

INTELLISYNC CORP  
Form POS AM  
March 24, 2005  
Table of Contents

As filed with the Securities and Exchange Commission on March 24, 2005

Registration No. 333-116146

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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549

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**Post-Effective Amendment No. 3**  
**to**  
**FORM S-3**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*

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**INTELLISYNC CORPORATION**

(Exact name of registrant as specified in its charter)

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Delaware  
(State or other jurisdiction of

77-0349154  
(I.R.S. Employer

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incorporation or organization)

Identification No.)

**2550 North First Street, San Jose, California 95131**

**(408) 321-7650**

(Address, including zip code, and telephone number, including area  
code, of registrant's principal executive offices)

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**Woodson Hobbs**

**President and Chief Executive Officer**

**Intellisync Corporation**

**2550 North First Street, San Jose, California 95131**

**(408) 321-3800**

(Name, address, including zip code, and telephone number,  
including area code, of agent for service)

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***COPIES TO:***

**Elias J. Blawie**

**Heller Ehrman White & McAuliffe LLP**

**2775 Sand Hill Road**

**Menlo Park, California 94025**

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**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effective date of this Registration Statement.

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If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. "

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. x

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. " \_\_\_\_\_

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. " \_\_\_\_\_

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. "

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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### Explanatory Note

The Registrant is filing this Post-Effective Amendment No. 3 to Form S-3 Registration Statement to update the table under the caption "Selling Securityholders" in the prospectus contained herein and to add the name and respective holdings of a selling securityholder.

**Table of Contents**

**The information in this prospectus is not complete and may be changed. The selling securityholders may not sell these securities until the post-effective amendment to the registration statement filed with the Securities and Exchange Commission becomes effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

**Subject to Completion, dated March 24, 2005**

**PROSPECTUS**

## **INTELLISYNC CORPORATION**

### **\$60,000,000 3% Convertible Senior Notes due March 1, 2009 and the Common Stock Issuable Upon Conversion of the Notes**

We issued the notes in a private placement in March 2004. This prospectus will be used by selling securityholders to resell their notes and the common stock issuable upon conversion of their notes.

The notes are convertible, at the option of the securityholder, at any time prior to maturity into shares of our common stock at an initial conversion rate of 250.0000 shares per \$1,000 principal amount of notes, subject to adjustment. We will pay interest on the notes on March 1 and September 1 of each year, beginning on September 1, 2004. The notes will mature on March 1, 2009, unless either converted or redeemed.

We may not redeem any of the notes prior to their maturity. In addition, holders may require us to repurchase the notes upon some types of change in control transactions.

The notes are not listed on any securities exchange or included in any automated quotation system. Our common stock is quoted on the Nasdaq National Market under the symbol SYNC. On March 21, 2005, the last reported sales price of our common stock was \$3.30 per share.

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**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.**

**Investing in the notes or the common stock offered by this prospectus involves risk. Beginning on page 4, we have listed several Risk Factors which you should consider. You should read the entire prospectus carefully before you make your investment decision.**

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**The date of this prospectus is           , 2005.**

**Table of Contents**

**TABLE OF CONTENTS**

	<b>Page</b>
<u>PROSPECTUS SUMMARY</u>	1
<u>RISK FACTORS</u>	4
<u>USE OF PROCEEDS</u>	21
<u>RATIO OF EARNINGS TO FIXED CHARGES</u>	21
<u>DESCRIPTION OF NOTES</u>	22
<u>DESCRIPTION OF CAPITAL STOCK</u>	31
<u>SELLING SECURITYHOLDERS</u>	33
<u>U.S. FEDERAL INCOME TAX CONSIDERATIONS</u>	34
<u>PLAN OF DISTRIBUTION</u>	39
<u>LEGAL MATTERS</u>	40
<u>EXPERTS</u>	40
<u>WHERE YOU CAN FIND ADDITIONAL INFORMATION</u>	40
<u>INCORPORATION OF DOCUMENTS BY REFERENCE</u>	40

**WE HAVE NOT AUTHORIZED ANY DEALER, SALES PERSON OR OTHER PERSON TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS PROSPECTUS OR ANY PROSPECTUS SUPPLEMENT. YOU MUST NOT RELY ON ANY UNAUTHORIZED INFORMATION. THIS PROSPECTUS IS NOT AN OFFER OF THESE SECURITIES IN ANY STATE WHERE AN OFFER IS NOT PERMITTED. THE INFORMATION IN THIS PROSPECTUS IS ACCURATE AS OF THE DATE ON THE COVER. YOU SHOULD NOT ASSUME THAT THIS PROSPECTUS IS ACCURATE AS OF ANY OTHER DATE.**

**Table of Contents**

**PROSPECTUS SUMMARY**

The following is a summary of our business. You should carefully read the section entitled "Risk Factors" in this prospectus, our Annual Report on Form 10-K for the year ended July 31, 2004, our Quarterly Reports on Form 10-Q for the periods ended October 31, 2004 and January 31, 2005, respectively, and our other filings, for more information on our business and the risks involved in investing in our stock.

