INKTOMI CORP
Form PREM14A
January 10, 2003

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SCHEDULE 14A
(RULE 14a-101)
INFORMATION REQUIRED IN PROXY STATEMENT
SCHEDULE 14A INFORMATION

Filed by the Registrant [X]
Filed by a party other than the Registrant [ ]
Check the appropriate box:

[X]	Preliminary Proxy Statement	[ ] Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
[ ]	Definitive Proxy Statement	
[ ]	Definitive Additional Materials	
[ ]	Soliciting Material Pursuant to Rule 14a-11(c) or Rule 14a-12	

INKTOMI CORPORATION

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

[ ] No fee required.

[X] Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

Common Stock, par value $0.001 per share, of Inktomi Corporation

(2) Aggregate number of securities to which transactions applies:

162,890,548 shares of Common Stock (representing the number of shares of Inktomi Common Stock outstanding as of January 1, 2003)

(3) Per unit price or other underlying value of transaction computed pursuant to Section 14(g) of the Exchange Act (set forth the amount on which the filing fee is calculated and state how it was determined):

The filing fee of $24,727.00 was calculated pursuant to Section 14(g) of the Exchange Act and is equal to
$92.00 per million of the aggregate merger consideration of $268,769,404.00

(4) Proposed maximum aggregate value of transaction:

$268,769,404.00

(5) Total fee paid:

$24,727.00

[ ] Fee paid previously with preliminary materials:

[ ] Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement no.:

(3) Filing Party:

(4) Date Filed:

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[INKTOMI LOGO]

SPECIAL MEETING OF STOCKHOLDERS

MERGER PROPOSED   YOUR VOTE IS VERY IMPORTANT

Dear Inktomi Corporation stockholder:

You are cordially invited to attend a special meeting of stockholders of Inktomi Corporation to be held on [l], [l], 2003, at [l]:00 a.m., local time, at [l] located at [l].

At the special meeting you will be asked to consider and vote upon a proposal to adopt a merger agreement we signed with Yahoo! Inc. and a wholly-owned subsidiary of Yahoo!. If the merger agreement is adopted and we complete the merger, Inktomi will become a subsidiary of Yahoo! and you will have the right to receive $1.65 in cash in exchange for each outstanding share of our common stock that you own. After the merger is completed, you no longer will own an equity interest in Inktomi, and our common stock will no longer be publicly traded. A copy of the merger agreement is attached as Annex A to the accompanying proxy statement, and you are encouraged to read it in its entirety.

Our board of directors has unanimously approved the merger agreement and the merger, determined that the merger agreement and the merger are fair to and in the best interests of our stockholders and declared the merger agreement advisable, and recommends that you vote FOR adoption of the merger agreement. In reaching this determination, our board of directors considered a number of factors, including the opinion of our financial advisor, which is reproduced in full as Annex C to the attached proxy statement, and which you are encouraged to read in its entirety.

The proposed merger is an important decision for us and our stockholders. We cannot complete the merger unless holders of at least a majority of our outstanding shares of common stock vote to adopt the merger agreement. I and Dr. Eric A. Brewer, our Chief Scientist and a member of our board of directors, have agreed with Yahoo! to vote our shares of Inktomi common stock in favor of the adoption of the merger agreement.

The attached notice of special meeting and proxy statement explain the proposed merger and provide specific information concerning the special meeting. Please read these materials carefully.

Whether or not you plan to attend the special meeting, I urge you to complete, sign, date and promptly return the enclosed proxy card to ensure that your shares will be voted at the special meeting. Your failure to return an executed proxy card will constitute, in effect, a vote against adoption of the merger agreement.

David C. Peterschmidt

Chairman, President and Chief Executive Officer
Inktomi Corporation

The proxy statement is dated [l], 2003, and is first being mailed to stockholders of Inktomi on or about [l], 2003.

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INKTOMI CORPORATION

4100 East Third Avenue
Foster City, California 94404
(650) 653-2800

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
To Be Held On [l], 2003

To the stockholders of Inktomi Corporation:

A special meeting of stockholders of Inktomi Corporation, a Delaware corporation, will be held on [l], [l], 2003 at [l]:00 a.m., local time, at [l] located at [l], for the following purposes:

1. To consider and vote upon a proposal to adopt the Agreement and Plan of Merger, dated as of December 22, 2002, among Yahoo! Inc., December 2002 Acquisition Corp., a wholly-owned subsidiary of Yahoo!, and Inktomi Corporation; and

2. To transact such other business as may properly come before the special meeting or any adjournment or postponement thereof.

