'), regarding the infringement of its '672 patent.

In April and June 2007, Forgent entered into settlement and license agreements with ten of the defendants, who were dismissed from the '746 Litigation with prejudice. Under these agreements, Forgent granted the defendants a patent license and the defendants paid the Company a total of \$28.0 million. Additionally, all parties agreed to release all claims against each other. The \$28.0 million was recorded as intellectual property licensing revenue on the Consolidated Statement of Operations for the year ended July 31, 2007. In May 2007, a jury found the four asserted claims of the '746 patent to be invalid. This finding was in favor of the two remaining defendants in the '746 Litigation. On August 9, 2007, the Court ordered Forgent to remit \$90 thousand to the defendants for reimbursement of certain litigation costs. This payment was made on August 23, 2007. As a result, Forgent considers the '746 Litigation to be concluded. The Company did not actively pursue additional '746 license agreements during fiscal year 2008 and does not anticipate any additional licensing revenues from its '746 patent.

In October 2006, Forgent signed a Patent License and Settlement Agreement with the remaining defendants in the 672 Litigation. Under this agreement, Forgent granted the defendants a patent license and the defendants paid Forgent \$8.0 million. Additionally, all parties agreed to release all claims against each other. The \$8.0 million was recorded as intellectual property licensing revenue on the Consolidated Statement of Operations for the year ended July 31, 2007. As a result, Forgent considers the 672 Litigation to be concluded. The 672 patent expired in October 2006 in the United States. The Company did not actively pursue additional 672 license agreements during fiscal year 2008 and does not anticipate any additional licensing revenues from its 672 patent.

Because the 746 Litigation and the 672 Litigation were concluded, because the intellectual property licensing revenues represent 89.5% of total revenues for the year ended July 31, 2007, and because Forgent did not pursue any additional licensing revenues from its 746 patent or its 672 patent, the Company experienced a significant decrease in its total revenues during fiscal year 2008. Management believes any revenues to be generated from the Company's remaining patent portfolio may be less than those generated historically and does not rely on this segment to generate significant revenues or cash flows in the future.

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**Gross Margin**



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Consolidated gross margins were \$7.9 million in fiscal year 2008 and \$21.2 million in fiscal year 2007. The decrease was \$13.2 million, or 62.5%. Consolidated gross margin percentages were 78.0% for fiscal year 2008 and 52.4% for fiscal year 2007. For the year ended July 31, 2007, the intellectual property licensing segment generated 84.5% of the total gross margins. The \$13.2 million decrease in gross margin for the year ended July 31, 2008, is due primarily to the \$17.9 million decrease in gross margin resulting from the intellectual property licensing segment. Although the total amount of gross margin decreased in fiscal year 2008 due to the intellectual property licensing segment not generating any revenues, the gross margin as a percentage of revenue increased due to the improved performance by the software and services segment.

### *Software and Services Business*

Software and services gross margins were \$7.9 million in fiscal year 2008 and \$3.3 million in fiscal year 2007. The increase was \$4.6 million, or 142.0%. Software and services gross margins represented 78.0% and 77.3% of total software and services revenues for the years ended July 31, 2008 and 2007, respectively.

The cost of sales associated with the software and services segment relates primarily to compensation expenses, hardware expenses and the amortization of the Company's purchased software development costs. These expenses represented approximately 65.4% and 72.0% of the cost of sales for the software and services segment for the years ended July 31, 2008 and 2007, respectively. As a result of the Company's acquisition of the iEmployee operations in October 2007, approximately \$0.8 million in compensation expenses and related expenses for the iEmployee support group were recorded as part of cost of sales. To supplement the demands on the Company's internal support group, Forgent outsourced certain professional services to one vendor during fiscal year 2008, which increased deployment expenses by approximately \$0.1 million. Additionally, Forgent incurred a \$0.1 million increase in hardware expenses during fiscal year 2008, as compared to fiscal year 2007, resulting from increased sales of LCD panels and barcode scanners to complement sales of its scheduling and asset management software. Although the purchased software development costs related to the NetSimplicity acquisition were fully amortized during fiscal year 2007, this reduction in amortization expenses was offset by the increase in amortization expenses related to the purchased software development costs acquired from the iEmployee operations during fiscal year 2008. The combination of these factors, among others, led to a \$1.3 million increase in cost of sales for fiscal year 2008.

Since a significant portion of the cost of sales for the software and services segment is relatively fixed, revenues generated from this segment directly affect gross margins. Despite the overall increase in cost of sales, the growth in revenues from the software and services segment, due primarily to the iEmployee acquisition, caused the gross margin to increase in terms of total dollars and the gross margin as a percentage of revenues to remain relatively consistent with prior year. Since Forgent expects to generate more sales in fiscal year 2009, management expects gross margins to improve, in terms of total dollars, and to remain relatively consistent in terms of percentage of revenues, as management continues to implement strategies to maximize efficiencies throughout the Company.

### *Intellectual Property Licensing Business*

Intellectual property gross margins were \$17.9 million and represented 49.5% of intellectual property licensing revenues for the year ended July 31, 2007. The cost of sales from the intellectual property licensing segment relates to the legal contingency fees incurred on successfully achieving signed license agreements as well as legal expenses incurred from legal counsel's

time in connection with licensing and litigating the Company's patents. During the year ended July 31, 2008, Forgent did not generate any intellectual property licensing revenues and thus did not incur any cost of sales. The 100.0% decrease in intellectual property licensing revenues directly caused a 100.0% decrease in intellectual property gross margins, which significantly decreased the Company's overall gross margins.

Included in the contingency fees for fiscal year 2007 are fees due to Jenkens & Gilchrist, P.C. (Jenkins). After Forgent terminated Jenkins, the Company entered into a Resolution Agreement with Jenkins in December 2004. Under the Resolution Agreement, the Company believes Jenkins is entitled to \$1.4 million for contingency fees and expenses related to the settlements from the litigation regarding the Company's DVR patents. Jenkins interprets the Resolution Agreement on broader terms and believes it is entitled to \$3.4 million, including attorneys

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fees and interest. In July 2007, Jenkens filed a complaint against the Forgent and Compressions Labs, Inc., in the District Court of Dallas County, Texas. In its complaint, Jenkens alleges a breach of contract and sought a declaratory judgment. Forgent disputes Jenkens' claims and is seeking relief through the court system. In March 2008, Forgent and Jenkens appeared before the Court regarding a hearing on the motion for summary judgment filed by Jenkens. On May 20, 2008, the Court granted Jenkens' motion and ordered Forgent to pay Jenkens \$2.8 million for recoveries related to the 746 patent and other amounts including attorney's fees and interest. Forgent appealed this Court order and on September 3, 2008, the Court granted Forgent's Motion to Reconsider Order. The trial date for this litigation is currently scheduled for April 27, 2009. Management currently cannot predict how long it ultimately will take to resolve the Jenkens lawsuit. Until the Jenkens litigation is finalized, the related contingency fees and expenses may be adjusted in a future period and could have a material impact to the Company's consolidated financial statements.

**Selling, General and Administrative**



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Selling, general and administrative ( SG&A ) expenses were \$11.2 million in fiscal year 2008 and \$12.0 million in fiscal year 2007. The decrease was \$0.8 million, or 6.4%. SG&A expenses were 110.4% and 29.7% of total revenues for the years ended July 31, 2008 and 2007, respectively.

During the year ended July 31, 2008, the intellectual property licensing segment had little activity due to the conclusion of the 672 Litigation and the 746 Litigation during fiscal year 2007. As a result, SG&A expenses incurred directly by the intellectual property licensing segment decreased by approximately \$3.6 million, of which \$2.9 million relates to legal expenses. This decrease was offset by a \$2.8 million increase due to increases in (1) SG&A expenses incurred by the iEmployee operations, (2) compensation expenses for Forgent's marketing group and NetSimplicity's sales team, (3) marketing expenses and (4) legal expenses.

Forgent's SG&A expenses unrelated to the intellectual property licensing segment increased \$2.8 million. First, as a result of the iEmployee acquisition in October 2007, SG&A expenses increased by \$1.5 million. Second, during fiscal year 2008, Forgent hired a Director of Marketing and other marketing personnel to concentrate on creating and expanding market awareness for all of Forgent's software products and services. Additionally, Forgent continued to make investments by hiring additional sales personnel for its NetSimplicity product line such that each sales representative could specialize in the Company's software and services and focus on certain industries and/or smaller territories. This additional headcount, as well as the increase in commissions paid for the increased revenues generated during fiscal 2008, led to a \$0.8 million increase in marketing and NetSimplicity sales compensation and benefits expenses for the year ended July 31, 2008. Third, the heightened focus on Forgent's marketing efforts during fiscal year 2008 also led to an augmentation of the Company's marketing programs, including more pay-per-click advertising, search engine optimization, an enhanced website and additional direct marketing efforts, thus increasing marketing expenses \$0.2 million during the year ended July 31, 2008. Fourth, during fiscal year 2008, Forgent's corporate legal expenses increased by \$0.3 million due primarily to the litigation with Wild Basin One & Two, Ltd. ( Wild Basin ). On September 25, 2008, Forgent and Wild Basin reached a settlement agreement and management expects legal fees to decrease in fiscal year 2009.

With the conclusion of the Wild Basin litigation, management anticipates significant savings in rent expense after the Wild Basin lease is assigned, which assignment should be finalized by December 31, 2008. However, there is no assurance that Forgent will finalize the lease assignment, or if finalized, that it will occur by the December 31, 2008 deadline. Forgent will continue to make modest investments in both of its NetSimplicity and iEmployee sales teams, as necessary, in order to further grow its software and services segment. Management anticipates further increases in revenues as the Company's expanded sales and marketing workforce achieves its full productivity potential in building greater market awareness and generating increased sales. Forgent will also continue to evaluate and reduce any unnecessary SG&A expenses that do not directly support the generation of revenues for the Company.

### Research and Development



Research and development ( R&D ) expenses were \$2.2 million in fiscal year 2008 and \$0.6 million in fiscal year 2007. The increase was \$1.5 million, or 252.5%. R&D expenses were 21.1% and 1.5% of total revenues for the years ended July 31, 2008 and 2007, respectively.

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As a result of Forgent's R&D efforts, the Company has achieved several goals during fiscal year 2008. In November 2007, the Company introduced a new software product, Mobile Workforce Manager. This software enables a customer's mobile employees to reserve workspaces and resources when traveling between facilities. This concept, often referred to as office hoteling, allows customers to reduce facility costs by improving the utilization of expensive workspace. In January 2008, Forgent announced the release of MRM 7.6 to address the needs of its customers in higher education. This new release introduced features to import data from SunGard Higher Education Banner®, a widely used collegiate course scheduling solution. Throughout the year ended July 31, 2008, Forgent continued developing its MRM product and released several minor versions, including MRM 7.7, which improved the MRM Enterprise Outlook® Scheduling functionality by introducing new flexible and customizable fields. Other enhancements to MRM include increased control handling conflicts when booking recurring meetings and a new feature to the MRM LCD Panel Scheduling that allows customers use their meeting space more efficiently by reclaiming meeting space that was scheduled but not used. The Company also continued to develop VAM throughout fiscal year 2008 and released VAM 5.7, which introduced the new VAM importer module that enables customers to import data from legacy or external sources into VAM and provides a technological foundation for further development efforts for gathering and depositing data into VAM.

Approximately 79.1% of the \$1.5 million increase in R&D expenses during the year ended July 31, 2008 related to the acquisition of the iEmployee development operations. During fiscal year 2008, Forgent released an improved version of iEmployee's Time & Attendance product to provide users with greater visibility and control over Paid-Time-Off ( PTO ) programs, including an intuitive accrual wizard which simplifies the implementation and enforcement of PTO policies. Additionally, Forgent introduced the iEmployee EasyTouch Time Clock, which is a small touch-screen enabled Internet appliance that allows employers to capture employee time punches through a full range of biometric and card recognition options and provides employees with real-time access to schedules, time-off balances and attendance history. Customers can automatically synchronize employee data with the Company's Time & Attendance solution, thus improving data accuracy, reducing costs associated with discrepancies and enabling employees and managers to function more independently. Forgent also developed and released an enhanced version of iEmployee's HR & Benefits product, which introduced a new feature that allows customers to provide pay stub information to their mobile employees via select Automated Teller Machines (ATMs).

Forgent continues to solicit and receive feedback regarding its products and services from its existing and potential customers. Forgent's development efforts for future releases and enhancements are driven by listening to all of its customers and gauging marketing trends. As the Company designs and further improves its workforce management solutions, management will attempt to maintain R&D expenses at reasonable levels in terms of percentage of revenue and plans to make modest investments in its NetSimplicity and iEmployee R&D efforts during fiscal year 2009, as necessary, in order to further grow its software and services segment.

**Impairment of assets**



In accordance with SFAS Statement No. 142, *Goodwill and Other Intangible Assets*, Forgent reviews its goodwill for possible impairment on an annual basis, or whenever specific events warrant. Due to its continued depressed stock price and the current market conditions during the fourth fiscal quarter of 2008, Forgent determined that the decline in its market capitalization may not be temporary. Due to the decline in its market capitalization, the Company was required to perform an impairment analysis on its goodwill. To evaluate its goodwill for impairment, Forgent used a two-step process. Under the first step, Forgent determined that the estimated fair value of the Company, as represented by its market capitalization, was less than its net book value, thus requiring the completion of the second step of the impairment analysis. As part of the second step, Forgent allocated the estimated fair value of the Company, as represented by its market capitalization, to its assets and liabilities, excluding goodwill, based upon the individual estimated fair values. As a result of its allocation process, the Company determined that goodwill had an implied fair value of \$0. An impairment loss is measured as the excess of the book value of the goodwill over the implied fair value of the goodwill. As a result of the impairment analysis, Forgent recorded a non-cash \$7.4 million goodwill impairment related to its acquisition of iEmployee to its Consolidated Statement of Operations for the year ended July 31, 2008. This impairment had no impact to the Company's tangible net book value or liquidity.

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**Amortization of intangible assets**



Amortization expenses were \$0.5 million in fiscal year 2008 and \$4 thousand in fiscal year 2007. The increase was \$0.5 million, or 11,659.1%. Amortization expenses were 4.8% and 0.0% of total revenues for the years ended July 31, 2008 and 2007, respectively. Upon acquiring the iEmployee business in October 2007, Forgent recorded several intangible assets, which are being amortized over their appropriate useful lives. The amortization expenses during the year ended July 31, 2008 relate entirely to these acquired intangible assets (see Note 5, in the accompanying financial statements).

**Other Income**



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Other income was \$0.6 million in fiscal year 2008 and \$3.8 million in fiscal year 2007. The decrease was \$3.2 million, or 83.1%. Other income was 6.3% and 9.4% of total revenues for the years ended July 31, 2008 and 2007, respectively.

During fiscal year 2007, Forgent sold certain patents and applications associated with videoconferencing and related fields and technology, together with related goodwill, rights and documentation, to Tandberg Telecom AS for \$3.2 million. Upon closing, Forgent received \$2.9 million of the purchase price, all of which was recorded as a gain on sale of assets and accounts for 92.0% of the decrease in other income for the year ended July 31, 2008. The purchase price remaining balance of \$0.3 million was held in escrow for two years for indemnity claims.

### Income Taxes

At July 31, 2008, the Company had federal net operating loss carryforwards of approximately \$160.1 million, R&D credit carryforwards of approximately \$5.0 million and alternative minimum tax credit carryforwards of approximately \$0.4 million. The net operating loss and R&D credit carryforwards will expire in varying amounts from 2009 through 2027, if not utilized. Minimum tax credit carryforwards carry forward indefinitely.

As a result of various acquisitions performed by the Company in prior years, utilization of the net operating losses and credit carryforwards may be subject to a substantial annual limitation due to the change in ownership provisions of the Internal Revenue Code of 1986, as amended. The annual limitation may result in the expiration of net operating losses before utilization.

Due to the uncertainty surrounding the timing of realizing the benefits of its favorable tax attributes in future tax returns, the Company has placed a valuation allowance against the majority of its net deferred tax asset. No deferred tax benefits have been recorded for the tax year ended July 31, 2007. The deferred tax assets and liabilities recorded for the tax year ended July 31, 2008 relate to separate filing states in which iSarla has historically generated taxable income. During the year ended July 31, 2008, the valuation allowance increased by approximately \$1.5 million due primarily to operations and decreased by approximately \$1.4 million and \$1.0 million due to the acquisition of iSarla and the implementation of FIN48, respectively. Approximately \$7.4 million of the valuation allowance relates to tax benefits for stock option deductions included in the net operating loss carryforward which, when realized, will be allocated directly to contributed capital to the extent the benefits exceed amounts attributable to book deferred compensation expense.

Undistributed earnings of the Company's foreign subsidiaries are considered permanently reinvested and, accordingly, no provision for U.S. federal or state income taxes has been provided thereon.

### Net (Loss) Income

Net loss was \$12.7 million in fiscal year 2008. Net income was \$12.2 million in fiscal year 2007. The decrease in net income was \$24.9 million, or 203.8%. Net loss as a percentage of total revenues was 124.8% for the year ended July 31, 2008. Net income as a percentage of total revenues was 30.3% for the year ended July 31, 2007. The \$24.9 million decrease in net income was due primarily to the decrease in gross margin and the impairment charge during the year ended July 31, 2008.



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**LIQUIDITY AND CAPITAL RESOURCES**



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In addressing all operational and facility capital requirements, management continues to evaluate how best to manage operations without expending significant additional resources and is maximizing its existing office space to facilitate the growth of its software business.

Forgent's current operations are not capital intensive and the Company purchased minimal fixed assets during past two fiscal years. Approximately 45.3% of Forgent's purchased fixed assets during the year ended July 31, 2008 related to leasehold improvements for the Company's expanded sales force and for one subtenant. Approximately 40.4% of Forgent's purchased fixed assets during the year ended July 31, 2007 related to leasehold improvements primarily for new subtenants and subtenant expansions. Once Forgent successfully assigns its Wild Basin lease, the Company will cease providing leasehold improvements

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in order to attract subtenants. Management does not anticipate any significant capital expenditures during fiscal year 2009.