In addition to the historical information contained in this prospectus, this prospectus contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These statements may be identified by the use of words such as "expects," "anticipates," "intends," "plans" and similar expressions. The outcome of the events described in these forward-looking statements is subject to risks and actual results could differ materially. The section entitled "Risk Factors" beginning on page 4 of this prospectus, and the sections titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business" in our Annual Report and Quarterly Reports contain a discussion of some of the factors that could contribute to those differences.

**INTELLISYNC CORPORATION**

Intellisync Corporation provides organizations with a suite of software products and services that synchronizes and distributes information that is critical to employees, customers and partners. Our Intellisync® software synchronizes information stored on a wide variety of mobile devices, through either a wired or wireless connection, such as the PalmOne Treo, RIM, Sony Clie and currently available smartphones, as well as enterprise groupware and vertical applications, such as Microsoft Outlook, Lotus Notes and PeopleSoft CRM. Our products effectively address the growing number of devices, access points, and data sources utilized by mobile workers in today's enterprise, allowing organizations to improve productivity while reducing complexity. As a result, enterprises are able to leverage their existing investments without having to add costly mobile infrastructure. Our customer base has grown to include more than 200 original equipment manufacturers (OEMs), such as AOL, IBM, PeopleSoft and RIM, and approximately 1000 large enterprise accounts, including Domino's Pizza, Merck, Pfizer and Procter & Gamble.

Since 1993, we have designed and developed mobile solutions for businesses and individuals worldwide. Our Intellisync software platform provides fast and accurate synchronization for today's leading device and application platforms, including Palm OS, Pocket PC, Windows CE, Symbian, Pocket PC for Phones, Microsoft Exchange/Outlook, Lotus Domino/Notes, Novell GroupWise and ACT!. Our Intellisync Mobile Suite provides enterprises with a single resource for securely synchronizing personal information management, or PIM applications, email and custom database information, both locally and remotely, between desktop PCs, servers and mobile devices, and for managing handheld software and devices from one centralized location. Through our Intellisync products, we enable businesses, mobile professionals and consumers to leverage the increasing capabilities of new devices and applications while maintaining a secure and consistent record of information that is critical to their productivity. At the core of our synchronization and mobile infrastructure capabilities is our proprietary technology, for which we maintain a portfolio of 64 issued patents with more than 50 additional applications pending. In order to extend our technology leadership, we maintain research and development professionals in the United States and in Eastern Europe.

**Company**

Intellisync Corporation was incorporated in the state of California in August 1993 as Puma Technology, Inc. and we reincorporated in the state of Delaware in November 1996. We changed our corporate name from Pumatech, Inc. to Intellisync Corporation, effective February 17, 2004. Our principal executive offices are located at 2550 North First Street, Suite 500, San Jose, California 95131, and our website is [www.intellisync.com](http://www.intellisync.com). Our telephone number is (408) 321-7650. As of January 31, 2005, we had approximately 385 full-time employees. The information posted on our website is not incorporated into this prospectus.





**Table of Contents**

**TERMS OF THE NOTES**

This prospectus covers the resale of \$60,000,000 aggregate principal amount of the notes and 15,000,000 of our shares of common stock, plus an indeterminate number of additional shares of common stock that may be issued from time to time upon conversion of the notes as a result of antidilution adjustments and as additional interest, in circumstances described in the prospectus.

We issued and sold \$60,000,000 aggregate principal amount of the notes on February 26, 2004, in a private offering to Morgan Stanley & Co. Incorporated, CIBC World Markets and Needham & Company, Inc., which we refer to collectively as the Initial Purchasers. We were told by the Initial Purchasers that the notes were resold in transactions which were exempt from the registration requirements of the Securities Act of 1933, as amended, or the Securities Act, to persons the Initial Purchaser represented to us that it reasonably believed were qualified institutional buyers (as defined in Rule 144A under the Securities Act).

Shares of our common stock may be offered by the selling securityholders following the conversion of the notes.

The following is a brief summary of the terms of the notes. For a more complete description of the notes, you should read the section entitled Description of the Notes beginning on page 22 of this prospectus.

Securities Offered	\$60,000,000 principal amount of 3% Convertible Senior Notes due 2009.
Maturity Date	March 1, 2009.
Ranking	The notes are senior unsecured obligations of Intellisync and rank junior to any future secured debt, on a parity with all of our other existing and future senior unsecured debt and prior to any existing or future subordinated debt. As of October 31, 2004, Intellisync had no other senior or subordinated debt, except for ordinary course trade payables.
Interest	3% per annum on the principal amount, payable semi-annually in arrears in cash on March 1 and September 1 of each year, beginning September 1, 2004.
Conversion	You may convert the notes into shares of our common stock at a conversion rate of 250.0000 shares per \$1,000 principal amount of notes, subject to adjustment, prior to the close of business on the final maturity date.
Redemption	We may not redeem any of the notes prior to their maturity without your consent.
Designated Event	If a designated event (as described under Description of Notes- Redemption at Option of the Holder ) occurs prior to maturity, you may require us to redeem all or part of your notes at a repurchase price equal to 100% of their principal amount, plus accrued and unpaid interest.
Use of Proceeds	We will not receive any proceeds from the sale of the notes or the shares of common stock offered by this prospectus.
Registration Rights	We agreed to file a shelf registration statement, of which this prospectus is a part, with the SEC covering the resale of the notes and the underlying common stock within 90 days after the closing date of the offering of the notes. We will use our reasonable best efforts to have the registration statement declared effective within 180 days of the date of filing and to use our reasonable best efforts to keep the shelf registration statement effective until either of the following has occurred:

all securities covered by the registration statement have been sold; or

-2-

**Table of Contents**

the expiration of the applicable holding period with respect to the notes and the underlying common stock under Rule 144(k) under the Securities Act of 1933, as amended, or any successor provision.