The board of directors of Inktomi has fixed the close of business on [l] as the record date for the determination of stockholders entitled to notice of, and to vote at, the special meeting and any adjournment or postponement thereof. Only holders of record of shares of Inktomi s common stock at the close of business on the record date are entitled to notice of, and to vote at, the special meeting or any adjournment or postponement of it. At the close of business on the record date, Inktomi had outstanding and entitled to vote [l] shares of common stock. Holders of Inktomi s common stock are entitled to appraisal rights under the Delaware General Corporation Law in connection with the merger. See The Merger Appraisal Rights on page 24.

YOUR VOTE IS IMPORTANT. THE AFFIRMATIVE VOTE OF THE HOLDERS OF A MAJORITY OF THE OUTSTANDING SHARES OF INKTOMI S COMMON STOCK IS REQUIRED TO ADOPT THE MERGER AGREEMENT. EVEN IF YOU PLAN TO ATTEND THE SPECIAL MEETING IN PERSON, WE REQUEST THAT YOU COMPLETE, SIGN, DATE AND RETURN THE ENCLOSED PROXY TODAY AND THUS ENSURE THAT YOUR SHARES WILL BE REPRESENTED AT THE SPECIAL MEETING IF YOU ARE UNABLE TO ATTEND. IF YOU SIGN, DATE AND MAIL YOUR PROXY CARD WITHOUT INDICATING HOW YOU WISH TO VOTE, YOUR PROXY WILL BE COUNTED AS A VOTE IN FAVOR OF ADOPTION OF THE MERGER AGREEMENT. IF YOU FAIL TO RETURN YOUR INKTOMI PROXY CARD, THE EFFECT WILL BE THAT YOUR SHARES WILL NOT BE COUNTED FOR PURPOSES OF DETERMINING WHETHER A QUORUM IS PRESENT AT THE INKTOMI SPECIAL MEETING, AND WILL EFFECTIVELY BE COUNTED AS A VOTE AGAINST ADOPTION OF THE MERGER AGREEMENT. IF YOU DO ATTEND THE SPECIAL MEETING AND VOTE IN PERSON, YOUR VOTE WILL REVOKE ANY PREVIOUSLY RETURNED PROXIES.

By Order of the Board of Directors,

Randy S. Gottfried

Foster City, California
[l]

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QUESTIONS AND ANSWERS ABOUT THE MERGER

Q: WHO IS SOLICITING MY PROXY?

A: This proxy is being solicited by our board of directors.

Q: WHAT AM I BEING ASKED TO VOTE ON?

A: You are being asked to vote on the adoption of the merger agreement that we entered into with Yahoo! Inc. which sets out the terms and conditions of the proposed merger of a wholly-owned subsidiary of Yahoo! with and into Inktomi Corporation. As a result of the merger, Inktomi will become a wholly-owned subsidiary of Yahoo!.

Q: WHY IS THE BOARD OF DIRECTORS RECOMMENDING THE MERGER?

A: Our board of directors has considered the merger agreement and the transactions contemplated by it, including the merger. Following our board of directors consideration of a number of factors, including the opinion of our financial advisor reproduced in full as Annex C to this proxy statement, our board of directors unanimously approved the merger agreement and determined that the merger agreement and the merger are fair to and in the best interests of our stockholders and declared the merger agreement advisable. A more complete description of the reasons for the merger can be found beginning on page 12.

Q: WHAT WILL I RECEIVE IN THE MERGER?

A: As a result of the merger, each share of Inktomi common stock that you own will be automatically converted into the right to receive $1.65 in cash, without interest. For example, if you own 100 shares of Inktomi s common stock, you will have the right to receive $165 in cash in exchange for your shares.

Q: WHAT DO I NEED TO DO NOW?

A: We urge you to read this proxy statement carefully, including its annexes, and to consider how the merger affects you. Then please return your completed, dated and signed proxy card in the postage-paid envelope provided with this proxy statement as soon as possible, so that your shares can be voted at the special meeting of our stockholders.

Q: WHAT HAPPENS IF I DO NOT RETURN A PROXY CARD?

A: The failure to return your proxy card will have the same effect as voting against adoption of the merger agreement. If we do not receive the affirmative vote of the holders of a majority of shares of Inktomi common stock outstanding on the record date, [l] 2003, then we will not be able to effect the merger.