The Company leases office space and equipment under non-cancelable operating leases that expire at various dates through 2013. Certain leases obligate Forgent to pay property taxes, maintenance and insurance and include escalation clauses. The total amount of base rentals over the term of the Company's leases is charged to expense on a straight-line basis, with the amount of the rental expense in excess of the lease payments recorded as a deferred rent liability. Despite the additional lease obligations acquired with the iEmployee operations, approximately \$15.8 million, or 97.3% of the Company's total operating lease obligations, relate to its corporate office facility at Wild Basin in Austin, Texas. As of July 31, 2008, Forgent had \$5.6 million in future minimum lease payments receivable under non-cancelable sublease arrangements. Additionally, Forgent had a \$0.5 million liability related to impairment charges for the economic value of the lost sublease rental income at its Austin property. Once Forgent successfully assigns its Wild Basin lease, the Company's operating lease obligations will significantly decrease. Forgent may periodically make other commitments and thus become subject to other contractual obligations.

Cash provided by financing activities was \$7 thousand in fiscal year 2008 and cash used in financing activities was \$0.5 million in fiscal year 2007. The \$0.5 million of cash used in financing activities during fiscal year 2007 was due primarily to the repayment of the Company's notes payables. As of July 31, 2008, Forgent did not have any notes payable outstanding.

Forgent's stock repurchase program allows the Company to purchase up to 3.0 million shares of the Company's common stock. During the years ended July 31, 2008 and 2007, Forgent did not repurchase any shares under this program. The shares repurchased by month during the last quarter of the fiscal year ended July 31, 2008 are as follows:

**Issuer Purchases of Equity Securities**

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(in thousands except average price)

|                              | Total<br>Number of<br>Shares<br>Repurchased | Average<br>Price Paid<br>per Share | Total Number of<br>Shares Purchased<br>as Part of a<br>Publicly<br>Announced Plan | Maximum<br>Number of<br>Shares that may<br>yet be Purchased<br>Under the Plans |
|------------------------------|---|------------------------------------|---|--|
| May 1, 2008 - May 31, 2008   | 0   | \$ 0.00                            | 0   | 1,210  |
| June 1, 2008 - June 30, 2008 | 0   | \$ 0.00                            | 0   | 1,210  |
| July 1, 2008 - July 31, 2008 | 0   | \$ 0.00                            | 0   | 1,210  |
| <b>Total</b>                 | <b>0</b>                                    | <b>\$ 0.00</b>                     | <b>0</b>  | <b>1,210</b>   |

As of July 31, 2008, the Company has repurchased 1,790,401 shares for approximately \$4.8 million. Management will periodically assess repurchasing additional shares during fiscal year 2009, depending on the Company's cash position, market conditions and other factors.

As of July 31, 2008, Forgent's principal sources of liquidity consisted of \$14.7 million in cash, cash equivalents and short-term investments. Management plans to utilize these cash balances to expand its software operations by making additional prudent investments, to continue exploring potential opportunities in acquiring a growing and profitable public or privately held technology business or product line, and possibly to repurchase outstanding shares. There is no assurance that the Company will be able to limit its cash consumption and preserve its cash balances, and it is possible that the Company's future business demands may lead to cash utilization at levels greater than recently experienced. Management believes that the Company has sufficient capital and liquidity to fund and cultivate growth of its current and future operations for the next 12 months and thereafter. However, due to uncertainties related to the timing and costs of these efforts, Forgent may need to raise additional capital in the future. Yet, there is no assurance that the Company will be able to raise additional capital if and when it is needed.

### CRITICAL ACCOUNTING POLICIES

The Company's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles and include the accounts of Forgent's wholly owned subsidiaries. All significant

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intercompany transactions and balances have been eliminated in the consolidation. Preparation of the consolidated financial statements in conformity with U.S. generally accepted accounting principles 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. These estimates are subjective in nature and involve judgments that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at fiscal year end and the reported amounts of revenues and expenses during the fiscal year. The more significant estimates made by management include the valuation allowance for the gross deferred tax asset, contingency legal reserves, lease impairment, useful lives of fixed assets, the determination of the fair value of its long-lived assets, and the fair value of assets acquired and liabilities assumed during the recent acquisition. The Company bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the given circumstances. 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 license 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*, Securities and Exchange Commission Staff Accounting Bulletin 104, *Revenue Recognition*, and Emerging Issues Task Force Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables*. The Company recognizes software subscription revenue in accordance with EITF Issue No. 00-3, *Application of AICPA Statement of Position 97-2 to Arrangements That Include the Right to Use Software Stored on Another Entity's Hardware* and EITF Issue No. 00-21.

Revenue consists of software license, software subscription and service fees. Revenue from the software element 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. Revenue from the sale of hardware devices is recognized upon shipment of the hardware. Forgent sells multiple elements within a single sale. For software license arrangements, the Company allocates the total fee to the various elements based on the relative fair values of the elements specific to the Company. For software subscription arrangements, the Company recognizes the total contract value ratably over the contract term.

The Company determines the fair value of each element in the arrangement based on vendor-specific objective evidence ( VSOE ) of fair value. VSOE of fair value for the software, maintenance, and training and installation services are based on the prices charged for the software, maintenance and 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. 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.

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

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Consolidated Statements of Operations when the service is completed and over the terms of the arrangements, primarily ranging from one to three years.

Intellectual property licensing revenue is derived from the Company's Patent Licensing Program, which has generated licensing revenues relating to the Company's technologies embodied in the 672 patent and the 746 patent. Intellectual property licensing does not include elements such as technical support, upgrade protection, bug fixes or other services and, accordingly, gross intellectual property licensing revenue is recognized at the time a license agreement has been executed and collection has been deemed probable. Related costs are recorded as cost of sales. The cost of sales on the intellectual property licensing business relates to contingent legal fees incurred on successfully achieving signed agreements, as well as legal fees incurred based upon legal counsel's time. For settlement arrangements that involved litigation, the Company considered such arrangements to have both an intellectual property licensing element and a litigation element. For these multiple element arrangements, the Company allocated a portion of the total settlement amount to the intellectual property licensing element based upon the estimated fair value of the intellectual property licensing element using its historical sold-separately experience. Using the residual method, the Company then allocated the remaining unallocated total settlement amount of the arrangement to litigation element which is recorded as Other Income. Through July 31, 2008, no significant amounts have been allocated to the litigation element.

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



Goodwill and other intangible assets with indefinite lives are not required to be amortized under Financial Accounting Standard Board ( FASB ) Statement No. 142, *Goodwill and Other Intangible Assets*, and accordingly, the Company reviews its goodwill 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 are amortized over their useful lives and are tested for impairment in accordance with FASB Statement No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*.

In accordance with Statement 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 undiscounted cash flows, the fair values of those assets are estimated by discounting the projected cash flows. Any excess of the carrying amounts over the fair values are recorded as impairments in that fiscal period.

#### **RECENT ACCOUNTING PRONOUNCEMENTS**

In December 2007, the Financial Accounting Standard Board ( FASB ) issued Statement No. 141(R), *Business Combinations*. Statement No. 141(R) establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any non-controlling interest in the acquiree and the goodwill acquired in the business combination. The statement also establishes disclosure requirements which will enable users to evaluate the nature and financial effects of the business combination. Statement No. 141(R) is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008. As such, the Company will adopt these provisions for any business combination after August 1, 2009. The adoption of Statement No. 141(R) may have an impact on Forgent's accounting for future business combinations once adopted.

In February 2007, the FASB issued Statement No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities*. Statement No. 159 provides companies with an option to report selected financial assets and liabilities at fair value. The standard's objective is to reduce both complexity in accounting for financial instruments and the volatility in earnings caused by measuring related assets and liabilities differently. The standard requires companies to provide additional information that will help investors and other users of financial statements to more easily understand the effect of the company's choice to use fair value on its earnings. It also requires companies to

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display the fair value of those assets and liabilities for which the company has chosen to use fair value on the face of the balance sheet. This statement does not eliminate disclosure requirements included in other accounting standards, including requirements for disclosures about fair value measurements included in Statement No. 157, *Fair Value Measurements*, and Statement No. 107, *Disclosures about Fair Value of Financial Instruments*. Statement No. 159 is effective as of the beginning of fiscal years beginning after November 15, 2007. Forgent adopted Statement No. 159, effective August 1, 2008, and does not anticipate a material impact to its financial position and results of operations.

In September 2006, the FASB issued Statement No. 157, *Fair Value Measurements*. Statement No. 157 defines fair value, establishes a framework for measuring fair value in U.S. generally accepted accounting principles and expands disclosures about fair value measurements. Statement No. 157 is effective for fiscal years beginning after November 15, 2007 and interim periods within those fiscal years. Forgent adopted Statement No. 157, effective August 1, 2008, and does not anticipate a material impact to its financial position and results of operations.

ITEM 7A. **QUANTITATIVE AND QUALITATIVE DISCLOSURES  
ABOUT MARKET RISK**



The Company is a smaller reporting company as defined by Rule 12b-2 under the Exchange Act and is not required to provide the information required under this item.

**ITEM 8.**  
**DATA**

**FINANCIAL STATEMENTS AND SUPPLEMENTARY**



The financial statements and supplementary data required by this Item 8 are listed in Items 15 (1) and (2) of Part III of this Report (*Exhibits, Financial Statement Schedules*).

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**ITEM 9A(T). CONTROLS AND PROCEDURES**

The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company. The Company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports it files under the Securities and Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission. Such controls include those designed to ensure that information for disclosure is communicated to management, including the Chairman of the Board and the Chief Executive Officer ( CEO ), as appropriate to allow timely decisions regarding required disclosure.

The Company's CEO and Chief Financial Officer, with the participation of management, have evaluated the effectiveness of the Company's disclosure controls and procedures as of July 31, 2008. Based on their evaluation, they have concluded, to the best of their knowledge and belief, that the disclosure controls and procedures, including internal controls over financial reporting, are effective. No changes were made in the Company's internal controls over financial reporting during the fourth fiscal quarter ended July 31, 2008, that have materially affected, or are reasonably likely to materially affect, the Company's internal controls over financial reporting. In making this assessment, management used the criteria set forth in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Tradeway Commission.

This annual report does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm pursuant to temporary rules of the Securities and Exchange Commission that permit the Company to provide only management's reporting in this annual report.

**ITEM 9B. OTHER INFORMATION**

None.

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**PART III**

**ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT**

The Company's Board of Directors consists currently of six directors. Directors are elected annually and each serves a one-year term. All of the executive officers of the Company are full-time employees of the Company. Executive officers of the Company are appointed for a one-year term and serve until their respective successors have been selected and qualified; provided, however, such officers are subject to removal at any time by the affirmative vote of a majority of the Board of Directors.

See Item 1 of Part I for a description of the executive officers of the Company.

The following is a description of the principal occupations and other employment during the past five years and their directorships in certain companies of the directors of the Company. This information is as reported by the respective directors.

**Richard N. Snyder**, age 63, has served as a director of our company since December 1997 and was elected chairman of the board in March 2000. In June 2001, Mr. Snyder was elected president and chief executive officer of our company. From September 1997 until assuming the positions of president and chief executive officer of our company, Mr. Snyder served as founder and chief executive officer of Corum Cove Consulting, LLC, a consulting firm specializing in providing strategic guidance to high technology businesses. From 1996 until 1997, Mr. Snyder was the senior vice president of World Wide Sales, Marketing, Service and Support of Compaq Computer Corp., a worldwide computer company. From 1995 until 1996, Mr. Snyder was the senior vice president and general manager of Dell Americas, a computer manufacturer and marketer. Prior to 1995, Mr. Snyder served as group general manager of the Deskjet Products Group of Hewlett Packard. He also serves as a director of Symmetricom, Inc., based in San Jose, California.

**Kathleen A. Cote**, age 59, has served as a director of our company since December 1999. From May 2001 through June 2003, she was chief executive officer of Worldport Communications, Inc., a provider of internet managed services to the European market. In January 1998, Ms. Cote founded Seagrass Partners, a provider of expertise in business planning and strategic development, and served as its president until May 2001. From November 1996 to January 1998, Ms. Cote served as chief executive officer of Computervision Corporation, an international provider of software for data management and product development software and services. From November 1986 to November 1996, she held various senior management positions with Computervision Corporation. In January 1998, Computervision Corporation was acquired by Parametric Technology Corporation. Ms. Cote is also a director of Western Digital Corporation and VeriSign, Inc. (1)(3)

**James H. Wells**, age 61, has served as a director of our company since December 1999. He currently consults with early stage internet start-up companies. Mr. Wells was the senior vice president of marketing and business development of Dazel, a Hewlett Packard enterprise software company, from January 1999 through February 2000. From April 1995 to March 1998, Mr. Wells served as vice president of sales and was a founding officer in the internet streaming company, RealNetworks, Inc. (1)(2)(3)

**Lou Mazzucchelli**, age 52, has served as a director of our company since February 2002. He is currently a venture partner at Ridgewood Capital, a venture capital firm focusing its investments in the information technology industry. Prior to joining Ridgewood Capital in 2001, Mr. Mazzucchelli was an investment banker at Gerard Klauer Mattison in New York, which he joined in 1996 as their PC and digital media technology analyst. Previously, Mr. Mazzucchelli spent 13 years leading Cadre Technologies, a pioneering computer-aided software engineering tools company that he founded in 1982 and grew to become one of the top 50 U.S. independent software vendors before its sale in 1986. (2)(3)

**Richard J. Agnich**, age 64, has served as a director of our company since March 2003. He is currently an advisor to technology start-ups, is a trustee of Austin College and chair of the Entrepreneurs Foundation of North Texas. Mr. Agnich is also currently serving as a director of ST Assembly Test Services, Ltd. (STTS, NASDAQ), a leading semiconductor test and assembly service provider headquartered in Singapore. Prior to his retirement in 2000, Mr. Agnich served as Senior Vice President, General Counsel and Secretary and various other positions at Texas Instruments Incorporated since 1973. (3)

**Ray R. Miles**, age 56, has served as a director of our company since March 2003. He is currently working with Rajko Associates, a company that provides consulting services on corporate strategy. From 2001 to 2002, Mr. Miles served as the President of Communications Services, a service line of the Operations Solutions business of EDS, Inc. Prior to joining Communications Services, Mr. Miles was a business manager and manager of software strategy at Texas Instruments from 1999 to 2001. From 1996 to 1999, Mr. Miles served as a branch manager and then Chief Operating Officer of Deutsche Telekom Alliance, a strategic alliance between Texas Instruments Incorporated and Deutsche Telekom. (1)(3)

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(1) Member of the Audit Committee

(2) Member of the Compensation Committee

(3) Independent board member as determined by the Board of Directors of the Company

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**Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires the Company's officers, directors, and persons who beneficially own more than 10% of the Company's common stock (10% Stockholders), to file reports of ownership and changes in ownership with the Securities and Exchange Commission (SEC) and NASDAQ. Such officers, directors and 10% Stockholders are also required by SEC rules to furnish the Company with copies of all Section 16(a) forms that they file. Based solely upon information provided to the Company by individual officers, directors and 10% Stockholders, Forgent believes that all of these filing requirements were satisfied by the Company's officers, directors, and 10% Stockholders in fiscal 2008.

**POLICIES ON BUSINESS ETHICS AND CONDUCT**

The Company has adopted a Code of Business Conduct and Ethics that applies to all of its directors, officers and employees, including the Chief Executive Officer, Chief Financial Officer and Principal Accounting Officer (Officers). These individuals are required to abide by the Code of Business Conduct and Ethics to insure that its business is conducted in a consistently legal and ethical manner. The Company's Code of Business Conduct and Ethics covers all areas of professional conduct, including employment policies, conflicts of interest, intellectual property and the protection of confidential information, as well as strict adherence to all laws and regulations applicable to the conduct of its business. Any waivers of the Code of Business Conduct and Ethics for directors or executive officers must be approved by the board of directors.

The full text of Forgent's Code of Business Conduct and Ethics is published on its website, [www.asuresoftware.com](http://www.asuresoftware.com), under the Company-Corporate Governance link. The Company intends to disclose future amendments to, or waivers from, provisions of its Code of Business Conduct and Ethics on its website within four business days following the date of such amendment or waiver.

**AUDIT COMMITTEE AND AUDIT COMMITTEE FINANCIAL EXPERT**

The Company has a standing Audit Committee established by and amongst the Board of Directors for the purpose of overseeing the accounting and financial reporting processes of the Company and audits of the financial statements of the Company. The members of the Company's Audit Committee are Kathleen A. Cote, Chairperson, James H. Wells, and Ray R. Miles. The Board of Directors of the Company has determined that all members of the Audit Committee are independent as defined under the rules of the NASDAQ Stock Market, including the independence requirements contemplated by Rule 10A-3 under the Securities Exchange Act of 1934. The Board of Directors has also determined that Ms. Cote has the qualifications and experience necessary to serve as the audit committee financial expert as defined by the SEC.

**ITEM 11. EXECUTIVE COMPENSATION**

**Compensation Discussion and Analysis**

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The following discusses the compensation awarded to, earned by, or paid to the named executive officers listed in the Summary Compensation Table below, including an explanation of all material elements of the Company's compensation of such named executive officers.

### **Objectives of executive compensation program.**

The goals of the Company's executive compensation program are as follows:

- To fairly compensate the Company's executive officers for their contributions to the Company's short-term and long-term performance.
- To allow the Company to attract, motivate and retain the management personnel necessary to the Company's success by providing an executive compensation program comparable to that offered by companies with which the Company competes for such management personnel.
- To provide incentives linked to the financial performance of the Company (as measured by earnings per share and revenue), and thereby enhance stockholder value.

### **Elements of executive compensation program.**

*Base Salaries and Bonuses.* The Company primarily utilizes published salary surveys for similar sized companies in similar industries to determine the annual base salaries of the Company's executive officers. The executive's duties, experience and levels of responsibility are used to determine the proper comparison within the surveys. The Company believes that salary surveys which utilize revenue size as well as industry focus provide appropriate comparison information on which to base salary decisions. The Company may also consider other factors such as performance of the individual executive, success of the Company and competitive concerns, amongst others, in determining annual salaries and bonuses.