DTC Eligibility

The notes were issued in book-entry form and are represented by one or more permanent certificates deposited with a custodian for and registered in the name of a nominee of The Depository Trust Company, or DTC, in New York, New York. Beneficial interests in any such securities are shown on, and transfers are effected only through records maintained by DTC and its direct and indirect participants, and any such interest may not be exchanged for certificated securities. See Description of Notes-Form, Denomination and Registration-Global Note, Book-Entry Form.

Trading

The notes are not currently listed and we do not intend to list the notes on any national securities exchange. Although the notes are currently eligible for trading on the PORTAL Market, notes resold pursuant to the registration statement of which this prospectus is a part will no longer be eligible for trading on the PORTAL Market.

Nasdaq National Market Symbol of our Common Stock

SYNC

Risk Factors

Investment in the notes and the common stock issuable upon conversion of the notes involves risk. You should carefully consider the information under Risk Factors and all other information included or incorporated by reference in this prospectus before investing in the notes or our common stock.

**Table of Contents**

**RISK FACTORS**

*An investment in the notes and the common stock issuable upon conversion of the notes involves significant risks. You should carefully consider the risks and uncertainties described below and the other information in or incorporated by reference into this prospectus including our financial statements before deciding whether to buy our notes and shares of our common stock issuable upon conversion of our notes. The risks and uncertainties described below are intended to be the ones that are specific to our company or industry and that we deem to be material, but are not the only ones that we face. These factors, among others, may cause actual results, events or performance to differ materially from those expressed in any forward-looking statements we make or incorporate by reference in this prospectus.*

**Risks Related to Our Business**

*We have historically incurred losses and we expect these losses to continue in the future. We may not be able to sustain consistent future revenue growth on a quarterly or annual basis, or achieve or maintain profitability.*

We have not been profitable since fiscal 1998. We cannot be certain that our revenue will continue to grow or remain at the same level, or that our revenues will not decline in the future. We have experienced losses of \$973,000 and \$4,479,000 for the three and six months ended January 31, 2005, respectively, and \$3,252,000 and \$5,513,000 for the corresponding periods in fiscal 2004. At January 31, 2005, we had an accumulated deficit of \$135.6 million. To become profitable and sustain profitability, we will need to generate additional revenues to offset our expenses. We may not achieve or sustain revenue growth and our losses may continue or increase in the future. The synchronization market is new and evolving, and as a result we cannot accurately predict either the future growth rate, if any, or the ultimate size of the market for our products and services. Because our operating expenses are relatively fixed in the short term, any shortfalls in revenues would materially affect our results of operations.

*Our quarterly revenues and operating results are subject to significant fluctuations, and our stock price may decline if we do not meet the expectations of investors and analysts.*

Our quarterly revenues and operating results are difficult to predict and have and may in the future fluctuate significantly from quarter to quarter due to a number of factors, many of which are outside our control. These factors include, but are not limited to:

market acceptance of products in which our software is integrated by original equipment manufacturers, or OEMs;

growth in the market for enterprise synchronization applications and our ability to successfully address this market;

our ability to realize our goals with respect to recent and potential future acquisitions;

our need and ability to generate and manage growth;

rapid evolution of technology;

our evolving business model;

litigation-related expenses;

our reliance on international sales and growth;

our ability to penetrate the international market;

fluctuations in gross margins;

the seasonal nature of the market for some of our products;

changes in the market for mobility and identity search/screening software;

**Table of Contents**

introduction of new products and services by us or our competitors;

the recent decline in the market for traditional personal digital assistants;

changes in our mix of sources of revenues;

entrenched and substantial competition; and

continued difficult political and economic conditions.

Additionally, we generally derive our technology licensing revenues from multi-year contracts with enterprise and other customers that frequently include license fees, professional services fees, royalty payments and maintenance. We typically earn both the license fees and the professional services in the initial one or two quarters subsequent to the signing of a contract. We periodically have large professional services implementations that individually contribute as much as 5% or more to quarterly revenue. Combined with related license revenues, total revenue from individual customers in the initial quarters of a contract may exceed the revenues we earn during subsequent periods covered by the contract. To the extent that we do not secure additional contracts with the same customer or secure comparably sized commitments from other customers, we may not be able to sustain or grow our revenues.