Q: MAY I VOTE IN PERSON?

A: Yes. You may attend the special meeting of Inktomi s stockholders, and vote your shares in person. If you hold shares in street name you must provide a legal proxy executed by your bank or broker in order to vote your shares at the meeting.

Q: MAY I CHANGE MY VOTE AFTER I HAVE MAILED MY SIGNED PROXY CARD?

A: Yes. You may change your vote at any time before your proxy card is voted at the special meeting. You can do this in one of three ways. First, you can send a written, dated notice to the Secretary of Inktomi stating that you would like to revoke your proxy. Second, you can complete, date, and submit a new proxy card. Third, you can attend the meeting and vote in person. Your attendance alone will not revoke your proxy. If you have instructed a broker to vote your shares, you must follow directions received from your broker to change those instructions.

Q: IF MY SHARES ARE HELD IN STREET NAME BY MY BROKER, WILL MY BROKER VOTE MY SHARES FOR ME?

A: Your broker will not be able to vote your shares without instructions from you. You should instruct your broker to vote your shares, following the procedure provided by your broker. Without instructions, your shares will not be voted, which will have the effect of a vote against adoption of the merger agreement.

Q: SHOULD I SEND IN MY INKTOMI STOCK CERTIFICATES NOW?

A: No. Shortly after the merger is completed, you will receive written instructions for exchanging your shares of Inktomi s common stock for the merger consideration of $1.65 in cash, without interest, per share.

Q: WHEN DO YOU EXPECT THE MERGER TO BE COMPLETED?

A: We are working toward completing the merger as quickly as possible. In addition to obtaining stockholder approval, we must satisfy all other closing conditions, or they must be properly waived, including the expiration or termination of applicable regulatory waiting periods. We currently expect to complete the merger shortly after the special meeting.

Q: HOW WILL I KNOW THE MERGER HAS OCCURRED?

A: If the merger occurs, we will make a public announcement of this fact.

Q: WILL THE MERGER BE TAXABLE TO ME?

A: Yes. The merger generally will be taxable to you. You will recognize gain or loss equal to the difference between the total amount of cash you receive in the merger for your Inktomi shares and your adjusted tax basis in those shares.

Q: AM I ENTITLED TO APPRAISAL RIGHTS?

A: Yes. You are entitled to appraisal rights under the Delaware General Corporation Law in connection with the merger. See The Merger Appraisal Rights on page 24.

Q: WHO CAN HELP ANSWER MY QUESTIONS?

A: If you have questions regarding the special meeting, this proxy statement or the procedures for voting, please call our proxy solicitor, Innisfree M&A Incorporated, toll-free at 1-877-456-3463. If you would like additional copies, without charge, of this proxy statement you should contact:

INKTOMI CORPORATION

Attn: Investor Relations
4100 East Third Avenue
Foster City, California 94404
Telephone: (650) 653-2800

SUMMARY TERM SHEET

The following summary term sheet highlights the material information contained in this proxy statement, but does not contain all of the information in this proxy statement that is important to your voting decision. To understand the merger agreement fully and for a more complete description of the terms of the merger, you should carefully read this entire proxy statement, including the annexes, and the documents to which we refer in this proxy statement. See Where You Can Find More Information on page 46. We have included page references in parentheses to direct you to a more complete description of the topics presented in this summary.

The Companies (Page 11)

INKTOMI CORPORATION
4100 East Third Avenue
Foster City, California 94404
Telephone: (650) 653-2800

We provide World Wide Web search services for Internet portal and search destination sites. Inktomi Web Search is a customizable, private label solution that offers portals and destination sites the ability to serve differentiated, highly relevant search results. Inktomi Web Search also provides content publishers access to end users through portal and destination site customers of our search engine services.

YAHOO! INC.
701 First Avenue
Sunnyvale, California 94089
Telephone: (408) 349-3300

Yahoo! Inc. is a leading provider of comprehensive online products and services to consumers and businesses worldwide. Headquartered in Sunnyvale, California, Yahoo! s global network includes 25 world properties and is available in 13 languages.

December 2002 Acquisition Corp. is a wholly-owned subsidiary of Yahoo!. December 2002 Acquisition Corp. was organized solely for the purpose of entering into the merger agreement with Inktomi and completing the merger and has not conducted any business operations.