*Equity Incentives.* Equity incentives, including grants of stock options and restricted stock, are determined based on an assessment of the ability of the Company's officers to positively impact the Company's future performance and enhance stockholder

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value, as determined by their individual performances as opposed to the Company's overall corporate performance. The Company assesses the nature and scope of the officer's responsibilities, the officer's contribution to the Company's financial results, and the officer's effectiveness in leading the Company's initiatives to increase stockholder value. The Company also considers the compensation levels of the top executives within a comparison group of companies provided by Watson Wyatt & Company, a global consulting firm focused on human capital and financial management.

The Company believes that the foregoing elements of compensation allow the Company to meet the stated objectives of its executive compensation program.

*Omnibus Budget Reconciliation Act of 1993.* The Omnibus Budget Reconciliation Act of 1993 added Section 162(m) to the Internal Revenue Code. With certain exceptions, beginning with the taxable year commencing January 1, 1994, Section 162(m) will prevent publicly held corporations, including the Company, from taking a tax deduction for compensation in excess of one million dollars paid to the Company's named executive officers in the Summary Compensation Table below. However, Section 162(m) will not apply to limit the deductibility of performance-based compensation exceeding one million dollars if:

- it is paid solely upon attainment of one or more performance goals;
- it is paid pursuant to a performance-based compensation plan adopted by the Compensation Committee; and
- the terms of the plan are approved by the stockholders before payment of the compensation.

The Compensation Committee has reviewed the Company's compensation plans with regard to the deduction limitation set forth in Section 162(m). The Compensation Committee believes that option grants under the Company's equity plans meet the requirements for deductible compensation. The Compensation Committee has decided for the present not to alter the Company's other compensation plans to meet the deductibility requirements of the regulations promulgated under the Internal Revenue Code. The Compensation Committee will continue to review the issue and its determination under the regulations under Section 162(m) and monitor whether the Company's compensation plans should be amended in the future to meet the deductibility requirements. The Compensation Committee does not anticipate that Section 162(m) will limit the deductibility of any compensation paid in fiscal year 2008. None of the Company's executive officers were affected by Section 162(m) in fiscal year 2008.

**Summary Compensation Table (2008 Fiscal Year)**

The following table summarizes the compensation of the named executive officers listed below during the Company's last completed fiscal year:

| Name and Principal Position<br>(a)                                     | Year<br>(b) | Salary (\$)<br>(c) | Bonus (\$)<br>(d) | Stock Awards (\$)<br>(e) | Option Awards (\$)<br>(f) | Non-Equity Incentive Plan Compensation (\$)<br>(g) | Change in Pension Value and Nonqualified Deferred Compensation Earnings (\$)<br>(h) | All Other Compensation (\$)<br>(i) | Total (\$)<br>(j) |
|--|-------------|--------------------|-------------------|--------------------------|---------------------------|--|---|------------------------------------|-------------------|
| Richard N. Snyder<br>Chief Executive Officer and President             | 2008        | 300,000            | 2,719             | 25,480                   | -0-                       | -0-  | -0-   | 4,540                              | 332,739           |
| Jay C. Petersen<br>Chief Financial Officer and Vice President, Finance | 2008        | 216,300            | 2,719             | 11,270                   | -0-                       | -0-  | -0-   | 4,352                              | 234,641           |
| Nancy L. Harris<br>Vice President, Software                            | 2008        | 215,000            | 2,719             | 49,320                   | -0-                       | -0-  | -0-   | 4,322                              | 271,361           |

(b) Fiscal year covered.

(c) Dollar value of base salary (cash and non-cash) earned by the named executive officer during the fiscal year covered.

(d) Dollar value of bonus (cash and non-cash) earned by the named executive officer during the fiscal year covered.

(e) Dollar value of restricted stock awarded to the named executive officer during the fiscal year covered

(i) Represents the dollar value of any insurance premiums paid by the Company during the fiscal year covered with respect to term life insurance and long term disability insurance for the benefit of the named executive officer. Also represents the dollar value of any matching contributions made by the Company to the 401(k) account of the named executive officer during the fiscal year covered. The allocation of these items for each of the named executive officers for fiscal 2008 are as follows:

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|                   | Insurance Premiums | 401(k) Matching |
|-------------------|--------------------|-----------------|
| Richard N. Snyder | \$ 4,540           | \$ 0            |
| Jay C. Peterson   | \$ 1,767           | \$ 2,585        |
| Nancy L. Harris   | \$ 1,391           | \$ 2,931        |

**Grants of Plan-Based Awards Table (2008 Fiscal Year)**

The following table sets forth information concerning each grant of an award made to each of the named executive officers listed in the Summary Compensation Table above, in the last completed fiscal year under any plan, including awards that subsequently have been transferred:

| Name                  | Grant Date | Estimated Future Payouts Under Non-Equity Incentive Plan Awards |        |         | Estimated Future Payouts Under Equity Incentive Plan Awards |        |         | All Other Stock Awards: Number of Shares of | All Other Option Awards: Number of Securities Underlying | Exercise or Base Price of Option |
|-----------------------|------------|---|--------|---------|---|--------|---------|---|--|----------------------------------|
|                       |            | Threshold   | Target | Maximum | Threshold   | Target | Maximum | Stock or Units (#)                          | Options (#)  | Awards (\$/Sh)                   |
|                       |            | (c)   | (d)    | (e)     | (f)   | (g)    | (h)     | (i)   | (j)  | (k)                              |
| Richard N. Snyder(11) | 11/1/07    | -0-   | -0-    | -0-     | -0-   | -0-    | -0-     | 52,000                                      | -0-  | 0.01                             |
| Jay C. Petersen       | 11/1/07    | -0-   | -0-    | -0-     | -0-   | -0-    | -0-     | 23,000                                      | -0-  | 0.01                             |
| Nancy L. Harris       | 4/1/08     | -0-   | -0-    | -0-     | -0-   | -0-    | -0-     | 50,000                                      | -0-  | 0.01                             |
|                       | 11/1/07    | -0-   | -0-    | -0-     | -0-   | -0-    | -0-     | 31,000                                      | -0-  | 0.01                             |

(i) Number of restricted shares awarded to the named executive officer during the fiscal year covered.

(k) Par value per share required to be paid by the awardee.

**Outstanding Equity Awards at Fiscal Year-End Table (2008 Fiscal Year)**

The following table sets forth information concerning unexercised options, stock that has not vested, and equity incentive plan awards for each of the named executive officers listed in the Summary Compensation Table, outstanding as of the end of the Company's last completed fiscal year:

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| Name<br>(a)          | Option Awards   |   |   |   |                                     | Stock Awards   |  |  | Equity<br>Incentive<br>Plan<br>Awards:<br>Market or<br>Payout<br>Value of<br>Unearned<br>Shares,<br>Units or<br>Rights That<br>Have<br>Not Vested<br>(\$) |
|----------------------|---|---|---|---|-------------------------------------|--|--|--|---|
|                      | Number of<br>Securities<br>Underlying<br>Unexercised<br>Options (#)<br>Exercisable<br>(b) | Number of<br>Securities<br>Underlying<br>Unexercised<br>Options (#)<br>Unexercisable<br>(c) | Equity<br>Incentive Plan<br>Awards:<br>Number of<br>Securities<br>Underlying<br>Unexercised<br>Unearned<br>Options (#)<br>(d) | Option<br>Exercise<br>Price (\$)<br>(e) | Option<br>Expiration<br>Date<br>(f) | Number<br>of Shares<br>or Units<br>of Stock<br>That<br>Have<br>Not<br>Vested<br>(#)<br>(g) | Market<br>Value of<br>Shares<br>or Units<br>of Stock<br>That<br>Have<br>Not<br>Vested<br>(\$)<br>(h) | Equity<br>Incentive<br>Plan<br>Awards:<br>Number of<br>Unearned<br>Shares,<br>Units or<br>Other<br>Rights That<br>Have Not<br>Vested<br>(#)<br>(i) |   |
| Richard N.<br>Snyder |   |   |   |   |                                     | 52,000   | 15,600   | -0-  | -0-   |
|                      | 216,045   | -0-   | -0-   | 0.385                                   | 10/17/2012                          | -0-  | -0-  | -0-  | -0-   |
|                      | 33,955  | -0-   | -0-   | 0.385                                   | 05/24/2012                          | -0-  | -0-  | -0-  | -0-   |
|                      | 186,335   | -0-   | -0-   | 0.385                                   | 05/24/2012                          | -0-  | -0-  | -0-  | -0-   |
| Jay C.<br>Petersen   |   |   |   |   |                                     | 23,000   | 6,900  | -0-  | -0-   |
|                      | 28,000  | -0-   | -0-   | 0.385                                   | 10/16/2011                          | -0-  | -0-  | -0-  | -0-   |
|                      | 25,000  | -0-   | -0-   | 0.385                                   | 7/11/2012                           | -0-  | -0-  | -0-  | -0-   |
|                      | 27,606  | -0-   | -0-   | 0.385                                   | 7/19/2012                           | -0-  | -0-  | -0-  | -0-   |
|                      | 22,993  | -0-   | -0-   | 0.385                                   | 7/19/2012                           | -0-  | -0-  | -0-  | -0-   |
|                      | 90,776  | -0-   | -0-   | 0.385                                   | 10/17/2012                          | -0-  | -0-  | -0-  | -0-   |
|                      | 8,125   | -0-   | -0-   | 0.385                                   | 11/3/2013                           | -0-  | -0-  | -0-  | -0-   |
|                      | 21,875  | -0-   | -0-   | 0.385                                   | 11/3/2013                           | -0-  | -0-  | -0-  | -0-   |
| Nancy L.<br>Harris   |   |   |   |   |                                     | 50,000   | 15,000   | -0-  | -0-   |
|                      |   |   |   |   |                                     | 31,000   | 9,300  | -0-  | -0-   |
|                      | 50,000  | -0-   | -0-   | 0.385                                   | 10/11/2011                          | -0-  | -0-  | -0-  | -0-   |
|                      | 80,168  | -0-   | -0-   | 0.385                                   | 10/17/2012                          | -0-  | -0-  | -0-  | -0-   |
|                      | 20,000  | -0-   | -0-   | 0.385                                   | 11/3/2013                           | -0-  | -0-  | -0-  | -0-   |

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(b) The Company's option awards vest on a monthly basis, normally over a 48-month period. All option awards listed above are fully vested.

(e) Option awards were re-priced to \$0.385 per share during fiscal 2007.

(f) Options expire ten years from relevant grant date.

(g) Unvested restricted shares vest one year from the date of award, with the exception of the 50,000 restricted shares awarded to Nancy Harris on 4/1/08, which vest over two years from the date of award.

(h) Unvested restricted shares valued at the 7/31/08 common share price of \$0.30.

**Option Exercises and Stock Vested Table (2008 Fiscal Year)**

The following table sets forth information concerning each exercise of stock options, SARs and similar instruments, and each vesting of stock, including restricted stock, restricted stock units and similar instruments, during the last completed fiscal year for each of the named executive officers listed in the Summary Compensation Table, on an aggregated basis:

| Name<br>(a)          | Option Awards  |  | Stock Awards  |  |
|----------------------|--|--|---|--|
|                      | Number of Shares<br>Acquired on<br>Exercise (#)<br>(b) | Value<br>Realized on<br>Exercise (\$)<br>(c) | Number of<br>Shares Acquired<br>on Vesting (#)<br>(d) | Value Realized<br>on Vesting (\$)<br>(e) |
| Richard N.<br>Snyder | -0-  | -0-  | -0-   | -0-                                      |
| Jay C. Petersen      | -0-  | -0-  | -0-   | -0-                                      |
| Nancy L. Harris      | -0-  | -0-  | -0-   | -0-                                      |

**Pension Benefits Table**

The following table sets forth information with respect to each plan that provides for payments or other benefits for each of the named executive officers listed in the Summary Compensation Table, at, following, or in connection with retirement:

| Name<br>(a)       | Plan Name<br>(b) | Number of<br>Years Credited<br>Service (#)<br>(c) | Present Value of<br>Accumulated Benefit<br>(\$)<br>(d) | Payments During<br>Last Fiscal Year<br>(\$)<br>(e) |
|-------------------|------------------|---|--|--|
| Richard N. Snyder | n/a              | n/a   | n/a  | n/a  |
| Jay C. Petersen   | n/a              | n/a   | n/a  | n/a  |
| Nancy L. Harris   | n/a              | n/a   | n/a  | n/a  |

**Nonqualified Deferred Compensation Table**

The following table sets forth information with respect to each defined contribution or other plan that provides for the deferral of compensation each of the named executive officers listed in the Summary Compensation Table, on a basis that is not tax-qualified:

| Name              | Executive<br>Contributions in<br>last FY (\$)<br>(a) | Registrant<br>Contributions in<br>last FY (\$)<br>(b) | Aggregate<br>Earnings in<br>Last FY (\$)<br>(c) | Aggregate<br>Withdrawals/<br>Distributions (\$)<br>(d) | Aggregate<br>Balance at<br>Last FYE<br>(\$)<br>(e) |
|-------------------|--|---|---|--|--|
| Richard N. Snyder | -0-  | -0-   | -0-   | -0-  | -0-  |
| Jay C. Petersen   | -0-  | -0-   | -0-   | -0-  | -0-  |
| Nancy L. Harris   | -0-  | -0-   | -0-   | -0-  | -0-  |

Table of Contents**Potential Payments Upon Termination or Change-in-Control**

The Company has not entered into any employment agreements with its senior management, but it has entered into parachute agreements with each of its named executive officers. Under the parachute agreements, the Company will pay the named executive officer a severance payment equal to his or her then current annual salary if the officer is terminated within a specified amount of time after a sale of the Company's business (as defined in the agreement). To qualify for such severance payment, the termination must be effected by the officer other than for good reason or by the Company or the purchaser of the business for cause or due to the officer's death, retirement, or disability. In addition to the severance payment, all stock options held by the officer shall immediately and automatically become fully vested and all restrictions on stock awards held by the officer shall immediately and automatically be deemed lapsed and satisfied.

**Director Compensation Table (2008 Fiscal Year)**

The following table sets forth information concerning the compensation of the directors for the Company's last completed fiscal year:

| Name<br>(a)           | Fees<br>Earned<br>or Paid<br>in Cash<br>(\$)<br>(b) | Stock<br>Awards<br>(\$)<br>(c) | Option<br>Awards<br>(\$)<br>(d) | Non-Equity<br>Incentive Plan<br>Compensation<br>(\$)<br>(e) | Change in<br>Pension Value<br>and Nonqualified<br>Deferred<br>Compensation<br>Earnings (\$)<br>(f) | All Other<br>Compensation<br>(\$)<br>(g) | Total (\$)<br>(h) |
|-----------------------|---|--------------------------------|---------------------------------|---|--|--|-------------------|
| Richard Agnich        | 17,000  | -0-                            | -0-                             | -0-   | -0-  | -0-                                      | 17,000            |
| Kathleen Cote         | 18,000  | -0-                            | -0-                             | -0-   | -0-  | -0-                                      | 18,000            |
| Louis J. Mazzucchelli | 17,250  | -0-                            | -0-                             | -0-   | -0-  | 34,667                                   | 51,917            |
| Ray Rajko Miles       | 18,000  | -0-                            | -0-                             | -0-   | -0-  | -0-                                      | 18,000            |
| James Wells           | 18,250  | -0-                            | -0-                             | -0-   | -0-  | -0-                                      | 18,250            |

(b) During fiscal 2008, each non-employee director was paid a retainer of \$3,000 for each quarter. Additionally, each non-employee director was paid \$1,000 for the regularly scheduled and special meetings of the Board of Directors that he or she attended and \$250 for participation in each telephonic meeting not considered an official board of directors meeting. Total director fees earned in fiscal 2008 were \$88,500.

(d) The aggregate number of option awards outstanding at fiscal year end for each director is as follows:

Richard Agnich (35,000)

Kathleen Cote (45,000)

Louis J. Mazzucchelli (45,000)

Ray Rajko Miles (35,000)

James Wells (45,000)

(g) This includes consulting fees paid to Mr. Mazzucchelli during fiscal 2008 in connection with analysis and due diligence on the Company's acquisition of iEmployee.

#### COMPENSATION COMMITTEE REPORT

The Compensation Committee Charter is available on the Company's Web site at:

<http://www.asuresoftware.com/company/governance.asp>.

Members of the Compensation Committee have a duty to administer the Company's executive compensation program, are responsible for establishing appropriate compensation goals for the Company's executive officers, and are responsible for evaluating the performance of such executive officers in meeting those goals. The elements of the executive compensation program described in

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the Compensation Discussion and Analysis above are implemented and periodically reviewed and adjusted by the Compensation Committee. The Compensation Committee evaluated the Chief Executive Officer's performance in light of the objectives of the Company's executive compensation program and determined and approved the compensation of the Company's Chief Executive Officer accordingly. The Compensation Committee (with input from the Chief Executive Officer) also evaluated the performance of the Company's senior executive officers and approved the annual compensation of such officers accordingly. The Compensation Committee did not recommend any changes to the compensation levels and practices of the Board of Directors during fiscal 2008.

**Compensation Committee Interlocks and Insider Participation**

No member of the Compensation Committee is or has been an officer or employee of the Company or any of its subsidiaries or had any relationship requiring disclosure pursuant to Item 404 of SEC Regulation S-K (Transactions With Related Persons, Promoters and Certain Control Persons).

**Compensation Committee Report**

The Compensation Committee has reviewed and discussed the Compensation Discussion and Analysis required by Item 402(b) of Regulation S-K with the Company's management and, based on such review and discussion, the Compensation Committee recommended to the Board of Directors that the Compensation Discussion and Analysis above be included in this Report.