*If we fail to develop and sell products designed for OEMs, enterprises and mobile carriers, our revenues and operating results will be adversely affected.*

We have recently made substantial investments to develop and offer an expanded range of enterprise synchronization applications, including our acquisition of Synchronologic and Identity Systems. Our operating plans assume revenue growth from the enterprise market. Enterprise sales present a variety of challenges that are different from those inherent in our historical licensing and consumer business model, and we have limited experience addressing these challenges. For example, enterprise sales typically involve large up-front license fees, which can result in lengthy sales cycles and uncertainties as to the timing of sales driven by customers' budgetary processes. As a result, we generally have less visibility into future enterprise sales than is typically the case in our royalty-based technology licensing business. In addition, while enterprise sales generally result in ongoing maintenance revenues and may lead to follow-on purchases or upgrades, we are typically dependent on sales to new customers for a significant portion of our enterprise revenues in a given quarter. If our product and service offerings fail to achieve market acceptance, or if enterprise sales fail to meet our expectations in a particular quarter, our revenues and operating results may be materially and adversely affected.

*Our business and prospects depend, to a significant degree, on demand for wireless and other mobile computing devices.*

The use of wireless and other mobile computing devices for retrieving, sharing and transferring information among businesses, consumers, suppliers and partners has begun to develop only in recent years. Our success will depend in large part on continued growth in the use of wireless and other mobile computing devices, including handheld computers, smart phones, pagers and other mobile devices. In addition, our markets face critical unresolved issues concerning the commercial use of wireless and other mobile computing devices, including security, reliability, cost, ease of access and use, quality of service, regulatory initiatives and necessary increases in bandwidth availability. Demand for, and market acceptance of, wireless and other mobile computing devices which require our products and services are subject to a high level of uncertainty and are dependent on a number of factors, including:

growth in sales of handheld devices, smart phones and other mobile computing devices supported by our software and growth in wireless network capabilities to match end-user demand and requirements;

**Table of Contents**

emergence of a viable and sustainable market for wireless and mobile computing services;

our product and service differentiation and quality;

the development of technologies that facilitate interactive communication between organizations;

our distribution and pricing strategies as compared with those of our competitors;

the growth in access to, and market acceptance of, new interactive technologies;

increases in bandwidth for data transmission;

the effectiveness of our marketing strategy and efforts;

our industry reputation; and

general industry and economic conditions such as slowdowns in the computer or software markets or the economy in general.

If the market for wireless and other mobile computing devices as a commercial or business medium does not develop, or develops more slowly than expected, our business, results of operations and financial condition will be seriously harmed.

Even if the wireless and mobile computing services market does develop, our products and services may not achieve widespread market acceptance. If our target customers do not adopt, purchase and successfully deploy our other current and planned products and services, our revenue will not grow significantly and our business, results of operations and financial condition will be seriously harmed.

***We are placing increasing emphasis on our hosting services, of which potential growth may be difficult to manage effectively, and, as a result, our results of operations could be adversely affected.***

We are increasingly focusing our sales and marketing and engineering efforts on hosting services. This focus may cause increased business risks associated specifically with our ability to manage the level of complexity involved in executing successfully our strategies to provide superior services for mobile carriers. The rapid growth of our hosting business may place a significant strain on our management, operations and resources. Our future performance and profitability will depend on our ability to:

increase our capital investments and further build our infrastructure to meet the demands of our carrier customers;

maintain technical capabilities to compete effectively in the hosting business; and



effectively oversee and manage our outsourced hosting center.

There can be no assurance that our systems, procedures and controls will be adequate to support rapid expansion of our hosting services. If we are unable to manage such growth successfully, our business and results of operations could be harmed.

## Table of Contents

*We expect that we may become increasingly dependent on mobile carriers for the success of our wireless software.*

The success of our wireless business strategy is increasingly becoming dependent on our ability to establish new relationships and build on our existing relationships with domestic and international mobile carriers. We cannot assure you that we will be successful in establishing new relationships or advancing existing relationships with mobile carriers or that these mobile carriers will act in a manner that will promote the success of our wireless products. Factors that are largely within the control of mobile carriers but which are important to our success, include:

the degree to which mobile carriers facilitate the introduction of and actively promote, distribute and resell our products;

testing of our products on mobile carriers' networks;

quality and coverage area of wireless services offered by the mobile carriers;

the extent to which mobile carriers require specific hardware and software features on our products to be used on their networks;

contractual terms and conditions imposed on us by mobile carriers that, in some circumstances, could limit our ability to make similar products available through competitive carriers in some market segments; and

mobile carriers' pricing requirements and subsidy programs.

Mobile carriers have significant bargaining power as we negotiate agreements with them. They could require contract terms that are difficult for us to meet and could result in higher costs to complete certification requirements and negatively impact our results of operations and financial condition. Mobile carriers also place significant conditions on our ability to develop and launch products for use on their wireless networks. If we fail to address the needs of mobile carriers, identify new product and service opportunities or modify or improve our products in response to changes in technology, industry standards or mobile carrier requirements, our products could rapidly become less competitive or obsolete. If we fail to timely develop products that meet carrier product planning cycles or fail to deliver sufficient quantities of products in a timely manner to mobile carriers, those carriers may choose to offer similar products from our competitors and thereby reduce their focus on and cease offering our products which would have a negative impact on our business, results of operations and financial condition.