The Special Meeting of Inktomi s Stockholders (Page 9)

Date, Time and Place. A special meeting of the stockholders of Inktomi will be held on [l], [l], 2003, at the [l] located at [l] at [l]:00 a.m. local time, to consider and vote upon a proposal to adopt the merger agreement.

Record Date and Voting Power. You are entitled to vote at the special meeting if you owned shares of Inktomi s common stock at the close of business on [l], the record date for the special meeting. You will have one vote at the special meeting for each share of Inktomi s common stock you owned at the close of business on the record date. There are [l] shares of Inktomi common stock entitled to be voted at the special meeting.

Required Vote. The adoption of the merger agreement requires the affirmative vote of the holders of a majority of the shares of Inktomi s common stock outstanding at the close of business on the record date.

Share Ownership of Directors and Management. The directors and executive officers of Inktomi and their affiliates own approximately [l]% of the shares entitled to vote at the special meeting. David C. Peterschmidt, Chairman, President and Chief Executive Officer of Inktomi, and Dr. Eric A. Brewer, a member of the board of directors and Chief Scientist of Inktomi, have agreed, subject to certain terms and conditions, to vote their shares in favor of adoption of the merger agreement.

The Merger (Page 12)

If our stockholders adopt the merger agreement and all other conditions to completing the merger are satisfied or waived, December 2002 Acquisition Corp. will be merged with and into Inktomi, and Inktomi will

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become a wholly-owned subsidiary of Yahoo!. As a result of the merger, each share of Inktomi common stock you own will automatically convert into the right to receive $1.65 in cash, without interest. After the merger is completed, you no longer will own an equity interest in Inktomi, and our common stock will no longer be publicly traded.

The merger will become effective when a certificate of merger is filed with the Secretary of State of the State of Delaware, which we expect to file as soon as practicable after the special meeting.

The Merger Agreement (Page 29)

A copy of the merger agreement is attached to this document as Annex A. We encourage you to read the merger agreement in its entirety because it is the legal document that contains all of the terms of and conditions to the merger.

Treatment of Inktomi Securities; Merger Consideration (Page 29)

If the merger is completed, you will receive $1.65 in cash, without interest, in exchange for each share of Inktomi s common stock that you own and with respect to which you have not perfected appraisal rights.

If the merger is completed and you hold an outstanding option to purchase our common stock, whether or not then exercisable or vested, your option will be assumed by Yahoo!. Your option will cease to represent a right to acquire shares of our common stock and will convert automatically into an option to purchase shares of Yahoo! common stock, subject to the same terms and conditions (other than the number of underlying shares and the exercise price) as the applicable Inktomi option plan under which the option was issued. The number of shares of Yahoo! common stock (rounded down to the nearest whole share) for which such option will be exercisable will be determined by multiplying the number of shares of our common stock subject to the option by a fraction, with a numerator of $1.65 and a denominator of the average closing price of Yahoo! common stock on the Nasdaq National Market System over the 10 trading days immediately preceding, but not including, the effective date of the merger. The new exercise price per share of Yahoo! common stock (rounded up to the nearest whole cent) will be equal to the per share exercise price of the Inktomi option divided by the fraction described above.

If the merger is completed and you hold stock that is subject to a repurchase option, risk of forfeiture or other condition under any applicable restricted stock repurchase agreement or other agreement, Yahoo! will, at its option and in its sole discretion, either (i) pay you $1.65 per share upon surrender of your stock certificates, or (ii) pay for such shares over time as they vest according to the requirements of the applicable restricted stock schedule.

Recommendation to Stockholders (Page 17)

Our board of directors has determined that the merger agreement and the merger are fair to you and in your best interests. Accordingly, our board of directors has unanimously approved the merger agreement and the merger and declared the merger agreement advisable. **Our board of directors recommends that you vote FOR adoption of the merger agreement.**

Opinion of Inktomi s Financial Advisor (Page 18)

On December 22, 2002, Thomas Weisel Partners delivered to our board of directors its written opinion that, as of that date, the consideration to be received by our stockholders pursuant to the merger was fair to the stockholders from a financial point of view. A copy of the Thomas Weisel Partners opinion is attached as Annex C to this proxy statement. A summary of the Thomas Weisel Partners opinion is included in this proxy statement; however, you are urged to read the Thomas Weisel Partners opinion carefully in its entirety for the assumptions made, the procedures followed, the matters considered and the limits of the review made by Thomas Weisel Partners in connection with its opinion. The Thomas Weisel Partners opinion is not a recommendation as to how you should vote your shares on the proposed merger.