**Compensation Committee**

James H. Wells

Lou Mazzucchelli

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

**STOCK OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

We have only one outstanding class of equity securities, our common stock, par value \$.01 per share. The following table sets forth certain information with respect to beneficial ownership of our common stock as of July 31, 2008 by:

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- each person who is known by us to beneficially own more than five percent of our common stock;
- each of our directors at that date and nominees and named executive officers; and
- all directors and officers as a group.

| Name and Address of Beneficial Owner  | Shares Beneficially Owned(1) (2) |         |
|---|----------------------------------|---------|
|   | Number                           | Percent |
| Renaissance Technologies, Inc. LLC<br>800 Third Avenue Floor 33rd Floor, New York, NY 10022 | 1,578,500                        | 5.08    |
| Richard N. Snyder   | 983,655(3)                       | 3.12%   |
| Kathleen A. Cote  | 68,772(4)                        | *       |
| James H. Wells  | 95,672(5)                        | *       |
| Lou Mazzucchelli  | 57,772(6)                        | *       |
| Richard J. Agnich   | 97,772(7)                        | *       |
| Ray R. Miles  | 51,772(8)                        | *       |
| Jay C. Peterson   | 275,392(9)                       | *       |
| Nancy Harris  | 265,680(10)                      | *       |
| All Directors and officers as a group (8 persons) (3)(4)(5)(6)(7)(8)(9)(10)                 | 1,844,391(11)                    | 6.04%   |

\* Indicates ownership of less than 1% of our common stock

(1) Beneficial ownership as reported in the above table has been determined in accordance with Rule 13d-3 under the Securities Exchange Act of 1934, as amended. The persons and entities named in the table have sole voting and investment power with respect to all shares shown as beneficially owned by them, except as noted below. Amounts shown include shares of our common stock issuable upon exercise of certain outstanding options within 60 days after July 31, 2008.

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- (2) Except for the percentages of certain parties that are based on presently exercisable options which are indicated in the following footnotes to the table, the percentages indicated are based on 31,101,839 shares of our common stock issued and outstanding on July 31, 2008. In the case of parties holding presently exercisable options, the percentage ownership is calculated on the assumption that the shares presently held or purchasable within the next 60 days underlying such options are outstanding.
- (3) Consists of 442,933 shares held by Mr. Snyder directly and 540,722 shares which Mr. Snyder may acquire upon the exercise of options within 60 days after July 31, 2008.
- (4) Consists of 23,772 shares held by Ms. Cote directly and 45,000 shares which Ms. Cote may acquire upon the exercise of options within 60 days after July 31, 2008.
- (5) Consists of 50,672 shares held by Mr. Wells directly and 45,000 shares which Mr. Wells may acquire upon the exercise of options within 60 days after July 31, 2008.
- (6) Consists of 12,772 shares held directly by Mr. Mazzucchelli and 45,000 shares which Mr. Mazzucchelli may acquire upon the exercise of options within 60 days after July 31, 2008.
- (7) Consists of 62,772 shares held directly by Mr. Agnich and 35,000 shares which Mr. Agnich may acquire upon the exercise of options within 60 days after July 31, 2008.
- (8) Consists of 16,772 shares held by Mr. Miles directly and 35,000 shares which Mr. Miles may acquire upon the exercise of options within 60 days after July 31, 2008.
- (9) Consists of 51,017 shares held by Mr. Peterson directly and 224,375 shares which Mr. Peterson may acquire upon the exercise of options within 60 days after July 31, 2008.
- (10) Consists of 115,512 shares held by Ms. Harris directly and 150,168 shares which Ms. Harris may acquire upon the exercise of options within 60 days after July 31, 2008.
- (11) All options held by the Company's named executive officers were granted under the 1989 Stock Option Plan or the 1996 Stock Option Plan. Pursuant to these stock option plans, all options granted thereunder are immediately exercisable; however, shares issued upon exercise are subject to repurchase by the Company, at the exercise price, to the extent of the number of shares that have not vested in the event that the optionees' employment terminates prior to all such optionees' options becoming vested.

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**EQUITY COMPENSATION PLAN INFORMATION**

The following table provides information as of July 31, 2008 with respect to the shares of the Company's common stock that may be issued under the Company's existing equity compensation plans.

| Plan Category  | A  | B  | C   |
|--|--|--|---|
|  | Number of Securities to be Issued upon Exercise of Outstanding Options | Weighted Average Exercise Price of Outstanding Options | Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column A) |
| Equity Compensation Plans Approved by Stockholders (1)     | 1,155,849(3) \$  | 0.76(3)  | 399,209(4)  |
| Equity Compensation Plans Not Approved by Stockholders (2) | 0  | N/A  | 0   |
| Total  | 1,155,849 \$   | 0.76   | 399,209   |

(1) Consists of the 1989 Stock Option Plan, the 1992 Director Stock Option Plan, the 1996 Stock Option Plan, the Restricted Stock Plan and the Employee Stock Purchase Plan.

(2) All of the Company's equity compensation plans have been previously approved by the Company's stockholders.

(3) Excludes purchase rights accruing under the Company's Restricted Stock Plan and Employee Stock Purchase Plan which have a combined stockholder approved reserve of 399,209 shares. Under the Employee Stock Purchase Plan, each eligible employee may purchase up to 2,500 shares per quarter (but in no case can the participant contribute more than 15% of base pay) of common stock at quarterly intervals on the last day of the calendar quarter (i.e. March, June, September, and December) each year at a purchase price per share equal to 85% of the lower of (i) the average selling price per share of common stock on the first day of the quarter or (ii) the average selling price per share on the quarterly purchase date.

(4) Includes shares available for future issuance under the Company's Restricted Stock Plan and Employee Stock Purchase Plan. As of July 31, 2008, 333,315 shares of common stock were available for issuance under the Restricted Stock Plan and 29,099 shares of common stock were available for issuance under the Employee Stock Purchase Plan.

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**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS**

During fiscal year 2008, the Company did not engage in any business relationships or related transactions:

- with any director, executive officer, holder of more than five percent of the Company's common stock or any member of their families which would result in a direct or indirect material interest, and
- in which such amount exceeds \$120,000.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

**AUDIT FEES**

The Company incurred fees in the amount of \$349,400 and \$210,000 for professional audit services rendered by Ernst & Young LLP for the audit of the Company's annual financial statements and the reviews of the financial statements included in the Company's 10-Qs, for the fiscal years ended July 31, 2008 and 2007, respectively. The services included work generally only the independent registered public accounting firm can reasonably be expected to provide, such as those in connection with statutory and regulatory filings.

**AUDIT RELATED FEES**

The Company incurred fees in the amount of \$73,454 and \$30,000 for professional audit services rendered by Ernst & Young LLP related principally to the audits of employee benefit plans, Sarbanes-Oxley compliance and merger and acquisition due diligence, for the fiscal years ended July 31, 2008 and 2007, respectively.

**TAX FEES**

The Company incurred \$0 and \$0 for professional tax services rendered by Ernst & Young LLP during the fiscal years ended July 31, 2008 and 2007, respectively.

**OTHER FEES**

All fees paid to Ernst & Young LLP by the Company are reported under the fee categories listed above. There were no other fees incurred paid the fiscal years ended July 31, 2008 and 2007.

The Audit Committee has determined that the provision of services covered by the four preceding paragraphs is compatible with maintaining the independent auditors' independence from the company.

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**PART IV**



**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(a) **Financial Statements and Financial Statements Schedules**

(1) The following financial statements of the Company are filed as a part of this Report:

**Report of Independent Registered Public Accounting Firm**

**Consolidated Financial Statements**

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Consolidated Balance Sheets as of July 31, 2008 and 2007

Consolidated Statements of Operations for the years ended July 31, 2008 and 2007  
Consolidated Statements of Changes in Stockholders' Equity for the years ended July 31, 2008 and 2007

Consolidated Statements of Cash Flows for the years ended July 31, 2008 and 2007

### **Notes to Consolidated Financial Statements**



(2) Financial Statement Schedules:

All schedules for which provision is made in the applicable account regulation of the Securities and Exchange Commission are either not required under the related instructions, are inapplicable or the required information is included elsewhere in the Consolidated Financial Statements and incorporated herein by reference.

(b) **Exhibits**

The exhibits filed in response to Item 601 of Regulations S-K are listed in the Index to the Exhibits.

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**Index To Financial Statements and Financial Statement Schedules (Item 15(a)(1) of Part IV)**



|  |       |
|--|-------|
| <u>Report of Independent Registered Public Accounting Firm</u>   | F - 1 |
| Financial Statements:  |       |
| <u>Consolidated Balance Sheets as of July 31, 2008 and 2007</u>  | F - 2 |
| <u>Consolidated Statements of Operations for the years ended July 31, 2008 and 2007</u>                      | F - 3 |
| <u>Consolidated Statements of Changes in Stockholders' Equity for the years ended July 31, 2008 and 2007</u> | F - 4 |
| <u>Consolidated Statements of Cash Flows for the years ended July 31, 2008 and 2007</u>                      | F - 5 |
| <u>Notes to the Consolidated Financial Statements</u>  | F - 6 |

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Board of Directors and Shareholders of Forgent Networks, Inc.

We have audited the accompanying consolidated balance sheets of Forgent Networks, Inc. as of July 31, 2008 and 2007, and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Forgent Networks, Inc. at July 31, 2008 and 2007, and the consolidated results of its operations and its cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

Austin, Texas  
October 28, 2008

Table of Contents**FORGENT NETWORKS, INC.****CONSOLIDATED BALANCE SHEETS**

(Amounts in thousands, except per share data)

|  | 2008             | JULY 31,  | 2007          |
|--|------------------|-----------|---------------|
| <b>ASSETS</b>  |                  |           |               |
| Current assets:  |                  |           |               |
| Cash and cash equivalents  | \$ 12,062        | \$        | 33,524        |
| Short-term investments   | 2,627            |           | 1,538         |
| Accounts receivable, net of allowance for doubtful accounts of \$41 and \$21 at July 31, 2008 and 2007, respectively   | 1,718            |           | 1,040         |
| Inventory  | 74               |           |               |
| Prepaid expenses and other current assets  | 191              |           | 211           |
| Total current assets   | <b>16,672</b>    |           | <b>36,313</b> |
| Property and equipment, net  | 907              |           | 767           |
| Intangible assets, net   | 4,729            |           |               |
| Other assets   |                  |           | 212           |
|  | <b>\$ 22,308</b> | <b>\$</b> | <b>37,292</b> |
| <b>LIABILITIES AND STOCKHOLDERS EQUITY</b>   |                  |           |               |
| Current liabilities:   |                  |           |               |
| Accounts payable   | \$ 3,778         | \$        | 10,970        |
| Accrued compensation and benefits  | 203              |           | 557           |
| Lease impairment and advance   | 373              |           | 401           |
| Other accrued liabilities  | 384              |           | 454           |
| Deferred revenue   | 1,844            |           | 1,076         |
| Total current liabilities  | <b>6,582</b>     |           | <b>13,458</b> |
| Long-term liabilities:   |                  |           |               |
| Deferred revenue   | 25               |           | 28            |
| Lease impairment and advance   | 564              |           | 925           |
| Other long-term obligations  | 217              |           | 261           |
| Total long-term liabilities  | <b>806</b>       |           | <b>1,214</b>  |
| Stockholders' equity:  |                  |           |               |
| Preferred stock, \$.01 par value; 10,000 shares authorized; none issued or outstanding   |                  |           |               |
| Common stock, \$.01 par value; 40,000 shares authorized; 32,892 and 27,388 shares issued, 31,102 and 25,598 shares outstanding at July 31, 2008 and 2007, respectively | 329              |           | 274           |
| Treasury stock at cost, 1,790 shares at July 31, 2008 and 2007, respectively   | (4,815)          |           | (4,815)       |
| Additional paid-in capital   | 270,657          |           | 265,647       |
| Accumulated deficit  | (251,214)        |           | (238,506)     |
| Accumulated other comprehensive income   | (37)             |           | 20            |
| Total stockholders' equity   | <b>14,920</b>    |           | <b>22,620</b> |
|  | <b>\$ 22,308</b> | <b>\$</b> | <b>37,292</b> |

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



Table of Contents**FORGENT NETWORKS, INC.****CONSOLIDATED STATEMENTS OF OPERATIONS**

(Amounts in thousands, except per share data)

|  | <b>FOR THE YEAR ENDED<br/>JULY 31,</b> |                  |
|--|--|------------------|
|  | <b>2008</b>                            | <b>2007</b>      |
| <b>REVENUES:</b>   |  |                  |
| Software and services                                    | \$ 10,182                              | \$ 4,245         |
| Intellectual property licensing                          |  | 36,162           |
| <b>Total revenues</b>                                    | <b>10,182</b>                          | <b>40,407</b>    |
| <b>COST OF SALES:</b>                                    |  |                  |
| Software and services                                    | 2,238                                  | 962              |
| Intellectual property licensing                          |  | 18,270           |
| <b>Total cost of sales</b>                               | <b>2,238</b>                           | <b>19,232</b>    |
| <b>GROSS MARGIN</b>                                      | <b>7,944</b>                           | <b>21,175</b>    |
| <b>OPERATING EXPENSES:</b>                               |  |                  |
| Selling, general and administrative                      | 11,237                                 | 12,008           |
| Research and development                                 | 2,153                                  | 611              |
| Impairment of assets                                     | 7,391                                  |                  |
| Amortization of intangible assets                        | 490                                    | 4                |
| <b>Total operating expenses</b>                          | <b>21,271</b>                          | <b>12,623</b>    |
| <b>(LOSS) INCOME FROM OPERATIONS</b>                     | <b>(13,327)</b>                        | <b>8,552</b>     |
| <b>OTHER INCOME (EXPENSES):</b>                          |  |                  |
| Interest income  | 715                                    | 981              |
| Gain on sale of assets                                   |  | 2,899            |
| Foreign currency translation                             | 14                                     | (24)             |
| Interest expense and other                               | (89)                                   | (66)             |
| <b>Total other income</b>                                | <b>640</b>                             | <b>3,790</b>     |
| <b>(LOSS) INCOME FROM OPERATIONS BEFORE INCOME TAXES</b> | <b>(12,687)</b>                        | <b>12,342</b>    |
| Provision for income taxes                               | (21)                                   | (94)             |
| <b>NET (LOSS) INCOME</b>                                 | <b>\$ (12,708)</b>                     | <b>\$ 12,248</b> |
| <b>BASIC AND DILUTED (LOSS) INCOME PER SHARE:</b>        |  |                  |
| Basic  | \$ (0.42)                              | \$ 0.48          |
| Diluted  | \$ (0.42)                              | \$ 0.47          |
| <b>WEIGHTED AVERAGE SHARES OUTSTANDING:</b>              |  |                  |
| Basic  | 30,026                                 | 25,515           |
| Diluted  | 30,026                                 | 26,049           |

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



Table of Contents**FORGENT NETWORKS, INC.****CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS EQUITY**

(Amounts in thousands)

|   | COMMON STOCK  |               |                   | ADDITIONAL        |                     | OTHER         | TOTAL            |
|---|---------------|---------------|-------------------|-------------------|---------------------|---------------|------------------|
|   | NUMBER OF     | AMOUNT        | TREASURY          | PAID-IN           | ACCUMULATED         | COMPREHENSIVE | STOCKHOLDERS     |
|   | SHARES        |               | STOCK             | CAPITAL           | DEFICIT             | INCOME (LOSS) | EQUITY           |
|   | OUTSTANDING   |               |                   |                   |                     |               |                  |
| <b>BALANCE AT JULY 31, 2006</b>                           | <b>25,373</b> | <b>\$ 271</b> | <b>\$ (4,815)</b> | <b>\$ 265,406</b> | <b>\$ (250,754)</b> | <b>12</b>     | <b>\$ 10,120</b> |
| Proceeds from stock issued under employee plans           | 225           | 3             |                   | 89                |                     |               | 92               |
| Stock compensation for employees and consultants          |               |               |                   | 148               |                     |               | 148              |
| Other   |               |               |                   | 4                 |                     |               | 4                |
| Net income  |               |               |                   |                   | 12,248              |               |                  |
| Comprehensive income                                      |               |               |                   |                   |                     | 8             | 12,256           |
| <b>BALANCE AT JULY 31, 2007</b>                           | <b>25,598</b> | <b>274</b>    | <b>(4,815)</b>    | <b>265,647</b>    | <b>(238,506)</b>    | <b>20</b>     | <b>22,620</b>    |
| Proceeds from stock issued under employee plans           | 38            | 4             |                   | 19                |                     |               | 23               |
| Issuance of restricted stock to employees and consultants | 371           |               |                   | 86                |                     |               | 86               |
| Issuance of stock for acquisition                         | 5,095         | 51            |                   | 4,884             |                     |               | 4,935            |
| Stock compensation for employees and consultants          |               |               |                   | 21                |                     |               | 21               |
| Net loss  |               |               |                   |                   | (12,708)            |               |                  |
| Comprehensive loss  |               |               |                   |                   |                     | (57)          | (12,765)         |
| <b>BALANCE AT JULY 31, 2008</b>                           | <b>31,102</b> | <b>\$ 329</b> | <b>\$ (4,815)</b> | <b>\$ 270,657</b> | <b>\$ (251,214)</b> | <b>(37)</b>   | <b>\$ 14,920</b> |

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

Table of Contents**FORGENT NETWORKS, INC.****CONSOLIDATED STATEMENTS OF CASH FLOWS**

(Amounts in thousands)

|  | <b>FOR THE YEAR ENDED<br/>JULY 31,</b> |                  |
|--|--|------------------|
|  | <b>2008</b>                            | <b>2007</b>      |
| <b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>   |  |                  |
| Net (loss) income from operations  | \$ (12,708)                            | \$ 12,248        |
| Adjustments to reconcile net (loss) income from operations to net cash (used in) provided by operating activities: |  |                  |
| Depreciation and amortization  | 1,147                                  | 515              |
| Amortization of leasehold advance and lease impairment   | (401)                                  | (422)            |
| Impairment of assets   | 7,391                                  |                  |
| Provision for doubtful accounts  | 21                                     | 18               |
| Share-based compensation   | 107                                    | 152              |
| Foreign currency translation (gain) loss   | (22)                                   | 23               |
| Changes in operating assets and liabilities:   |  |                  |
| Accounts receivable  | (57)                                   | (329)            |
| Inventory  | (74)                                   |                  |
| Prepaid expenses and other current assets  | 61                                     | 195              |
| Accounts payable   | (8,205)                                | 7,169            |
| Accrued expenses and other long term obligations   | (650)                                  | (84)             |
| Deferred revenue   | 77                                     | 398              |
| Net cash (used in) provided by operating activities  | <b>(13,313)</b>                        | <b>19,883</b>    |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>   |  |                  |
| Purchases of short-term investments  | (7,056)                                | (1,538)          |
| Sales and maturities of short-term investments   | 6,460                                  |                  |
| Purchases of property and equipment  | (311)                                  | (490)            |
| Change in other assets   | 164                                    | (67)             |
| Acquisition of iSarla, Inc., net of cash acquired  | (7,377)                                |                  |
| Net cash used in investing activities  | <b>(8,120)</b>                         | <b>(2,095)</b>   |
| <b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>   |  |                  |
| Net proceeds from issuance of stock  | 23                                     | 88               |
| Payments on notes payable and capital leases   | (15)                                   | (543)            |
| Net cash provided by (used in) financing activities  | <b>8</b>                               | <b>(455)</b>     |
| Effect of translation exchange rates on cash   | (37)                                   | (15)             |
| Net (decrease) increase in cash and cash equivalents   | <b>(21,462)</b>                        | <b>17,318</b>    |
| Cash and cash equivalents at beginning of period   | 33,524                                 | 16,206           |
| Cash and cash equivalents at end of period   | <b>\$ 12,062</b>                       | <b>\$ 33,524</b> |
| <b>SUPPLEMENTAL CASH FLOW INFORMATION:</b>   |  |                  |
| Issuance of stock for acquisition of iSarla, Inc.  | \$ 4,987                               | \$               |
| Interest paid  | 62                                     | 60               |
| Income taxes paid  | 107                                    | 75               |
| Stock compensation for employees and consultants   | 21                                     | 148              |

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



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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

**1. THE COMPANY**

Forgent Networks, Inc. ( Forgent or the Company) Delaware corporation d/b/a Asure Software and incorporated in 1985, is a provider of web-based workforce management solutions that enable organizations to manage their office environment as well as their human resource and payroll processes effectively and efficiently and a licensor of intellectual property.