In addition, the potential rapid growth of our business, as we become more dependent on mobile carriers, may place a strain on our management, operations, employees, or resources. We may not be able to maintain a rapid growth rate, effectively manage our expanding operations, or achieve planned growth on a timely or profitable basis. If we are unable to manage our growth effectively, we may experience operating inefficiencies, and our net income may be materially adversely affected.

*Most sales with mobile carriers and enterprises have a long sales cycle process, which increases the cost of completing sales and renders completion of sales less predictable.*

The sales cycle process with mobile carriers could be long, making it difficult to predict the quarter in which we may recognize revenue from a sale, if at all. The general length of the sales cycle increases our costs and may cause license revenue and other operating results to vary

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significantly from period to period. Our products or technology often are part of significant strategic decisions by our customers regarding their information systems. Accordingly, the decision to license our products typically requires significant pre-purchase evaluation. We spend substantial time providing information to prospective customers regarding the use and benefits of our products. During this evaluation period, we may expend significant funds in sales and marketing efforts. If anticipated sales from a specific customer for a particular quarter are not realized in that quarter, our operating results may be adversely affected.

-7-

## **Table of Contents**

***Revenues from hosting services may carry lower gross margins and an overall increase in such revenues as a percentage of total revenues could have an adverse impact on our business.***

Our commitment to providing quality services to our enterprise and mobile carrier customers may result in our hosting services revenue having a lower gross margin than other services and license revenues. Due to the lower margin, an increase in the hosting services revenue as a percentage of total revenues could have a detrimental impact on our overall gross margins and could adversely affect operating results. In addition, a change in the mix between services that are provided by our own employees and those services provided by third-party vendors may negatively affect our gross margins.

***System failures or accidental or intentional security breaches could disrupt our operations, cause us to incur significant expenses, expose us to liability and harm our reputation.***

Our operations, including hosting services, depend upon our ability to maintain and protect our computer systems and core business applications, which are located at our offices, as well as hosted by third-party vendors. Although we are taking various precautions to maintain and protect our systems, they could still be vulnerable to damage from break-ins, unauthorized access, vandalism, fire, floods, earthquakes, power loss, telecommunications failures and similar events. We maintain insurance against break-in, unauthorized access, vandalism, fires, floods, earthquakes and general business interruptions. The amount of coverage, however, may not be adequate in any particular case, and will not likely compensate us for all the damages caused by these or similar events. In addition, while we put various security measures in place to detect any unauthorized access to our computers and computer networks, we may be unable to prevent computer programmers or hackers from penetrating our network security or creating viruses to sabotage or otherwise attack our computer networks from time to time. A breach of our security could seriously damage our operations or reputation. In addition, because a hacker who penetrates our network security could misappropriate proprietary information or cause interruptions in our services, we might be required to expend significant resources to protect against, or to alleviate, problems caused by hackers. We might also face liability to persons harmed by misappropriation of secure information if it is determined that we did not exercise sufficient care to protect our systems.

Systems failure or damage could cause an interruption of our services and result in loss of customers, difficulties in attracting new customers and could adversely impact our operating results. In addition, if the number of customers who purchase our hosting services increases over time, our systems must be able to accommodate increased usage. If we are unable to increase our capacity to accommodate growth in usage, we could encounter system performance issues, which could harm our relationships with customers and our reputation.

***We may be unable to adequately protect our proprietary rights.***

The rights we rely upon to protect our intellectual property underlying our products and services may not be adequate, which could enable third parties to use our technology and would reduce our ability to compete in the market. To protect our proprietary rights, we rely on a combination of patent, trademark, copyright and trade secret laws, confidentiality agreements with our employees and third parties, and protective contractual provisions. These efforts to protect our intellectual property rights may not be effective in preventing misappropriation of our technology. These efforts also may not prevent others from developing products or technologies similar to, competitive with, or superior to those we develop. Any of these results could reduce the value of our intellectual property. We may be forced to litigate to enforce or defend our intellectual property rights and to protect our trade secrets. Any such litigation could be very costly and could distract our management from focusing on operating our business. Moreover, our business could be harmed if our patents were determined to be invalid.

## **Table of Contents**

***We may be subject to intellectual property infringement claims, which are costly to defend and could limit our ability to use certain technologies in the future.***

Third parties may assert infringement or other intellectual property claims against us. From time to time, we receive notices from third parties alleging that our products or services infringe proprietary rights held by them. For example, as we announced in August 2004, NCR Corporation has filed a complaint alleging patent infringement in the U.S. District Court for the Southern District of Ohio Western Division (Dayton). In the complaint, NCR alleges that certain of our products infringe upon three of NCR's patents. Our customers may receive notices of patent or other infringement from third parties and ask for indemnification in the future. We cannot predict whether third parties will assert claims of infringement against us, or whether any past, present or future claims will prevent us from offering products or operating our business as planned.

Separately, on September 9, 2004, we filed a complaint in the U.S. District Court for the Northern District of California against NCR requesting, among other things, that a declaratory judgment be entered finding that we do not infringe an NCR patent (6,473,765) asserted against one of our licensees, Garmin Ltd., and finding that patent to be invalid. In response, NCR amended its suit against Garmin to withdraw its allegation of infringement of the 765 patent and stated that the Company has no liability to NCR for infringement of the 765 patent. NCR then moved to dismiss the California case on the basis that, because the Company could not be sued for infringement, the Court lacked jurisdiction to adjudicate the Company's declaratory judgment action. The motion was granted and the California case was dismissed on November 22, 2004. The Company is appealing this decision.