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Conditions to the Merger (Page 37)

To complete the merger, several conditions must be satisfied or waived by the appropriate party or parties, including:

- the merger agreement must be adopted by our stockholders;
- there must not be any law or regulation or any court order or injunction preventing the merger;
- all waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act must have expired or been terminated and any required approvals by the European Commission and all other material foreign antitrust approvals must have been obtained;
- the representations and warranties of the parties must be true and correct, except with regards to Yahoo! s representations and warranties as would not be reasonably expected to impede the receipt of the merger consideration and except with regards to our representations and warranties as do not, individually or in the aggregate, constitute a material adverse effect on us;
- the obligations of the parties under the merger agreement must be materially performed;
- there must not be any pending or overtly threatened action or proceeding by any governmental entity seeking to restrain or prohibit the merger or Yahoo! s ownership or operation of our business;
- all material governmental and third-party consents and approvals must be received;
- there must not have occurred and be continuing any change or event since December 22, 2002, that has had and continues to have a material adverse effect on Inktomi; and
- holders of more than 15% of our outstanding common stock must not have demanded appraisal rights in accordance with the Delaware General Corporation Law.

Termination of the Merger Agreement (Page 39)

The merger agreement may be terminated:

- by Yahoo! and Inktomi, if we both agree to do so;
- by either Yahoo! or Inktomi, if:
  - the merger is not completed by May 31, 2003 (or, under certain circumstances, by July 31, 2003);
  - any final nonappealable order, decree or ruling issued by a governmental entity permanently restrains or prohibits the merger; or
  - the merger agreement is not adopted by the required vote of our stockholders at the special meeting;
- by Yahoo! if:
  - we breach any of our representations, warranties, covenants or agreements under the merger agreement or if any representation or warranty of ours shall have become untrue, in either case, such that either Yahoo! s condition relating to representations and warranties or Yahoo! s condition relating to agreements and covenants would not be satisfied at the time of such breach or as of the time such representation or warranty shall have become untrue, subject to a 30-day cure period;
  - our board withdraws, amends or modifies, in a manner adverse to Yahoo!, its recommendation in favor of the adoption of the merger agreement;

our board fails to publicly reaffirm its favorable recommendation of the merger agreement within 10 business days after Yahoo! requests us to do so following the public announcement of an alternative acquisition proposal;

our board approves or recommends an alternative acquisition proposal;

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we do not convey a statement to our security holders in respect of a tender offer or exchange offer by a third party that our board recommends rejection of such offer; or

we deliver to Yahoo! notice of a change of recommendation by our board; or

by Inktomi if:

Yahoo! breaches any of its representations, warranties, covenants or agreements under the merger agreement or if any representation or warranty of Yahoo! shall have become untrue, in either case, such that either Inktomi s condition relating to representations and warranties or Inktomi s condition relating to agreements and covenants would not be satisfied at the time of such breach or as of the time such representation or warranty shall have become untrue, subject to a 30-day cure period; or

we have provided notice to Yahoo! that we intend to enter into a binding, written agreement for a superior offer, and each of the following events occurs:

we have complied in all material respects with the no solicitation provisions of the merger agreement;

we have delivered to Yahoo! notice of a change of recommendation by our board;

Yahoo! does not make, within 72 hours after receiving our written notice, an offer that our board of directors reasonably concludes in good faith (following consultation with our financial advisor and outside counsel) is at least as favorable to our stockholders as such superior proposal;

we have received opinions from our financial advisor and an additional investment banking firm of national reputation to the effect that the consideration to be provided to our stockholders by the superior offer is superior from a financial point of view to the merger consideration; and

we pay to Yahoo! a cash termination fee of $11,200,000 concurrently with entering into such binding, written agreement.

Termination Fee (Page 41)

We must pay Yahoo! a cash termination fee of $11,200,000 if the merger agreement is terminated by Yahoo! or Inktomi, as applicable, because:

we willfully and materially breach a representation, warranty, covenant or agreement under the merger agreement;

our board withdraws, modifies or amends, in a manner adverse to Yahoo!, its recommendation in favor of the merger agreement;

our board fails to reaffirm its favorable recommendation of the merger agreement within 10 business days after Yahoo! requests us to do so following the public announcement of an alternative acquisition proposal;

our board approves or recommends an alternative acquisition proposal;

our board fails to recommend rejection of an alternative acquisition proposal in the form of a tender or exchange offer;

we deliver a change of recommendation notice to Yahoo!; or

we enter into a binding written agreement with respect to a superior offer.