In September 2007, the Company announced its name change to Asure Software to reflect the Company's focus on its software and services segment for its future growth. In October 2007, Forgent purchased iSarla Inc., a Delaware corporation and application service provider that offers on-demand software solutions that help simplify the human resource process and improve employee productivity by managing and communicating human resources, employee benefits and payroll information. Under the trade name iEmployee, these web-based solutions include Time & Attendance, Timesheets, Human Resource Benefits, Expenses and others. Forgent's software business also includes software products and services from its NetSimplicity product line, which provides simple and affordable solutions to common office administration problems. NetSimplicity's flagship product, Meeting Room Manager, automates the entire facility scheduling process: reserving rooms, requesting equipment, ordering food, sending invitations, reporting on the meeting environment and more. The Company also markets Visual Asset Manager, a web based management tool that enables companies to efficiently inventory, track and manage their fixed, mobile and IT assets across the entire organization.

Forgent's intellectual property licensing business is derived from the Company's Patent Licensing Program, which generated licensing revenues related to the Company's U.S. Patent No. 4,698,672 (the '672 patent') and its foreign counterparts, as well as its U.S. Patent No. 6,285,746 (the '746 patent'). During fiscal year 2007, the Company settled with the remaining defendants in the litigations related to the '672 patent and the '746 patent and considered these litigations to be concluded. During fiscal year 2008, the Company did not actively pursue additional license agreements from the '672 patent, the '746 patent or any other patent. Management believes any additional revenues to be generated from the Company's remaining patent portfolio may be less than those generated historically. The focus of the Company's future and growth is on its software and services segment.

**2. SIGNIFICANT ACCOUNTING POLICIES**

**REVENUE RECOGNITION**



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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 license 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*, Securities and Exchange Commission Staff Accounting Bulletin 104, *Revenue Recognition*, and Emerging Issues Task Force Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables*. The Company recognizes software subscription revenue in accordance with EITF Issue No. 00-3, *Application of AICPA Statement of Position 97-2 to Arrangements That Include the Right to Use Software Stored on Another Entity's Hardware* and EITF Issue No. 00-21.

Revenue consists of software license, software subscription and service fees. Revenue from the software element 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. Revenue from the sale of hardware devices is recognized upon shipment of the hardware. Forgent sells multiple elements within a single sale. For software license arrangements, the Company allocates the total fee to the various elements based on the relative fair values of the elements specific to the Company. For software subscription arrangements, the Company recognizes the total contract value ratably over the contract term.

The Company determines the fair value of each element in the arrangement based on vendor-specific objective evidence ( VSOE ) of fair value. VSOE of fair value for the software, maintenance, and training and installation services are based on the prices charged for the software, maintenance and 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

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

services. 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.

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 Statements of Operations when the service is completed and over the terms of the arrangements, primarily ranging from one to three years.

Intellectual property licensing revenue is derived from the Company's Patent Licensing Program, which has generated licensing revenues relating to the Company's technologies embodied in the 672 patent and the 746 patent. Intellectual property licensing does not include elements such as technical support, upgrade protection, bug fixes or other services and, accordingly, gross intellectual property licensing revenue is recognized at the time a license agreement has been executed and collection has been deemed probable. Related costs are recorded as cost of sales. The cost of sales on the intellectual property licensing business relates to contingent legal fees incurred on successfully achieving signed agreements, as well as legal fees incurred based upon legal counsel's time. For settlement arrangements that involved litigation, the Company considered such arrangements to have both an intellectual property licensing element and a litigation element. For these multiple element arrangements, the Company allocated a portion of the total settlement amount to the intellectual property licensing element based upon the estimated fair value of the intellectual property licensing element using its historical sold-separately experience. Using the residual method, the Company then allocated the remaining unallocated total settlement amount of the arrangement to litigation element which is recorded as Other Income. Through July 31, 2008, no significant amounts have been allocated to the litigation element.

**BASIS OF PRESENTATION**



## Edgar Filing: FORGENT NETWORKS INC - Form 10-K/A

Forgent consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles and include the accounts of the Company and its wholly owned subsidiaries. All intercompany transactions and balances have been eliminated in consolidation.

### **USE OF ESTIMATES**



## Edgar Filing: FORGENT NETWORKS INC - Form 10-K/A

Preparation of the consolidated financial statements in conformity with U.S. generally accepted accounting principles 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. These estimates are subjective in nature and involve judgments that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at fiscal year end and the reported amounts of revenues and expenses during the fiscal year. The more significant estimates made by management include the valuation allowance for the gross deferred tax assets, contingency legal reserves, lease impairment, useful lives of fixed assets, the determination of the fair value of its long-lived assets, and the fair value of assets acquired and liabilities assumed during the recent acquisition. The Company bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the given circumstances. 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.

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

**CASH AND CASH EQUIVALENTS**



Cash and cash equivalents include cash and investments in highly liquid investments with an original maturity of three months or less when purchased. All other investments not considered to be cash equivalents, including highly liquid investments with maturities greater than three months, are separately classified as short-term investments.

**SHORT-TERM INVESTMENTS**



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Short-term investments are carried at market value. Short-term investments consist of funds invested in U.S. government agency securities and mature within one year of July 31, 2008 and 2007. The carrying amounts of the Company's short-term investments at July 31, 2008 and 2007 are as follows:

|                                   | 2008            |                 | 2007            |                 |
|-----------------------------------|-----------------|-----------------|-----------------|-----------------|
|                                   | COST            | MARKET<br>VALUE | COST            | MARKET<br>VALUE |
| U.S. Government Agency Securities | \$ 2,632        | \$ 2,627        | \$ 1,526        | \$ 1,538        |
|                                   | <b>\$ 2,632</b> | <b>\$ 2,627</b> | <b>\$ 1,526</b> | <b>\$ 1,538</b> |

The Company accounts for investment securities under Statement of Financial Accounting Standard ( SFAS ) Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities*. Statement No. 115 requires investment securities to be classified as held-to-maturity, trading or available-for-sale based on the characteristics of the securities and the activity in the investment portfolio. At July 31, 2008 and 2007, all investment securities were classified as available-for-sale. The Company specifically identifies its short-term investments and uses the cost of the investments as the basis for recording unrealized gains and losses as part of other comprehensive income on the Consolidated Balance Sheet and for recording realized gains and losses as part of other income and expenses on the Consolidated Statement of Operations. As of July 31, 2008 and 2007, the Company had \$2 and \$11 in unrealized losses or gains on available-for-sale securities, respectively. The Company did not realize any related losses or gains during the years ended July 31, 2008 and 2007, respectively.

### **FAIR VALUE OF FINANCIAL INSTRUMENTS**



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The Company's financial instruments consist primarily of cash and cash equivalents, short-term investments, trade accounts receivable and accounts payable. The current carrying amounts of these financial instruments approximate their fair market values because of the short-term nature of these instruments.

### **CREDIT POLICY**



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The Company reviews potential customers' credit ratings to evaluate customers' ability to pay an obligation within the payment term, which is usually net thirty days. When payment is reasonably assured and no known barriers exist to legally enforce the payment, the Company extends credit to customers, which usually does not exceed 10% of their net worth. An account is placed on "Credit Hold" if a placed order exceeds the credit limit and may be placed on "Credit Hold" sooner if circumstances warrant. The Company follows its credit policy consistently and constantly monitors all of its delinquent accounts for indications of uncollectibility.

### **CONCENTRATION OF CREDIT RISK**



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The Company grants credit to customers in the ordinary course of business. Concentrations of credit risk related to the Company's trade accounts receivable are limited due to the large number of customers, including third-party resellers, and their dispersion across several industries and geographic areas. The Company performs ongoing credit evaluations of its customers and maintains reserves for potential credit losses. The Company requires advanced payments or secured transactions when deemed necessary.

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

**ALLOWANCE FOR DOUBTFUL ACCOUNTS**



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The Company maintains an allowance for doubtful accounts at an amount estimated to be sufficient to provide adequate protection against losses resulting from extending credit to the Company's customers. This allowance is based in the aggregate, on historical collection experience, age of receivables, and general economic conditions. The allowance for doubtful accounts also considers the need for specific customer reserves based on the customer's payment experience, credit-worthiness and age of receivable balances. Forgent's bad debts have not been material and have been within management expectations. The allowances for doubtful accounts as of July 31, 2008 and 2007 are as follows:

|                          | <b>BALANCE<br/>AT<br/>BEGINNING<br/>OF YEAR</b> | <b>PROVISION<br/>FOR<br/>DOUBTFUL<br/>ACCOUNTS<br/>RECEIVABLE</b> | <b>WRITE-OFF OF<br/>UNCOLLECTIBLE<br/>ACCOUNTS<br/>RECEIVABLE</b> | <b>BALANCE<br/>AT<br/>END OF<br/>YEAR</b> |
|--------------------------|---|---|---|---|
| Year ended July 31, 2008 | \$ 21   | 21  | (1)   | \$ 41                                     |
| Year ended July 31, 2007 | 13  | 18  | (10)  | 21  |

### INVENTORY



## Edgar Filing: FORGENT NETWORKS INC - Form 10-K/A

Inventory is recorded at cost and includes purchased LCD panels and barcode scanners that are sold as part of the Company's workforce management solutions to complement the NetSimplicity MRM and VAM software products. Due to the minimal level of inventory maintained and the quick turnover in inventory, reserves for excess and obsolescence is not considered necessary.

### **PROPERTY AND EQUIPMENT**



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Property and equipment, including software, furniture and equipment, are recorded at cost less accumulated depreciation. Internal support equipment is video teleconferencing equipment used internally for purposes such as sales and marketing demonstrations, Company meetings, testing, troubleshooting customer problems and engineering, and is recorded at manufactured cost, if the Company manufactured the asset or is recorded at cost, if purchased. Depreciation is recorded using the straight-line method over the estimated economic useful lives of the assets, which range from two to five years. Property and equipment also includes leasehold improvements and capital leases, which are recorded at cost less accumulated amortization. Amortization of leasehold improvements and capital leases is recorded using the straight-line method over the shorter of the lease term or over the life of the respective assets, as applicable. Gains or losses related to retirements or disposition of fixed assets are recognized in the period incurred. Repair and maintenance costs are expensed as incurred. The Company periodically reviews the estimated economic useful lives of its property and equipment and makes adjustments, if necessary, according to the latest information available.

### **IMPAIRMENT OF GOODWILL, INTANGIBLE ASSETS AND LONG-LIVED ASSETS**



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Goodwill and other intangible assets with indefinite lives are not required to be amortized under SFAS Statement No. 142, *Goodwill and Other Intangible Assets*, and accordingly, the Company reviews its goodwill 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 are amortized over their useful lives and are tested for impairment in accordance with SFAS Statement No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*.

In accordance with Statement 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

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

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 undiscounted cash flows, the fair values of those assets are estimated by discounting the projected cash flows. Any excess of the carrying amounts over the fair values are recorded as impairments in that fiscal period.

**ADVERTISING COSTS**

The Company expenses advertising costs as they are incurred. Advertising expenses were \$35 and \$16 for the years ended July 31, 2008 and 2007, respectively, and are recorded as part of sales and marketing expenses on the Consolidated Statements of Operations.

**LEASE OBLIGATIONS**

Forgent recognizes its lease obligations with scheduled rent increases over the term of the lease on a straight-line basis. Accordingly, the total amount of base rentals over the term of the Company's leases is charged to expense on a straight-line method, with the amount of rental expense in excess of lease payments recorded as a deferred rent liability. As of July 31, 2008 and 2007, the Company had deferred rent liabilities of \$70 and \$58, respectively, all of which are classified as long-term liabilities. The Company also recognizes capital lease obligations and records the underlying assets and liabilities on its Consolidated Balance Sheets. As of July 31, 2008 and 2007, Forgent had \$48 and \$1 in capital lease obligations, respectively.

**FOREIGN CURRENCY TRANSLATION**

The financial statements of the Company's foreign subsidiaries are measured using the local currency as the functional currency. Accordingly, the assets and liabilities of these foreign subsidiaries are translated at current exchange rates at each balance sheet date. Translation adjustments arising from the translation of net assets located outside of the United States into United States dollars are recorded in accumulated other comprehensive income (loss) as a separate component of stockholders' equity. Income and expenses from the foreign subsidiaries are translated using monthly average exchange rates. Net gains and losses resulting from foreign exchange transactions are included in other income and expenses and were not significant in fiscal years 2008 and 2007.

**INCOME TAXES**



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The Company accounts for income taxes using the liability method under SFAS Statement No. 109, *Accounting for Income Taxes*, which requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Under the liability method, deferred tax assets and liabilities are determined based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect in the years in which the differences are expected to reverse. Deferred tax assets are reduced by a valuation allowance when it is more likely than not that some component or all of the deferred tax assets will not be realized.

In June 2006, the Financial Accounting Standard Board ( FASB) issued Interpretation No. 48, *Accounting for Uncertainty in Income Taxes an interpretation of FASB Statement No. 109* ( FIN 48 ). FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise s financial statements in accordance with Statement No. 109, *Accounting for Income Taxes*. This interpretation defines the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. Additionally, FIN 48 provides guidance on derecognition, classification, interest and penalties, accounting in interim periods and transition. FIN 48 is effective for fiscal years beginning after December 15, 2006. Forgent adopted FIN48, effective August 1, 2007. The adoption did not have a material effect on the Company s consolidated financial statements.

### **SHARE BASED COMPENSATION**

In December 2004, the FASB issued Statement No. 123 (Revised 2004), *Share-Based Payment* ( No. 123R ). This revised standard addresses the accounting for stock-based payment transactions in which a company receives employee services in exchange for either equity instruments of the company or liabilities that are based on

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

the fair value of the company's equity instruments or that may be settled by the issuance of such equity instruments. Under this standard, companies may not account for stock-based compensation transactions using the intrinsic-value method in accordance with APB Opinion No. 25, *Accounting for Stock Issued to Employees*. Instead, companies are required to account for such transactions using a fair-value method and recognize the related expense in the Consolidated Statement of Operations.

The Company adopted Statement No. 123R, effective August 1, 2005, using the modified prospective application transition method. The modified prospective application method requires that companies recognize compensation expense on stock-based payment awards that are modified, repurchased or cancelled after the effective date. The fair value of each award granted from Forgent's stock option plans are estimated at the date of grant using the Black-Scholes option pricing model. No options were granted during the year ended July 31, 2007 and 2008.

As of July 31, 2008, \$20 of unrecognized compensation costs related to non-vested option grants is expected to be recognized over the course of the following 1.5 years.

On August 1, 2006, the Company's Board of Directors approved the repricing of all employee stock options with an exercise price greater than \$0.385 (the average of the high and low for August 1, 2006). The new exercise price was \$0.385. The Board of Directors determined that the repricing was the most cost effective way to motivate employees with options that had exercise prices greater than the current fair market value. The repricing resulted in a charge of \$88 based on the incremental fair value of the new options versus the fair value of the old options for the year ended July 31, 2007.

The Company issued 38 shares 224 shares of common stock related to exercises of stock options granted from its Stock Option and Stock Purchase Plans for the years ended July 31, 2008 and 2007, respectively. The Company issued 372 shares of restricted common stock from its Restricted Stock Plan for the year ended July 31, 2008 and did not issue any shares of restricted common stock from its Restricted Stock Plan for the year ended July 31, 2007.

**COMPREHENSIVE (LOSS) INCOME**



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In accordance with the disclosure requirements of SFAS Statement No. 130, *Reporting Comprehensive Income*, the Company's comprehensive (loss) income is comprised of net (loss) income, foreign currency translation adjustments and unrealized gains and losses on short-term investments held as available-for-sale securities. Comprehensive loss for the year ended July 31, 2008 is \$12,765. Comprehensive income for the year ended July 31, 2007 is \$12,256.