Due to the inherently uncertain nature of intellectual property protection and the competitive area in which we operate our business, it is possible that some or all of our products and services could be found to be infringing on the intellectual property of others. We may have to pay substantial damages, including treble damages, for past infringement if it is ultimately determined that our products or services infringe a third party's proprietary rights. We may have to comply with injunctions, or stop distributing our products and services while we re-engineer them or seek licenses to necessary technology, which might not be available on reasonable terms, or at all. We could also be subject to claims for indemnification resulting from infringement claims made against our customers, which could increase our defense costs and potential damages. Even if the claims are without merit, defending a lawsuit takes significant time, may be expensive and may divert management's attention from other business concerns.

***We have been, are and may in the future be involved in litigation that could result in significant costs to us.***

In order to protect our proprietary rights, we may decide to sue other companies. Litigation proceedings are inherently uncertain, and we may not prevail in our defenses or claims. In addition, such litigation is expensive and time-consuming, and management has been in the past and may in the future be required to spend significant time in the prosecution of such suits. If we do not prevail in our claims, we might be forced to accept an unfavorable settlement or judgment and even be required to reimburse other companies in a suit for their legal expenses in defending the suit. An unfavorable settlement or judgment could also materially harm our ability to use existing intellectual property and severely harm our business as a result.

If we are forced to defend against third-party infringement claims such as that made by NCR, whether they are with or without merit or are determined in our favor, we could face expensive and time-consuming litigation, which could distract technical and management personnel, or result in product shipment delays. If an infringement claim is determined against us, we may be required to pay monetary damages or ongoing royalties. Further, as a result of infringement claims either against us or against those who license technology to or from us, we may be required to develop non-infringing intellectual property or enter into costly royalty or licensing agreements. Such royalty or licensing agreements, if required, may be unavailable on terms that are acceptable to us, or at all. If a third party successfully asserts an infringement claim against us and we are required to pay monetary damages or royalties or we are unable to develop suitable non-infringing alternatives or license the infringed or

similar intellectual property on reasonable terms on a timely basis, it could significantly harm our business. Any litigation, whether

## **Table of Contents**

brought by or against us, could cause us to incur significant expenses and could divert a large amount of management time and effort. A claim by us against a third party could, in turn, cause a counterclaim by the third party against us, which could impair our intellectual property rights and harm our business.

*We face intense competition in the market for mobile computing synchronization products and services, which could reduce our market share and revenues.*

Our market contains few substantial barriers to entry. We believe we will face additional competition from existing competitors and new market entrants in the future. We are subject to current and potential competition with respect to our Intellisync Handheld Edition, Intellisync Handheld Edition for Enterprise, Intellisync Mobile Suite, Intellisync Phone Edition, Intellisync goAnywhere and Identity Search Servers.

Intellisync Mobile Suite enterprise server software    CommonTime, Extended Systems, Good Technology, Inc., JP Mobile, Inc., Research In Motion Limited, Sybase Inc.    s iAnywhere, and others.

Intellisync Mobile Suite and Intellisync goAnywhere software for mobile carriers    Good Technology, Inc., Research In Motion Limited, Seven Networks, Inc., Smartner Information Systems Ltd, Visto Corporation, and others.

Intellisync consumer and enterprise desktop sync products    Chapura, Inc.    s Pocket Mirror, CommonTime    s Cadenza mNotes, Extended Systems, Inc., IBM Corporation, Microsoft Corporation ActiveSync, Palm Desktop from PalmSource, Inc., Sybase Inc.    s iAnywhere, and others.

Intellisync Phone Edition software    FutureDial, Inc.    s SnapSync, Susteen, Inc.    s DataPilot and others.

Identity Search Server    Ascential, Dataflux, Firstlogic, Group1, IBM Corporation, Intelligent Search Technology, Language Analysis Systems, Trillium Software, and others.

In addition to the direct competition noted above, we face indirect competition from existing and potential customers that may provide internally developed solutions for each of our technology licensing components. As a result, we must educate prospective customers as to the advantage of our products compared to internally developed solutions. We currently face limited direct competition from major applications and operating systems software vendors who may in the future choose to incorporate data synchronization functionality into their operating systems software, thereby potentially reducing the need for OEMs to include our products in their devices. For example, Microsoft's inclusion of certain features permitting data synchronization between computers utilizing the Windows 2000, Windows Me, Windows NT or Windows XP operating systems, or the Exchange 2003 platform, may have the effect of reducing revenue from our software if users of these operating systems perceive that their data synchronization needs are adequately met by Microsoft.

Many of our competitors have substantially greater financial, technical and marketing resources, larger customer bases, longer operating histories, greater brand recognition and more established relationships in the industry than we do. Our larger competitors may be able to provide customers with additional benefits in connection with their products and costs, including reduced communications costs. As a result, these companies may be able to price their products and services more competitively than we can and respond more quickly to new or emerging technologies and changes in customer requirements. If we are unable to compete successfully against our current or future competitors, we may lose market share, and our business and prospects would suffer.