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In addition, we must pay Yahoo! the termination fee if the merger agreement is terminated because the merger fails to be consummated by May 31, 2003 (or, under certain circumstances, July 31, 2003) or the merger agreement is not adopted by the required vote of our stockholders and:

prior to the termination of the merger agreement, there has been public disclosure of an alternative acquisition proposal; and

within 12 months of the termination of the merger agreement, an acquisition of Inktomi is completed; provided, that, if the merger agreement is terminated because of its not having been adopted by our stockholders, the alternative acquisition is at a price per share that exceeds the per share merger consideration.

No Solicitation (Page 35)

The merger agreement contains detailed provisions that prohibit us and our subsidiaries, and our officers and directors, from, directly or indirectly, soliciting, initiating, intentionally encouraging, taking any action to facilitate or intentionally induce any inquiry with respect to, or the making, submission or announcement of, any alternative acquisition proposal.

Interests of Inktomi s Directors and Executive Officers in the Merger (Page 23)

When considering the recommendation of our board of directors, you should be aware that a number of Inktomi s executive officers and directors have interests in the merger that are different from the interests of other Inktomi stockholders. For example, if the merger is completed, certain indemnification arrangements for current and former directors and executive officers of Inktomi will be continued and certain of Inktomi s executive officers may also be entitled to retention bonus payments in connection with the merger.

Voting Agreements (Page 42)

Simultaneously with the execution and delivery of the merger agreement, David C. Peterschmidt, our Chairman, President and Chief Executive Officer, and Dr. Eric A. Brewer, our Chief Scientist and a member of our board of directors, who on the record date held 237,437 and 3,850,276 shares of our common stock, respectively, representing in the aggregate approximately [l]% of our common stock, entered into voting agreements with Yahoo!. They agreed, among other things, to vote their shares in favor of the adoption of the merger agreement and granted a proxy and power of attorney for their shares to certain officers of Yahoo!. A copy of the form of voting agreement which they have signed is attached as Annex B to this proxy statement.

Appraisal Rights (Page 24)

Inktomi s stockholders have the right under Delaware law to exercise appraisal rights and to receive payment in cash for the fair value of their shares of our common stock determined in accordance with Delaware law, if such rights are properly perfected. The fair value of shares of our common stock as determined in accordance with Delaware law may be more or less than the merger consideration to be paid to non-dissenting Inktomi stockholders in the merger. To preserve their rights, stockholders who wish to exercise appraisal rights must not vote in favor of the adoption of the merger agreement and must precisely follow specific procedures. These procedures are described in this proxy statement, and the provisions of Delaware law that grant appraisal rights and govern such procedures are attached as Annex D. We encourage you to read these provisions carefully and in their entirety.

Regulatory Matters (Page 28)

The Hart-Scott-Rodino Antitrust Improvements Act prohibits us from completing the merger until we have furnished certain information and materials to the Antitrust Division of the Department of Justice and the Federal Trade Commission and the required waiting period has ended or been terminated. Yahoo! and

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Inktomi each filed the required notification and report forms on January 10, 2003, and requested early termination of the required waiting period.

Portal Services Agreement (Page 43)

Concurrently with the execution and delivery of the merger agreement, we entered into a portal services agreement with Yahoo!. If the merger agreement is terminated for any reason, except by us as a result of a breach by Yahoo! under the merger agreement, Yahoo! has the option for 30 days to effectuate the agreement and obtain Web search services from us pursuant to the agreement.

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FORWARD-LOOKING INFORMATION

This proxy statement may contain forward-looking statements regarding future events. These forward-looking statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act. These statements are neither promises nor guarantees, but involve risks and uncertainties that could cause actual results to differ materially from those set forth in the forward-looking statements, including, without limitation, the risks that the merger may not be consummated in a timely manner, if at all, risks regarding employee retention and other risks detailed in our current filings with the SEC, including our most recent filings on Form 10-Q and 10-K, which discuss these and other important risk factors concerning our operations. See Where You Can Find More Information on page 46.

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MARKET PRICE AND DIVIDEND DATA

Our common stock is quoted on the Nasdaq National Market System under the symbol INKT. This table shows, for the periods indicated, the range of high and low closing per share sales prices for our common stock as reported on the Nasdaq National Market System.