### **RECENT ACCOUNTING PRONOUNCEMENTS**



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In December 2007, the Financial Accounting Standard Board ( FASB ) issued Statement No. 141(R), *Business Combinations*. Statement No. 141(R) establishes principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any non-controlling interest in the acquiree and the goodwill acquired in the business combination. The statement also establishes disclosure requirements which will enable users to evaluate the nature and financial effects of the business combination. Statement No. 141(R) is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008. As such, the Company will adopt these provisions for any business combination after August 1, 2009. The adoption of Statement No. 141(R) may have an impact on Forgent's accounting for future business combinations once adopted.

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

In February 2007, the FASB issued Statement No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities*. Statement No. 159 provides companies with an option to report selected financial assets and liabilities at fair value. The standard's objective is to reduce both complexity in accounting for financial instruments and the volatility in earnings caused by measuring related assets and liabilities differently. The standard requires companies to provide additional information that will help investors and other users of financial statements to more easily understand the effect of the company's choice to use fair value on its earnings. It also requires companies to display the fair value of those assets and liabilities for which the company has chosen to use fair value on the face of the balance sheet. This statement does not eliminate disclosure requirements included in other accounting standards, including requirements for disclosures about fair value measurements included in Statement No. 157, *Fair Value Measurements*, and Statement No. 107, *Disclosures about Fair Value of Financial Instruments*. Statement No. 159 is effective as of the beginning of fiscal years beginning after November 15, 2007. Forgent adopted Statement No. 159, effective August 1, 2008, and does not anticipate a material impact to its financial position and results of operations.

In September 2006, the FASB issued Statement No. 157, *Fair Value Measurements*. Statement No. 157 defines fair value, establishes a framework for measuring fair value in U.S. generally accepted accounting principles and expands disclosures about fair value measurements. Statement No. 157 is effective for fiscal years beginning after November 15, 2007 and interim periods within those fiscal years. Forgent adopted Statement No. 157, effective August 1, 2008, and does not anticipate a material impact to its financial position and results of operations.

**NOTE 3 - ACQUISITION**

On October 5, 2007, Forgent acquired all of the outstanding capital stock of iSarla Inc., a Delaware corporation and application service provider that offers on-demand software solutions that help simplify the human resource process and improve employee productivity by managing and communicating human resources, employee benefits and payroll information. iSarla Inc. conducted its business under the trade name iEmployee and provided hosted application services, including Time & Attendance, Timesheets, Human Resource Benefits, Expenses and other solutions. iEmployee was a profitable business with a high percentage of recurring revenues and delivers its software as a service under the SaaS model. The acquisition expanded Forgent's current target markets, significantly augmented the Company's product and service offerings to customers, and increased revenues from its operations considerably. Due to these factors, the Company purchased the iEmployee business at a premium (i.e. goodwill) over the fair value of the net assets acquired.

In consideration for the acquisition, Forgent paid approximately \$12,661, including \$6,602 in cash, 5,095 shares of its Common Stock, valued at approximately \$4,987 and transaction cost of approximately \$1,072. The shares of Common Stock issued were valued based upon the price of \$0.98 when the number of shares to be issued became fixed. Upon closing, \$990 in cash and 764 shares totaling \$748 of the purchase price were held in escrow for representations and warranties. The purchase agreement did not include provisions for any other contingent payments, options or commitments. As a result of the acquisition, iEmployee's results of operations since October 5, 2007 have been included in the Company's Consolidated Statement of Operations for the year ended July 31, 2008.

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The business combination was accounted for under SFAS Statement No. 141, *Business Combinations*. The application of purchase accounting under Statement No. 141 requires the total purchase price to be allocated to the fair value of assets acquired and liabilities assumed based on their fair values at the acquisition date, with amounts exceeding fair value being recorded as goodwill. The following table summarizes the estimated preliminary and adjusted fair values of the iEmployee assets acquired and liabilities assumed:

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(Amounts in thousands, except per share data or otherwise noted)

|                                   | Initial<br>Allocation | Adjustments     | Updated<br>Allocation |
|-----------------------------------|-----------------------|-----------------|-----------------------|
| <b>Assets Acquired</b>            |                       |                 |                       |
| Cash                              | \$ 460                |                 | \$ 460                |
| Short-term investments            | 526                   |                 | 526                   |
| Accounts receivable, net          | 577                   | (125)           | 452                   |
| Prepaid assets                    | 96                    | (6)             | 90                    |
| Fixed assets                      | 416                   | (76)            | 340                   |
| Goodwill                          | 6,993                 | (6,993)         | 0                     |
| Intangible assets                 | 5,209                 | 159             | 5,368                 |
| Other assets                      | 22                    | (11)            | 11                    |
| <b>Total assets acquired</b>      | <b>14,299</b>         | <b>(7,052)</b>  | <b>7,247</b>          |
| <b>Liabilities assumed</b>        |                       |                 |                       |
| Accounts payable                  | (1,099)               | (180)           | (1,279)               |
| Accrued compensation and benefits | (110)                 | (24)            | (134)                 |
| Accrued other liabilities         | (33)                  | (156)           | (189)                 |
| Deferred revenue                  | (396)                 | 21              | (375)                 |
| <b>Total liabilities assumed</b>  | <b>(1,638)</b>        | <b>(339)</b>    | <b>(1,977)</b>        |
| <b>Net assets acquired</b>        | <b>\$ 12,661</b>      | <b>\$ 7,391</b> | <b>\$ 5,270</b>       |

The following summary presents the unaudited pro forma consolidated financial information for the years ended July 31, 2008 and 2007, as if the iEmployee acquisition had occurred as of August 1, 2006. The pro forma information does not purport to be indicative of the actual results which would have occurred had the acquisition been completed as of August 1, 2006, nor is it necessarily indicative of the results of operations which may occur in the future.

|                                      | For the Year<br>Ended July 31, 2008 |           | For the Year<br>Ended July 31, 2007 |           |
|--------------------------------------|-------------------------------------|-----------|-------------------------------------|-----------|
|                                      | As Reported                         | Pro Forma | As Reported                         | Pro Forma |
| Revenues                             | \$ 10,182                           | \$ 11,195 | \$ 40,407                           | \$ 45,797 |
| Net (loss) income                    | (12,708)                            | (12,563)  | 12,248                              | 13,002    |
| Net (loss) income per common share:  |                                     |           |                                     |           |
| Basic                                | \$ (0.42)                           | \$ (0.41) | \$ 0.48                             | \$ 0.42   |
| Diluted                              | (0.42)                              | (0.41)    | 0.47                                | 0.42      |
| Weighted average shares outstanding: |                                     |           |                                     |           |
| Basic                                | 30,026                              | 30,947    | 25,515                              | 30,610    |
| Diluted                              | 30,026                              | 30,947    | 26,049                              | 31,144    |

**4. GOODWILL IMPAIRMENT**

In accordance with SFAS Statement No. 142, *Goodwill and Other Intangible Assets*, Forgent reviews its goodwill for possible impairment on an annual basis, or whenever specific events warrant. Due to its continued depressed stock price and the current market conditions during the fourth fiscal quarter of 2008, Forgent determined that the decline in its market capitalization may not be temporary. Due to the decline in its market capitalization, the Company was required to perform an impairment analysis on its goodwill. To evaluate its goodwill for impairment, Forgent used a two-step process. Under the first step, Forgent determined that the estimated fair value of the Company, as represented by its market capitalization, was less than its net book value, thus requiring the completion of the second step of the impairment analysis. As part of the second step, Forgent allocated the estimated fair value of the Company, as represented by its market capitalization, to its assets and liabilities, excluding goodwill, based upon the individual estimated fair values. As a result of its allocation process, the Company determined that goodwill had an implied fair value of \$0. An impairment loss is measured as the excess of the book value of the goodwill over the implied fair value of the goodwill. As a result of the impairment analysis, Forgent recorded a non-cash \$7,391 goodwill impairment related to its acquisition of iEmployee to its Consolidated Statement of Operations

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for the year ended July 31, 2008. This impairment had no impact to the Company's tangible net book value or liquidity.

**5. INTANGIBLE ASSETS**

Forgent accounts for its acquisitions in accordance with SFAS Statement No. 141, *Business Combinations*. The Company records the amount exceeding the fair value of net assets acquired at the date of acquisition as goodwill. The Company records intangible assets apart from goodwill if the assets have contractual or other legal rights or if the assets can be separated and sold, transferred, licensed, rented or exchanged. Forgent's goodwill and intangible assets relate to its acquisition of iSarla Inc. and the iEmployee operations.

In accordance with SFAS Statement No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, Forgent review and evaluates its long-lived assets, including intangible assets with finite lives, for impairment whenever events or changes in circumstances indicate that their net book value may not be recoverable. Based on Forgent's impairment test, no impairment was identified for the Company's intangible assets for the year ended July 31, 2008. The Company's goodwill was fully impaired as of July 31, 2008 (see Note 4).

As of July 31, 2008, the gross carrying amount and accumulated amortization of the Company's intangible assets are as follows:

| <b>Intangible Asset</b> | <b>Amortization<br/>Period (in Years)</b> | <b>Gross</b> | <b>Accumulated<br/>Amortization</b> | <b>Net</b> |
|-------------------------|---|--------------|-------------------------------------|------------|
| Developed Technology    | 5   | \$ 915       | \$ (150)                            | \$ 765     |
| Customer Relationships  | 8   | 2,470        | (253)                               | 2,217      |
| Ceridian Contract       | 8   | 1,545        | (158)                               | 1,387      |
| Trade Names             | 5   | 288          | (47)                                | 241        |
| Covenant not-to-compete | 4   | 150          | (31)                                | 119        |
|                         |   | \$ 5,368     | \$ (639)                            | \$ 4,729   |

Forgent did not have any intangible assets as of July 31, 2007. Amortization expense is recorded using the straight-line method over the estimated economic useful lives of the intangible assets, as noted above. Amortization expense for the fiscal year ended July 31, 2008 was \$639. The following table summarizes the estimated amortization expense relating to the Company's intangible assets for the next five fiscal years and thereafter:

**Fiscal Years**

|            |    |              |
|------------|----|--------------|
| 2009       | \$ | 780          |
| 2010       |    | 780          |
| 2011       |    | 780          |
| 2012       |    | 749          |
| 2013       |    | 545          |
| Thereafter |    | 1,094        |
|            | \$ | <b>4,729</b> |

**6. LITIGATION SETTLEMENTS**

Forgent was in legal proceedings with multiple companies in the United States District Court for the Eastern District of Texas, Tyler Division (the 746 Litigation ), regarding the infringement of its 746 patent. In April and June 2007, Forgent entered into settlement and license agreements with ten of the defendants, who were dismissed from the 746 Litigation with prejudice. Under these agreements, Forgent granted the defendants a patent license and the defendants paid the Company a total of \$28,000. Additionally, all parties agreed to release all claims against each other. The \$28,000 was recorded as intellectual property licensing revenue on the Consolidated Statement of Operations for the year ended July 31, 2007.

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

In May 2007, a jury found the four asserted claims of the 746 patent to be invalid. This finding was in favor of the two remaining defendants in the 746 Litigation. On August 9, 2007, the Court ordered Forgent to remit \$90 to the defendants for reimbursement of certain litigation costs. This payment was made on August 23, 2007. As a result, Forgent considered the 746 Litigation to be concluded. The Company did not actively pursue additional 746 license agreements during fiscal year 2008 and does not anticipate any additional licensing revenues from its 746 patent.

Forgent was also in legal proceedings with multiple companies in the United States District Court for the Northern District of California regarding the infringement of its 672 patent (the 672 Litigation). In October 2006, Forgent signed a Patent License and Settlement Agreement with the remaining defendants in the 672 Litigation. Under this agreement, Forgent granted the defendants a patent license and the defendants paid Forgent \$8,000. Additionally, all parties agreed to release all claims against each other. The \$8,000 was recorded as intellectual property licensing revenue on the Consolidated Statement of Operations for the year ended July 31, 2007. As a result, Forgent considered the 672 Litigation to be concluded. The 672 patent expired in October 2006 in the United States. The Company did not actively pursue additional 672 license agreements during fiscal year 2008 and does not anticipate any additional licensing revenues from its 672 patent.

**7. SALE OF ASSETS**

In November 2006, Forgent sold certain patents and applications associated with videoconferencing and related fields and technology, together with related goodwill, rights and documentation, to Tandberg Telecom AS ( Tandberg ) for \$3,150. Upon closing, Forgent received \$2,900 of the purchase price, all of which was recorded as a gain on sale of assets. The purchase price remaining balance of \$250 is held in escrow for two years for indemnity claims.

**8. INTELLECTUAL PROPERTY LEGAL CONTRACTS**

In April 2006, Forgent engaged Hagans Burdine Montgomery Rustay & Winchester ( Hagans ) and Bracewell & Giuliani, L.L.P. ( Bracewell ) to provide legal services related to the 746 Litigation. Hagans and Bracewell replaced Godwin Gruber, LLP ( Godwin ) and Hagans served as the lead counsel on the 746 Litigation. In December 2006, Forgent signed an amendment to the Legal Services Fee Agreement with Hagans and Bracewell. This amendment increased the contingency fee payable to Hagans and Bracewell from 30% (15% to each law firm) of all license and litigation proceeds related to the 746 patent and other patents, net of expenses, to 37.5% (20% to Hagans and 17.5% to Bracewell). Additionally, effective September 1, 2006, all related expenses, including consultant fees, travel expenses, document production expenses, etc. were allocated as follows: 25% to Forgent, 50% to Hagans, and 25% to Bracewell, until such total expenses reached \$2,500. Prior to the amendment, Forgent was liable for all related expenses. During the third fiscal quarter of 2007, the \$2,500 threshold was exceeded and Forgent

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was liable for all subsequent expenses. In addition to Hagans and Bracewell, Forgent was also liable for contingency fees to The Roth Law Firm, P.C. for 10% of the 746 patent and other patents litigation proceeds, net of expenses, and to Jenkens & Gilchrist, P.C. ( Jenkens ) for 10% of all gross license and litigation proceeds related to the 746 patent.

After Forgent terminated Jenkens, the Company entered into a Resolution Agreement with Jenkens in December 2004. Under the Resolution Agreement, the Company believes Jenkens is entitled to \$1,400 for all related fees and expenses related to the settlements from the 746 Litigation. Jenkens interprets the Resolution Agreement on broader terms and believes it is entitled to \$3,400. In July 2007, Jenkens filed a complaint against the Company in the District Court of Dallas County, Texas, alleging a breach of contract, and is seeking a declaratory judgment. Forgent disputes Jenkens' claims and is seeking relief through the court system. Management currently cannot predict how long it may take to resolve the Jenkens lawsuit. However, once the Jenkens litigation is finalized, the related contingency fees and expenses may be adjusted in a future period and could have a material impact to the Company's consolidated financial statements.

Legal expenses for contingency fees and legal counsel's time incurred are recorded as part of cost of sales from Forgent's intellectual property licensing business on the Consolidated Statements of Operations. Cost of sales for the intellectual property licensing business for the year ended July 31, 2007 was \$18,270. Forgent did not incur any cost of sales from its intellectual property licensing segment during the year ended July 31, 2008. Other legal expenses incurred related to the Patent Licensing Program are recorded as part of operating expenses on the

Table of Contents**FORGENT NETWORKS, INC.****NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS****(Amounts in thousands, except per share data or otherwise noted)**

Consolidated Statements of Operations. Other related legal expenses for the year ended July 31, 2008 and 2007 were \$266 and \$3,192, respectively.

**9. LOAN IMPAIRMENT**

During fiscal year 2002, Forgent sold the operations and certain assets, including the VTEL name, of its videoconferencing equipment business ( Products business ), which designed, manufactured and sold multi-media visual communication products. The sale was made to VTEL Products Corporation ( VTEL ), a privately held company created by the former Vice-President of Manufacturing of the Products business and two other senior management members of the Products business. As a result of the sale, the Company received a 90-day subordinated promissory note, bearing interest at an annual rate of five percent, for \$967, and a 5-year subordinated promissory note, bearing interest at an annual rate of five percent, for \$5,000. VTEL did not remit payment on its first subordinated promissory note as stipulated in the sales agreement. As a result of this default and due to the uncertainty in collecting the two outstanding notes from VTEL, the Company fully reserved the outstanding balances of both notes from VTEL as of July 31, 2002. During the years ended July 31, 2008 and 2007, Forgent did not record any interest income related to the VTEL notes.

On July 24, 2007, Forgent agreed to accept 267 shares of VTEL Common Stock in consideration necessary to retire in full the outstanding obligations and indebtedness from VTEL. Therefore, as of July 31, 2007, the \$5,780 remaining balance for the two outstanding notes, and the related reserves, were written off. The new shares, which were received, effective September 19, 2007, are in addition to the 1,045 shares that Forgent originally received during the sale in fiscal year 2002. Forgent's total 1,312 shares of VTEL Common Stock represent 19.9% of VTEL's fully diluted equity. Due to the financial uncertainty of VTEL's future, the Company has valued the VTEL shares at \$0.

**10. PROPERTY AND EQUIPMENT**

Property and equipment and related depreciable useful lives are composed of the following:

|   | JULY 31, |          |
|---|----------|----------|
|   | 2008     | 2007     |
| Software: 3 - 5 years                           | \$ 3,243 | \$ 3,168 |
| Furniture and equipment: 2-5 years              | 2,832    | 2,433    |
| Internal support equipment: 2- 4 years          | 696      | 696      |
| Capital leases: lease term or life of the asset | 62       | 3        |

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|   |               |               |
|---|---------------|---------------|
| Leasehold improvements: lease term or life of the improvement | 2,384         | 2,276         |
|   | <b>9,217</b>  | <b>8,576</b>  |
| Less accumulated depreciation                                 | (8,310)       | (7,809)       |
|   | <b>\$ 907</b> | <b>\$ 767</b> |

The amortization of the capital leases is recorded as depreciation expense on the Consolidated Statements of Operations. Depreciation and amortization expenses relating to property and equipment were approximately \$508 and \$505 for the years ended July 31, 2008 and 2007, respectively.

### 11. STOCKHOLDERS EQUITY

#### SHARE REPURCHASE PROGRAM



During fiscal years 2008 and 2007, the Company did not repurchase any shares of its Common Stock.