## **Table of Contents**

*We may have difficulty implementing in a timely manner the internal controls procedures necessary to allow our management to report on the effectiveness of our internal controls, and we may incur substantial costs in order to comply with the requirements of the Sarbanes-Oxley Act of 2002.*

The Sarbanes-Oxley Act of 2002 has introduced many new requirements applicable to us regarding corporate governance and financial reporting. Among many other requirements is the requirement under Section 404 of the Act for management to report on our internal controls over financial reporting and for our independent registered public accountant to attest to this report. We are required to comply with Section 404 effective the current fiscal year. Our management has begun the necessary processes and procedures for issuing its report on our internal controls.

Our recent acquisitions of companies, some of which have operations outside the United States, provided us with challenges in implementing the required processes and procedures in our acquired operations. Acquired companies may not have disclosure controls and procedures or internal controls over financial reporting that are as thorough or effective as those required by securities law in the United States. We, therefore, intend to devote substantial time and have incurred and will continue to incur substantial costs during fiscal 2005 to ensure ongoing compliance. We cannot, however, be certain that we will be successful in complying with Section 404.

*Future sales of our common stock, including the shares underlying the convertible senior notes we recently issued, may depress our stock price.*

If our current stockholders sell substantial amounts of common stock in the public market, the market price of our common stock could fall. In addition, these sales of common stock could adversely affect the trading price of our recently issued convertible senior notes and impede our ability to raise funds in the future at an advantageous price, or at all, through another sales of securities. We have recently issued shares of our common stock in connection with our acquisitions of Synchrologic and Spontaneous Technology.

As of January 31, 2005, we had approximately 66,368,413 shares of common stock outstanding. The total number of outstanding shares includes a total of approximately 224,417 shares of common stock issued in connection with our acquisitions that are subject to certain contractual restrictions. These restrictions expire, and the shares will become freely tradable, as follows:

up to 224,417 shares released from escrow in February 2005, issued in connection with our acquisition of Spontaneous Technology.

Assuming that the maximum number of shares and options are issued and registered by us in connection with all of our recent acquisitions and assuming that all shares subject to vested options to purchase common stock under our stock plans are issued, additional shares of our common stock could become issued or issuable and freely tradeable in the public market through approximately January 31, 2006, as follows:

approximately 340,000 shares of our common stock that may be issued in February and August 2005 under our employee stock purchase plan; and

5,418,785 shares issuable upon exercise of outstanding options that will be vested by January 31, 2006.

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In addition, conversion of some or all of the \$60,000,000 aggregate principal amount of convertible subordinated notes that we issued in March 2004 will dilute the ownership interests of investors. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices for our common stock.

-11-

**Table of Contents**

*Our stock price has historically been and may continue to be volatile, which may cause you to lose money and could lead to costly litigation against us that could divert our resources.*

Stock markets have recently experienced dramatic price and volume fluctuations, particularly for shares of technology companies. These fluctuations can be unrelated to the operating performance of these companies. Broad market fluctuations may reduce the market price of our common stock and cause you to lose some or all of your investment. These fluctuations may be exaggerated if the trading volume of our common stock is low. In addition, due to the technology-intensive nature and growth rate of our business and the mobile computing synchronization market, the market price of our common stock has in the past and may in the future rise and fall in response to:

quarterly variations in operating results;

seasonal fluctuations on product sales;

announcements of technological innovations;

announcements of new software or services by us or our competitors;

acquisitions or strategic alliances by us or by our competitors;

commencement or outcome of litigation involving us;

changes in financial estimates by securities analysts; and

other events beyond our control, including general market conditions.

Furthermore, our operating results and prospects from time to time may be below the expectations of public market analysts or investors. Any negative change in the public's perception of companies in the wireless communications market could depress our stock price regardless of our operating results. Recently, companies experiencing high volatility or significant drops in their stock prices have faced securities class action lawsuits when the market price of a stock has been volatile. Holders of that stock have often instituted securities class action litigation against the company that issued the stock when such stock declines. If any of our stockholders brought such a lawsuit against us, we could incur substantial costs defending the lawsuit. The lawsuit could also divert the time and attention of our management. Further, any settlement of such a lawsuit could adversely affect us.

*If we fail to maintain our existing relationships or enter into new relationships with OEM and business development organizations, or if products offered by our OEM partners fail to achieve or maintain market acceptance, our brand awareness, the sales of our products and use of our services would suffer.*

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Our revenues from technology licensing depend, in large part, on our ability to develop and maintain relationships with OEMs and business development organizations that help distribute our products and promote our services. We depend on these relationships to:

distribute our products to purchasers of mobile devices;

increase the use of our technology licensing components;

build brand awareness through product marketing; and

-12-

## Table of Contents

market our products and services cooperatively.

If the products that these equipment manufacturers or business development organizations sell, or if the operating systems upon which these products are based, fail to achieve or sustain market acceptance, or if any of these companies cease to use our product and service offerings in significant volumes, our product sales would decline and our business would suffer. For example, if growth in the number of devices sold by our OEM partners is delayed or did not occur, our business would suffer.

Although several OEMs are subject to certain contractual minimum purchase obligations, we cannot be certain that any particular OEM will satisfy its minimum obligations. Weakening demand from any key OEM and the inability to replace revenue provided by such an OEM could have a material adverse effect on our business, operating results and financial condition. We maintain individually significant receivable balances from major OEMs. If these OEMs fail to meet their payment obligations, our operating results could be materially and adversely affected.

Our agreements with OEMs, distributors, and resellers generally are nonexclusive and may be terminated on short notice by either party without cause. Furthermore, our OEMs, distributors and resellers are not within our control, are not obligated to purchase products from us, and may represent other lines of products, including competing products. A reduction in sales effort or discontinuance of sales of our products by our OEMs, distributors, and resellers could lead to reduced sales and could materially adversely affect our operating results.

***Our market changes rapidly due to evolution in technology and industry standards. If we do not adapt to meet the sophisticated needs of our customers, our business and prospects will suffer.***

The market for our products and services is characterized by rapidly changing technology, evolving industry standards and frequent new product and service introductions. For example, the traditional personal digital assistant market, is declining and may continue to do so. Our future success will depend to a substantial degree on our ability to offer products and services that adapt to these changing markets, incorporate leading technology, address the increasingly sophisticated and varied needs of our current and prospective customers and respond to technological advances and emerging industry standards and practices on a timely and cost-effective basis. Our rapidly evolving market makes it more likely that:

our technology or products may become obsolete upon the introduction of alternative technologies;

we may not have sufficient resources to develop or acquire new technologies or to introduce new products or services capable of competing with future technologies or service offerings of other companies; and

we may not have sufficient resources to develop or acquire new technologies or to introduce new products or services capable of competing with future technologies or service offerings of other companies.

To the extent we determine that new technologies and equipment are required to remain competitive, the development, acquisition and implementation of these technologies and equipment are likely to continue to require significant capital investment by us. Moreover, we cannot be certain that we can develop, market and deliver new products and technology on a timely basis. Sufficient capital may not be available for this purpose in the future, and even if it is available, investments in new technologies may not result in commercially viable technological processes and there may not be commercial applications for such technologies. If we do not develop, acquire and introduce new products and services and achieve market acceptance in a timely manner, our business and prospects will suffer.



## **Table of Contents**

***If we fail to maintain an effective system of internal controls, we may not be able to detect fraud or report our financial results accurately, which could harm our business.***

Effective internal controls are necessary for us to provide reliable financial reports and to detect and prevent fraud. We periodically assess our system of internal controls, and the internal controls of service providers upon which we rely, to review their effectiveness and identify potential areas of improvement. These assessments may conclude that enhancements, modifications or changes to our system of internal controls are necessary. In addition, from time to time we acquire businesses, many of which have limited infrastructure and systems of internal controls. Performing assessments of internal controls, implementing necessary changes, and maintaining an effective internal controls process is expensive and requires considerable management attention, particularly in the case of newly acquired entities. Internal control systems are designed in part upon assumptions about the likelihood of future events, and all such systems, however well designed and operated, can provide only reasonable, and not absolute, assurance that the objectives of the system are met. Because of these and other inherent limitations of control systems, there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions, regardless of how remote. If we fail to implement and maintain an effective system of internal controls or prevent fraud, we could suffer losses, could be subject to costly litigation, investors could lose confidence in our reported financial information and our brand and operating results could be harmed, which could have a negative effect on the trading price of our common stock.

***We may incur significant stock-based compensation charges related to certain stock options and restricted stock in future periods.***

Based on accounting standards involving stock compensation, we have incurred and will continue to incur non-cash accounting charges related to stock options, including those associated with our cancellation/regrant programs. Those standards require us to remeasure compensation costs for such options each reporting period based on changes in the market value of the underlying common stock. Depending upon movements in the market value of our common stock, the variable accounting treatment of those stock options may result in significant additional non-cash compensation costs in future periods.

In addition, the FASB issued in December 2004 SFAS No. 123R, *Share-Based Payment, an amendment of FASB Statements Nos. 123 and 95*, that addresses the accounting treatment for employee stock options and other share-based payment transactions. The statement eliminates the ability to account for share-based compensation transactions using Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock Issued to Employees*, and generally requires that such transactions be accounted for using a fair-value-based method and recognized as expenses. The statement and the change in accounting treatment could result in our reporting increased operating expenses, which would decrease any reported net income or increase any reported net loss, and could adversely affect the market price of our common stock.

***We are dependent on our international operations for a significant portion of our revenues.***

International revenue, primarily from customers based in Japan and Europe, accounted for 31% and 32% of our revenue for the three and six months ended January 31, 2005, respectively, and 30% and 35% for the corresponding periods in fiscal 2004. In the future, we may further expand our international presence. As we continue to expand internationally, we are increasingly subject to risks of doing business internationally, including:

longer payment cycles and problems in collecting accounts receivable;

seasonal reductions in business activity during the summer months in Europe and certain other parts of the world;

unexpected changes in regulatory requirements and tariffs;



**Table of Contents**