**STOCK AND STOCK OPTION PLANS**



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Forgent has three stock option plans, the 1989 Stock Option Plan (the 1989 Plan ), the 1996 Stock Option Plan (the 1996 Plan ) and the 1992 Director Stock Option Plan (the 1992 Plan ). The 1989 Plan and the 1996 Plan both provide for the issuance of non-qualified and incentive stock options to employees and consultants of the

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Company. Stock options are generally granted at the fair market value at the time of grant, and the options generally vest ratably over 48 months and are exercisable for a period of ten years beginning with date of grant. The 1989 Plan expired in June 1999 and the 1996 Plan expired in April 2006, whereby the Company can no longer grant options under these plans. However, options previously granted remain outstanding. The 1992 Plan provides for the issuance of stock options to non-employee directors at the fair market value at the time of grant. Such options vest ratably over 36 months and are exercisable for a period of ten years beginning with the date of the grant. Total compensation expense recognized in the Consolidated Statements of Operations for stock based awards was \$107 and \$26 for fiscal years ending July 31, 2008 and 2007.

As of July 31, 2008, Forgent had reserved shares of common stock for future issuance under the 1989, 1992 and 1996 Plans as follows:

|                                    |              |
|------------------------------------|--------------|
| Options outstanding                | 1,156        |
| Options available for future grant | 16           |
| Shares reserved                    | <b>1,172</b> |

The following table summarizes activity under all Plans for the years ended July 31, 2008 and 2007.

|  | SHARES | 2008<br>WEIGHTED<br>AVERAGE<br>EXERCISE<br>PRICE | SHARES | 2007<br>WEIGHTED<br>AVERAGE<br>EXERCISE<br>PRICE |
|--|--------|--|--------|--|
| Outstanding at the beginning of the year                       | 1,169  | \$ 0.81  | 1,373  | \$ 1.64  |
| Granted  | 0      | N/A  | 0      | N/A  |
| Exercised  | 0      | N/A  | (200)  | 0.38   |
| Canceled   | (13)   | 5.71   | (4)    | 0.38   |
| Outstanding at the end of the year                             | 1,156  | \$ 0.76  | 1,169  | \$ 0.81  |
| Options exercisable at the end of the year                     | 1,156  | \$ 0.76  | 1,148  | \$ 0.82  |
| Weighted average fair value of options granted during the year |        | \$ N/A   |        | \$ N/A   |

**OPTIONS OUTSTANDING AND EXERCISABLE BY PRICE RANGE****OPTIONS OUTSTANDING****OPTIONS EXERCISABLE**

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| RANGE OF EXERCISE PRICES | NUMBER OUTSTANDING AT JULY 31, 2008 | WEIGHTED-AVERAGE REMAINING CONTRACTUAL LIFE (YEARS) | WEIGHTED-AVERAGE EXERCISE PRICE | NUMBER EXERCISABLE AT JULY 31, 2008 | WEIGHTED-AVERAGE EXERCISE PRICE |
|--------------------------|-------------------------------------|---|---------------------------------|-------------------------------------|---------------------------------|
| \$0.38 \$0.38            | 944                                 | 4.21  | \$ 0.38                         | 944                                 | \$ 0.38                         |
| 1.11 2.65                | 127                                 | 4.75  | 1.63                            | 127                                 | 1.63                            |
| 2.67 2.67                | 10                                  | 5.51  | 2.67                            | 10                                  | 2.67                            |
| 3.61 3.61                | 50                                  | 1.38  | 3.61                            | 50                                  | 3.61                            |
| 3.82 3.82                | 25                                  | 3.51  | 3.82                            | 25                                  | 3.82                            |
| <b>\$0.38 \$3.82</b>     | <b>1,156</b>                        | <b>4.14</b>   | <b>\$ 0.76</b>                  | <b>1,156</b>                        | <b>\$ 0.76</b>                  |

Generally, options are exercisable immediately upon grant. However, stock issued upon exercise of a stock option is subject to repurchase by the Company at the exercise price until the option vesting period has elapsed. At July 31, 2008, options to purchase 1,143 shares were vested. At July 31, 2008, no unvested options had been exercised. The total number of vested or expected to vest shares at July 31, 2008 was 1,156 with a weighted average exercise price of \$0.76, weighted average remaining contractual life of 4 years and aggregate intrinsic value of \$0. The total intrinsic value of options exercised during the years ended July 31, 2008 and 2007 were \$0 and \$148, respectively.

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**EMPLOYEE STOCK PURCHASE PLAN**



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On April 29, 1993, Forgent adopted an Employee Stock Purchase Plan ( Employee Plan ), which enables all employees to acquire Forgent stock under the plan. The Employee Plan authorizes the issuance of up to 1,350 shares of Forgent s Common Stock. The Employee Plan allows participants to purchase shares of the Company s Common Stock at a price equal to the lesser of (a) 85% of the fair market value of the Common Stock on the date of the grant of the option or (b) 85% of the fair market value of the Common Stock at the time of exercise. Common Stock issued under the Employee Plan totaled 38 shares and 27 shares, respectively, for the years ended July 31, 2008 and 2007.

### **RESTRICTED STOCK PLAN**



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On December 17, 1998, the Company adopted a restricted stock plan (the 1998 Plan ). The 1998 Plan authorizes the issuance of up to one million shares of Forgent's Common Stock to be used to reward, incent and retain employees. During fiscal year 2008 and 2007, the Company issued 373 and 0 shares under the 1998 Plan \$86 and \$39 in related expense, respectively. The weighted-average grant date fair value of the shares issued in fiscal year 2008 was \$0.58 and recognized.

A summary of the status of nonvested shares as of July 31, 2008 and 2007, and changes during the years ended July 31, 2008 and 2007, are presented below:

| NONVESTED SHARES      | SHARES | 2008                                   | SHARES | 2007                                   |
|-----------------------|--------|--|--------|--|
|                       |        | WEIGHTED-AVERAGE GRANT DATE FAIR VALUE |        | WEIGHTED-AVERAGE GRANT DATE FAIR VALUE |
| Nonvested at August 1 |        | \$                                     | 60     | \$ 0.71                                |
| Granted               | 373    | \$ 0.58                                |        | \$                                     |
| Vested                | (166)  | \$ 0.57                                | (58)   | \$ 0.66                                |
| Forfeited             | (2)    | \$ 0.54                                | (2)    | \$ 1.73                                |
| Nonvested at July 31  | 205    | \$ 0.58                                |        | \$                                     |

The total fair value of shares vested during the years ended July 31, 2008 and 2007 were \$95 and \$39, respectively.

### 12. DEFINED CONTRIBUTION PLAN

The Company sponsors a defined contribution 401(k) plan that is available to substantially all employees. The plan may be amended or terminated at any time by the Board of Directors. The Company, although not required to, has provided matching contributions to the plan of \$73 and \$21 for the years ended July 31, 2008 and 2007, respectively. These contributions were recorded as expenses in the Consolidated Statements of Operations.

### 13. REVENUE CONCENTRATION

The revenue concentration resulting from Forgent's operations for the years ended July 31, 2008 and 2007 are as follows:

|                             | 2008  | 2007  |
|-----------------------------|-------|-------|
| Percentage of Total Revenue | 18.5% | 69.3% |
| Number of Customers         | 1     | 3     |

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During the year ended July 31, 2008, Forgent relied on one customer in its software segment, which accounted for 18.5% of its total revenues. As of July 31, 2008, Forgent did not have any outstanding receivable from this customer. Due to the limited number of licensees in the Company's Patent Licensing Program, Forgent relied on three customers in its intellectual property licensing segment, which accounted for 69.3% of its total revenues for the year ended July 31, 2007.

**14. EARNINGS (LOSS) PER SHARE**

The following table sets forth the computation of basic and diluted earnings (loss) per common share for the years ended July 31, 2008 and 2007. Approximately 1,169 options and 224 options in fiscal years 2008 and 2007, respectively, were not included in the computation of the dilutive stock options because the effect of such options would be antidilutive.

|   | 2008      | 2007    |
|---|-----------|---------|
| Weighted average shares outstanding - basic   | 30,026    | 25,515  |
| Effect of dilutive stock options              |           | 534     |
| Weighted average shares outstanding - diluted | 30,026    | 26,049  |
| Basic (loss) earnings per share               | \$ (0.42) | \$ 0.48 |
| Diluted (loss) earnings per share             | \$ (0.42) | \$ 0.47 |

**15. FEDERAL INCOME TAXES**

The components of the provision (benefit) for income taxes attributable to continuing operations are as follows for the years ended July 31, 2008 and 2007:

|                  | 2008   | 2007  |
|------------------|--------|-------|
| <b>Current:</b>  |        |       |
| Federal          | \$ (4) | \$ 54 |
| State            | (7)    | 18    |
| Foreign          | 32     | 22    |
| Total current    | 21     | 94    |
| <b>Deferred:</b> |        |       |

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|                |    |          |
|----------------|----|----------|
| Federal        |    |          |
| State          |    |          |
| Foreign        |    |          |
| Total deferred |    |          |
|                | \$ | 21 \$ 94 |

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of the Company's deferred taxes at July 31, 2008 and 2007 are as follows:

|   | 2008          | 2007          |
|---|---------------|---------------|
| <b>DEFERRED TAX ASSETS:</b>                   |               |               |
| Current deferred tax assets                   |               |               |
| Deferred revenue                              | \$ 134        | \$ 87         |
| Accrued expenses                              | 43            |               |
| Other   | 14            | 7             |
|   | <b>191</b>    | <b>94</b>     |
| Valuation allowance                           | (186)         | (94)          |
| Net current deferred tax assets               | 5             |               |
| Noncurrent deferred tax assets                |               |               |
| Net operating losses                          | 54,459        | 53,565        |
| Research and development credit carryforwards | 4,124         | 5,157         |
| Minimum tax credit carryforwards              | 384           | 388           |
| Fixed assets                                  | 1,146         | 1,091         |
| Legal reserve                                 | 725           |               |
| Charitable contributions                      |               | 1             |
| Impaired assets                               | 160           | 268           |
| Stock compensation                            | 64            | 44            |
| Other   | 19            | 1             |
|   | <b>61,081</b> | <b>60,515</b> |
| Valuation allowance                           | (59,469)      | (60,515)      |
| Net noncurrent deferred tax assets            | 1,612         |               |
| Noncurrent deferred tax liabilities           |               |               |
| Acquired intangibles                          | (1,617)       |               |
| Total noncurrent deferred tax liabilities     | (1,617)       |               |
| Net current deferred tax asset                | 5             |               |
| Net noncurrent deferred tax asset             | \$ (5)        | \$            |

At July 31, 2008, the Company had federal net operating loss carryforwards of approximately \$160,083, research and development credit carryforwards of approximately \$4,988 and alternative minimum tax credit carryforwards of approximately \$384. The net operating loss and research and development credit carryforwards

Table of Contents**FORGENT NETWORKS, INC.****NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS****(Amounts in thousands, except per share data or otherwise noted)**

will expire in varying amounts from 2009 through 2027, if not utilized. Minimum tax credit carryforwards carry forward indefinitely.

As a result of various acquisitions by the Company in prior years, utilization of the net operating losses and credit carryforwards may be subject to a substantial annual limitation due to the change in ownership provisions of the Internal Revenue Code of 1986. The annual limitation may result in the expiration of net operating losses before utilization.

Due to the uncertainty surrounding the timing of realizing the benefits of its favorable tax attributes in future tax returns, the Company has placed a valuation allowance against its net deferred tax asset. Accordingly, no deferred tax benefits have been recorded for the tax year ended July 31, 2007 and 2008. During the year ended July 31, 2008, the valuation allowance increased by approximately \$1,454 due primarily to operations and decreased by approximately \$1,376 and \$1,032 due to the acquisition of iSarla and the implementation of FIN 48, respectively. Approximately \$7,425 of the valuation allowance relates to tax benefits for stock option deductions included in the net operating loss carryforward which, when realized, will be allocated directly to contributed capital to the extent the benefits exceed amounts attributable to book deferred compensation expense.

Undistributed earnings of the Company's foreign subsidiaries are considered permanently reinvested and accordingly, no provision for U.S. federal or state income taxes has been provided thereon.

The Company's provision (benefit) for income taxes attributable to operations differs from the expected tax expense (benefit) amount computed by applying the statutory federal income tax rate of 34% to income before income taxes for the years ended July 31, 2008 and 2007 primarily as a result of the following:

|   | 2008         | 2007         |
|---|--------------|--------------|
| Computed at statutory rate              | \$ (4,307)   | \$ 4,197     |
| State taxes, net of federal benefit     | (19)         | 61           |
| AMT                                     |              | 54           |
| Impairment of goodwill                  | 2,513        |              |
| Permanent items                         | 113          | 32           |
| R&D and AMT credits generated           |              | (50)         |
| Foreign income taxes at different rates | (79)         |              |
| Change in state rate                    | 4            | (196)        |
| Tax carryforwards not benefited         | 1,796        | (4,004)      |
|   | <b>\$ 21</b> | <b>\$ 94</b> |

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Effective August 1, 2007, the Company adopted FIN 48. The Company did not record any additional tax liability as a result of the adoption of FIN 48 and no adjustment was required to the August 1, 2007 balance of retained earnings. The total amount of unrecognized tax benefits as of August 1, 2007 was approximately \$1,038. The reconciliation of Forgent's unrecognized tax benefits at the beginning and end of the year is as follows:

|  |    |       |
|--|----|-------|
| Balance at August 1, 2007                                    | \$ | 1,038 |
| Additions based on tax positions related to the current year |    |       |
| Additions for tax positions of prior years                   |    |       |
| Reductions for tax positions of prior years                  |    |       |
| Settlements  |    |       |
| Balance at July 31, 2008                                     | \$ | 1,038 |

As of the date of adoption, the Company had \$1,038 of unrecognized tax benefits. Due to the existence of the valuation allowance, future changes in our unrecognized tax benefits will not materially impact the Company's effective tax rate.

The Company's practice is to recognize interest and/or penalties related to income tax matters in income tax expense. During the twelve months ended July 31, 2008, the Company did not recognize any interest and penalties in its income tax expense.

Forgent files consolidated and separate tax returns in the U.S. federal jurisdiction and in several state and foreign jurisdictions. The Company is no longer subject to U.S. federal income tax examinations for years ending before July 31, 2005 and is no longer subject to state and local or foreign income tax examinations by tax authorities for years ending before July 31, 2004. Forgent is not currently under audit for federal, state or any foreign jurisdictions.

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

**16. COMMITMENTS AND CONTINGENCIES**

**LEASE COMMITMENTS & OTHER OBLIGATIONS**



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Forgent leases office space and equipment under non-cancelable operating leases that expire at various dates through 2013. Certain leases obligate Forgent to pay property taxes, maintenance and insurance and include escalation clauses. The total amount of base rentals over the term of the Company's leases is charged to expense on a straight-line basis, with the amount of the rental expense in excess of the lease payments recorded as a deferred rent liability. During the second fiscal quarter of 2007, Forgent fully repaid its outstanding loans from Silicon Valley Bank. As of July 31, 2008, Forgent did not have any debt outstanding or an open credit line from Silicon Valley Bank or any other lender. Forgent may periodically make other commitments and thus become subject to other contractual obligations.

Forgent's future minimum lease payments under all operating and capital leases as of July 31, 2008 are as follows:

| FISCAL YEAR ENDING:                          | OPERATING<br>LEASE<br>OBLIGATIONS | CAPITAL<br>LEASE<br>OBLIGATIONS |
|--|-----------------------------------|---------------------------------|
| 2009   | \$ 3,672                          | \$ 35                           |
| 2010   | 3,498                             | 17                              |
| 2011   | 3,494                             |                                 |
| 2012   | 3,452                             |                                 |
| 2013   | 2,079                             |                                 |
| Thereafter                                   |                                   |                                 |
| <b>TOTAL</b>                                 | <b>\$ 16,195</b>                  | <b>\$ 52</b>                    |
| Less amount representing interest            |                                   | (4)                             |
| Net present value of future minimum payments |                                   | 48                              |
| Less current portion of obligations          |                                   | (31)                            |
| Long-term portion of obligations             |                                   | \$ 17                           |

As a result of the iEmployee acquisition in October 2007, the Company's lease obligations increased in fiscal year 2008. Total rent expense under all operating leases for the years ended July 31, 2008 and 2007 was \$3,766 and \$2,013, respectively. Approximately 97.3% of Forgent's total operating lease obligations relates to its corporate office facility at Wild Basin in Austin, Texas. Forgent subleases its unoccupied office space at Wild Basin to various sub-tenants. During the years ended July 31, 2008 and 2007, the Company received \$2,044 and \$1,760, respectively, in rental income from these sub-leasing arrangements. The rental income offset against rental expense in the Consolidated Statements of Operations. As of July 31, 2008, sub-tenant deposits totaled \$201 and future

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minimum lease payments receivable under non-cancelable sublease arrangements are as follows:

| <b>FISCAL YEAR ENDING:</b> | <b>OPERATING<br/>LEASE<br/>PAYMENTS<br/>RECEIVABLE</b> |
|----------------------------|--|
| 2009                       | \$ 1,764   |
| 2010                       | 1,346  |
| 2011                       | 1,203  |
| 2012                       | 912  |
| 2013                       | 388  |
| Thereafter                 | <b>\$ 5,613</b>  |

As of July 31, 2008, the Company had a \$399 liability remaining on its books related to a Tenant Improvement Allowance that was paid to the Company by the landlord for its Wild Basin property in Austin, Texas. The liability is amortized monthly as a reduction in rental expense over the life of the lease on a straight-line basis. Approximately \$312 of this liability is reported as part of long-term liabilities on the Company's Consolidated Balance Sheet.

As of July 31, 2008, Forgent had a \$468 liability related to impairment charges for the economic value of the lost sublease rental income at its Wild Basin property in Austin, Texas. The liability is amortized monthly as a reduction in rental expense based on the difference between the actual subtenant rental income and the expected subtenant rental income. Approximately \$182 of this liability is reported as part of long-term liabilities on the Company's Consolidated Balance Sheet. Additionally, Forgent recorded \$70 as of July 31, 2008 as the lease escalation liability for its Austin, Texas property.

**CONTINGENCIES**

Forgent is the defendant or plaintiff in various actions that arose in the normal course of business. With the exception of the proceedings described below, none of the pending legal proceedings to which the Company is a party are material to the Company.

**Litigation with Jenkens & Gilchrist, P.C.**

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On July 16, 2007, Jenkens & Gilchrist, P.C. ( Jenkens ), Forgent s former legal counsel, filed a complaint against Forgent and Compressions Labs, Inc., in the District Court of Dallas County, Texas. In its complaint, Jenkens alleges a breach of contract and is seeking a declaratory judgment. Forgent disputes Jenkens claims and is seeking relief through the court system.

After Forgent terminated Jenkens, the Company entered into a Resolution Agreement with Jenkens in December 2004. Under the Resolution Agreement, the Company believes Jenkens is entitled to \$1,400 for contingency fees and expenses related to the settlements from the litigation regarding the Company s DVR patents. Jenkens interprets the Resolution Agreement on broader terms and believes it is entitled to \$3,400, including attorneys fees and interest.

On March 3, 2008, Forgent and Jenkens appeared before the Court regarding a hearing on the motion for summary judgment filed by Jenkens. On May 20, 2008, the Court granted Jenkens motion and ordered Forgent to pay Jenkens \$2,800 for recoveries related to the 746 patent and other amounts including attorney s fees and interest. Forgent appealed this Court order and, on September 3, 2008, the Court granted Forgent s Motion to Reconsider Order. The trial date for this litigation is currently scheduled for April 27, 2009.

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

Management currently cannot predict how long it ultimately will take to resolve the Jenkins lawsuit. Until the Jenkins litigation is finalized, the related contingency fees and expenses may be adjusted in a future period and could have a material impact to the Company's consolidated financial statements.

**Litigation with Wild Basin**

On September 6, 2007, Forgent filed a petition against Wild Basin One & Two, Ltd. ( Wild Basin ) in the District Court of Travis County, Texas. The petition claimed Wild Basin was in breach of contract relating to Forgent's lease agreement by unreasonably withholding and delaying its consent to Forgent's lease assignment to a third party. On October 19, 2007, Forgent amended its petition to include claims of fraud and breach of fiduciary duty against Wild Basin.

On June 2, 2008, Wild Basin filed a counterclaim seeking a declaratory judgment that it had complied with its obligations under the lease and was seeking the recovery of attorney's fees. On June 5, 2008, Forgent amended its petition to request the Court make declaratory judgments on several issues in the case and to include as a breach of contract claim its claim for withholding amounts that should have been distributed by Wild Basin in the past pursuant to the lease. Forgent sought to recover all damages as a result of the delay in closing its pending assignment and amounts not distributed in the past, among other damages.

The trial for this litigation commenced on September 22, 2008. Prior to the conclusion of the trial, Forgent and Wild Basin reached a settlement agreement, effective September 25, 2008. This settlement agreement requires, among other terms, that Wild Basin consents to Forgent's lease assignment. In return, Forgent will pay Wild Basin \$75. Both parties agreed to mutually release claims against each other. As required by the settlement agreement, Forgent expects to finalize the lease assignment by December 31, 2008. However, there is no assurance that Forgent will finalize the lease assignment, or if finalized, that it will occur by the December 31, 2008 deadline.

**17. SEGMENT INFORMATION**

Currently, the Company operates in two distinct segments: software and services and intellectual property licensing. Forgent's software and services business provides customers with scheduling software, asset management software, human resource and time and attendance software, complementary hardware devices to enhance its software products, software maintenance and support services, installation and training services, and other professional services. Under Forgent's intellectual property licensing segment, the Company settled with the remaining defendants in the 746 Litigation and the 672 Litigation during fiscal year 2007. Going forward, Forgent does not anticipate generating additional licensing

revenues related to these patents.

In order to evaluate the software and services segment and the intellectual property licensing segment as stand-alone businesses, the Company records all unallocated corporate operating expenses in the Corporate segment. The accounting policies of Forgent's reportable segments are the same as those described in Note 2.

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. Due to the minimal activity in the intellectual property licensing segment during the year ended July 31, 2008, no corporate expenses were allocated to this segment in fiscal year 2008. 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.

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(Amounts in thousands, except per share data or otherwise noted)

The table below presents segment information about revenue from unaffiliated customers, gross margins, and operating (loss) income for the years ended July 31, 2008 and 2007:

|   | Software &<br>Services | Intellectual<br>Property<br>Licensing | Corporate | Total     |
|---|------------------------|---------------------------------------|-----------|-----------|
| <b>For the Year Ended July 31, 2008</b> |                        |                                       |           |           |
| Revenues from unaffiliated customers    | \$ 10,182              | \$                                    | \$        | \$ 10,182 |
| Gross margin                            | 7,944                  |                                       |           | 7,944     |
| (Loss) Income from operations           | (1,343)                | (295)                                 | (4,298)   | (5,936)   |
| <b>For the Year Ended July 31, 2007</b> |                        |                                       |           |           |
| Revenues from unaffiliated customers    | \$ 4,245               | \$ 36,162                             | \$        | \$ 40,407 |
| Gross margin                            | 3,283                  | 17,892                                |           | 21,175    |
| (Loss) Income from operations           | (1,235)                | 12,917                                | (3,130)   | 8,552     |

Segment revenues by major source for the years ended July 31, 2008 and 2007 are as follows:

|  | FOR THE YEAR ENDED JULY 31, |                  |
|--|-----------------------------|------------------|
|  | 2008                        | 2007             |
| <b>Software &amp; Services</b>         |                             |                  |
| Software license                       | \$ 3,027                    | \$ 2,355         |
| Hosting services                       | 4,133                       | 132              |
| Maintenance & support services         | 1,619                       | 1,092            |
| Hardware devices                       | 526                         | 353              |
| Professional services & other          | 877                         | 313              |
|  | <b>10,182</b>               | <b>4,245</b>     |
| <b>Intellectual Property Licensing</b> |                             |                  |
| 672 patent                             | \$                          | \$ 8,162         |
| 746 patent                             |                             | 28,000           |
|  |                             | <b>36,162</b>    |
| <b>Total Revenues</b>                  | <b>\$ 10,182</b>            | <b>\$ 40,407</b> |

Revenue and long-lived assets related to operations in the United States and foreign countries for the years ended July 31, 2008 and 2007 are presented below.

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FOR THE YEAR ENDED JULY 31,  
2008 2007

|  |    |               |                  |
|--|----|---------------|------------------|
| <b>Revenue from unaffiliated customers:</b>      |    |               |                  |
| United States                                    | \$ | 9,010         | \$ 35,378        |
| Foreign  |    | 1,172         | 5,029            |
|  | \$ | <b>10,182</b> | \$ <b>40,407</b> |
| <b>Long-lived assets at the end of the year:</b> |    |               |                  |
| United States                                    | \$ | 12,729        | \$ 959           |
| Foreign  |    | 298           | 20               |
|  | \$ | <b>13,027</b> | \$ <b>979</b>    |

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**FORGENT NETWORKS, INC.**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Amounts in thousands, except per share data or otherwise noted)**

**18. SUBSEQUENT EVENTS (UNAUDITED)**

On September 6, 2007, Forgent filed a petition against Wild Basin One & Two, Ltd. ( Wild Basin ) in the District Court of Travis County, Texas. The petition claimed Wild Basin was in breach of contract relating to Forgent s lease agreement by unreasonably withholding and delaying its consent to Forgent s lease assignment to a third party. This petition was subsequently amended to include claims of fraud and breach of fiduciary duty. Forgent sought to recover all damages as a result of the delay in closing its pending assignment and amounts not distributed in the past, among other damages.

The trial for this litigation commenced on September 22, 2008. Prior to the conclusion of the trial, Forgent and Wild Basin reached a settlement agreement, effective September 25, 2008. This settlement agreement requires, among other terms, that Wild Basin consents to Forgent s lease assignment. In return, Forgent will pay Wild Basin \$75. Both parties agreed to mutually release claims against each other. As required by the settlement agreement, Forgent expects to finalize the lease assignment by December 31, 2008 and anticipates significant savings in rent expense after the lease is assigned to the third party. However, there is no assurance that Forgent will finalize the lease assignment, or if finalized, that it will occur by the December 31, 2008 deadline.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) 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.

FORGENT NETWORKS, INC.

January 27, 2009

By

/s/

RICHARD N. SNYDER  
Richard N. Snyder  
Chief Executive Officer

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**INDEX TO EXHIBITS**

| <b>EXHIBIT<br/>NUMBER</b> | <b>DOCUMENT DESCRIPTION</b>   |
|---------------------------|---|
| 2.1                       | Agreement and Plan of Merger and Reorganization dated as of January 6, 1997 by and among VTEL, VTEL-Sub, Inc. and CLI (incorporated by reference to the Exhibit 99.1 of VTEL's Report on Form 8-K dated January 6, 1997).   |
| 2.2                       | Agreement and Plan of Merger, dated as of September 11, 2007 by and among Forgent Networks, Inc., Cheetah Acquisition Company, Inc. and iSarla Inc. (incorporated by reference to Exhibit 2.2 to the Company's quarterly report on Form 10-Q for the three months ended October 31, 2007).  |
| 3.1                       | Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Company's quarterly report on Form 10-Q for the three months ended October 31, 2004).  |
| 3.2                       | Restated Bylaws (incorporated by reference to Exhibit 3.2 to the Company's quarterly report on Form 10-Q for the three months ended October 31, 2004).  |
| 4.1                       | Specimen Certificate for the Common Stock (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-1, File No. 33-45876, as amended).  |
| 4.2                       | Rights Agreement, dated as of December 19, 2005 between Forgent Networks, Inc. and American Stock Transfer & Trust Company, which includes the form of Series A Preferred Stock, \$.01 par value, the form of Rights Certificate, and the Summary of Rights (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K dated December 19, 2005). |
| 10.2                      | VideoTelecom Corp. 1989 Stock Option Plan, as amended (incorporated by reference to Exhibit 4.1 to the Company's Registration on Form S-8, File No. 33-51822).  |
| 10.3                      | Form of VideoTelecom Corp. Nonqualified Stock Option Agreement (incorporated by reference to Exhibit 10.16 to the Company's Registration Statement on Form S-1, File No. 33-45876, as amended).   |
| 10.4                      | Form of VideoTelecom Corp. Incentive Stock Option Agreement (incorporated by reference to Exhibit 10.17 to the Company's Registration Statement on Form S-1, File No. 33-45876, as amended).  |
| 10.8                      | VideoTelecom Corp. 1992 Director Stock Option Plan (incorporated by reference to Exhibit 4.1 to the Company's Registration on Form S-8, File No. 33-51822).   |
| 10.9                      | VideoTelecom Corp. Employee Stock Purchase Plan (incorporated by reference to Exhibit 4.1 to the Company's Registration on Form S-8, File No. 33-51822).  |
| 10.12                     | Amendment to the VideoTelecom Corp. 1989 Stock Option Plan and the 1992 Director Stock Option Plan (the terms of which are incorporated by reference to the Company's 1996 Definitive Proxy Statement).   |
| 10.13                     | The VTEL Corporation 1996 Stock Option Plan (the terms of which are incorporated by reference to the Company's 1995 Definitive Proxy Statement).  |
| 10.14                     | Amendment to the VTEL Corporation 1996 Stock Option Plan (the terms of which are incorporated by reference to the Company's Joint Proxy Statement filed on April 24, 1997).   |

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- 10.18 Lease Agreement, dated January 30, 1998, between 2800 Industrial, Inc., Lessor and VTEL Corporation, Lessee (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the three months ended April 30, 1998).
- 10.19 First Amendment, dated March 11, 1998, to Lease Agreement dated January 30, 1998, between 2800 Industrial, Inc., Lessor and VTEL Corporation, Lessee (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the three months ended April 30, 1998).
- 10.20 The VTEL Corporation 1998 Restricted Stock Plan (the terms of which are incorporated by reference to the Company's 1998 Definitive Proxy Statement).
- 10.25 Change-in Control Agreements with members of senior management of the Company (incorporated by reference to Exhibit 10.25 of the Company's Quarterly Report on Form 10-Q for the three months ended January 31, 2005).
- 10.25(a) \* Nancy L. Harris
- 10.26 Resolution Agreement dated December 21, 2004, by and between Forgent Networks, Inc., Compression Labs, Inc. and Jenkens & Gilchrist, a Professional Corporation (incorporated by reference to Exhibit 10.26 of the Company's Quarterly Report on Form 10-Q for the three months ended January 31, 2005).
- 10.27 Agreement dated January 11, 2005 but entered into and executed January 13, 2005 by and between Forgent Networks, Inc., Compression Labs, Inc. and Godwin Gruber, LLP (incorporated by reference to Exhibit 10.27 of the Company's Quarterly Report on Form 10-Q for the three months ended January 31, 2005).
- 10.28 Agreement dated January 19, 2005, by and between Forgent Networks, Inc., Compression Labs, Inc. and The Roth Law Firm, P.C. (incorporated by reference to Exhibit 10.28 of the Company's Quarterly Report on Form 10-Q for the three months ended January 31, 2005).
- 10.29 Settlement Agreement, dated April 28, 2005, by and among Forgent Networks, Inc., Forgent Networks Canada, Inc., Network Simplicity Software, Inc., Extreme Ease Software, Inc., and James Dean (incorporated by reference to Exhibit 10.29 of the Company's report on Form 8-K dated May 4, 2005).
- 10.30 Amended and Restated Agreement, effective May 1, 2005, by and among Forgent Networks, Inc., Compression Labs, Inc., and Godwin Gruber, LLP (incorporated by reference to Exhibit 10.30 of the Company's report on Form 8-K dated May 25, 2005).
- 10.31 Separation Agreement and Full and Final Release of Claims, dated May 24, 2005, by and among Forgent Networks, Inc. and Ken Kalinoski (incorporated by reference to Exhibit 10.31 of the Company's report on Form 8-K dated May 31, 2005).
- 10.32 Legal Services Fee Agreement, effective October 26, 2005, by and among Forgent Networks, Inc., Compression Labs, Inc. and Susman Godfrey LLP (incorporated by reference to Exhibit 10.32 of the Company's annual report on Form 10-K for the year ended July 31, 2005).
- 10.33 Legal Services Fee Agreement, effective April 14, 2006, by and among Forgent Networks, Inc., Hagans, Bobb & Burdine, P.C. and Bracewell & Giuliani, L.L.P (incorporated by reference to Exhibit 10.33 of the Company's Quarterly Report on Form 10-Q for the three months ended April 30, 2006).
- 10.34 Amended Restricted Stock Plan, effective May 23, 2006 (incorporated by reference to Exhibit 10.34 of the Company's Quarterly Report on Form 10-Q for the three months ended April 30, 2006).
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- 10.35 Patent License and Settlement Agreement, effective October 25, 2006, by and among Forgent Networks, Inc., ACER, Incorporated, Agfa-Gevaert N.V., BancTec, Inc., Canon Inc., Concord Camera Corp., Creative Technology, Ltd., Dell Inc., Eastman Kodak Company and Creo, Inc., FUJIFILM Holdings Corporation, Fujitsu Limited, Gateway, Inc., Hewlett Packard Company, International Business Machines Corporation, Kyocera Corporation, Matsushita Electric Industrial Co., Ltd., Microsoft Corporation, Mitsubishi Electric Corporation, Palm, Inc., Ricoh Company, Ltd., Sun Microsystems, Inc., Thomson, Inc., TiVo Inc., and Toshiba Corporation (incorporated by reference to Exhibit 10.35 of the Company's Annual Report on Form 10-K for the year ended July 31, 2006).
- 10.36 Second Asset Purchase Agreement, effective November 21, 2002, between Forgent Networks, Inc. and Tandberg Telecom AS (incorporated by reference to Exhibit 10.36 of the Company's Quarterly Report on Form 10-Q for the three months ended October 31, 2006).
- 10.37 Amended Legal Services Fee Agreement, effective September 1, 2006, by and among Forgent Networks, Inc., Hagans, Burdine, Montgomery, Rustay & Winchester, P.C. and Bracewell & Giuliani, L.L.P. (incorporated by reference to Exhibit 10.37 of the Company's Quarterly Report on Form 10-Q for the three months ended October 31, 2006).
- 10.38 Forgent Networks, Inc. Incentive Bonus Plan (incorporated by reference to Exhibit 10.38 of the Company's Quarterly Report on Form 10-Q for the three months ended October 31, 2006)
- 10.39 Settlement and Patent License Agreement, effective April 25, 2007, by and among Forgent Networks, Inc., Motorola, Inc. and Digeo, Inc. (incorporated by reference to Exhibit 10.38 of the Company's Quarterly Report on Form 10-Q for the three months ended April 30, 2007).
- 10.40 Settlement and License Agreement, effective April 25, 2007, between Forgent Networks, Inc. and Cisco Systems, Inc. (incorporated by reference to Exhibit 10.39 of the Company's Quarterly Report on Form 10-Q for the three months ended April 30, 2007).
- 10.41 Settlement and License Agreement, effective May 13, 2007, between Forgent Networks, Inc. and DIRECTV, Inc. (incorporated by reference to Exhibit 10.41 of the Company's Annual Report on Form 10-K for the year ended July 31, 2007)
- 10.42 Employment Agreement with Fenil Shah dated October 5, 2007 (incorporated by reference to Exhibit 10.42 of the Company's Quarterly Report on Form 10-Q for the three months ended October 31, 2007).
- 10.43 Employment Agreement with Snehal Shah dated October 5, 2007 (incorporated by reference to Exhibit 10.42 of the Company's Quarterly Report on Form 10-Q for the three months ended October 31, 2007).
- 21.1\*\* List of Subsidiaries
- 23.1\*\* Consent of Independent Registered Public Accounting Firm
- 31.1\*\* Certification pursuant to Section 302 of Sarbanes-Oxley Act of 2002
- 31.2\*\* Certification pursuant to Section 302 of 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
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|----|---------------------|
| *  | Management contract |
| ** | Filed herewith.     |

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