	Inktomi Common Stock	
	Low	**High**
FISCAL YEAR ENDED SEPTEMBER 30, 2001		
First quarter	$17.88	$108.94
Second quarter	$ 5.74	$ 18.63
Third quarter	$ 2.79	$ 10.96
Fourth quarter	$ 2.25	$ 9.17
FISCAL YEAR ENDED SEPTEMBER 30, 2002		
First quarter	$ 2.70	$ 7.71
Second quarter	$ 3.45	$ 7.31
Third quarter	$ 0.78	$ 3.82
Fourth quarter	$ 0.25	$ 1.06
FISCAL YEAR ENDING SEPTEMBER 30, 2003		
First quarter	$ 0.26	$ 1.64
Second quarter through January [l], 2003	$ [l]	$ [l]

The following table sets forth the closing sales price per share of our common stock, as reported on the Nasdaq National Market System on December 20, 2002, the last full trading day before the public announcement of the proposed merger, and on [l], 2003, the last full trading day before the printing of this proxy statement:

	Inktomi s Common Stock
December 20, 2002	$1.17
[l], 2003	$ [l]

We have never declared or paid cash dividends on our common stock. Our current policy is to retain any earnings for use in our business. Following the merger, there will be no further market for our common stock.

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THE SPECIAL MEETING

We are furnishing this proxy statement to our stockholders as part of the solicitation of proxies by our board of directors for use at the special meeting.

Date, Time and Place

We will hold the special meeting at the [l] located at [l] at [l]:00 a.m. local time, on [l], [l], 2003.

Purpose of Special Meeting

At the special meeting, we will ask holders of our common stock to consider and vote upon a proposal to adopt the merger agreement. Our board of directors has unanimously approved the merger agreement and the merger, has determined that the merger agreement and the merger are fair to and in the best interests of our stockholders and declared the merger agreement advisable. **Our board of directors recommends that you vote FOR the adoption of the merger agreement.**

Record Date; Stock Entitled to Vote; Quorum

Only holders of record of our common stock at the close of business on [l], the record date, are entitled to notice of and to vote at the special meeting. On the record date, [l] shares of our common stock were issued and outstanding and held by approximately [l] holders of record. A quorum is present at the special meeting if a majority of the shares of our common stock issued and outstanding and entitled to vote on the record date are represented in person or by proxy. In the event that a quorum is not present at the special meeting, it is expected that the meeting will be adjourned or postponed to solicit additional proxies. Holders of record of our common stock on the record date are entitled to one vote per share at the special meeting on the proposal to adopt the merger agreement.

Vote Required

The adoption of the merger agreement requires the affirmative vote of the holders of a majority of the shares of our common stock outstanding on the record date. If you abstain from voting or do not vote, either in person or by proxy, it will effectively count as a vote against the adoption of the merger agreement.

Voting by Inktomi s Directors, Executive Officers and Certain Stockholders

Under the terms of voting agreements entered into between Yahoo! and each of David C. Peterschmidt, our Chairman, President and Chief Executive Officer, and Dr. Eric A. Brewer, our Chief Scientist and a member of our board of directors, Mr. Peterschmidt and Dr. Brewer have agreed, subject to the terms and conditions set forth in their respective voting agreements, to vote their shares of our common stock for the adoption of the merger agreement. On the record date, Mr. Peterschmidt and Dr. Brewer owned and were entitled to vote 237,437 and 3,850,276 shares, respectively, of our common stock, or approximately [l]%, in the aggregate of the shares of our common stock outstanding on the record date.

Voting of Proxies

All shares represented by properly executed proxies received in time for the special meeting will be voted at the special meeting in the manner specified by the holders. Properly executed proxies that do not contain voting instructions will be voted FOR the adoption of the merger agreement.

Shares of our common stock represented at the special meeting but not voting, including shares of our common stock for which proxies have been received but for which stockholders have abstained, will be treated as present at the special meeting for purposes of determining the presence or absence of a quorum for the transaction of all business.

Only shares affirmatively voted for the adoption of the merger agreement, including properly executed proxies that do not contain voting instructions, will be counted as votes in favor of that proposal. If you abstain from voting or do not execute a proxy, it will effectively count as a vote against the adoption of the merger agreement. Brokers who hold shares of our common stock in street name for customers who are the beneficial owners of such shares may not give a proxy to vote those customers shares in the absence of specific instructions from those customers. These non-voted shares will effectively count as votes against the adoption of the merger agreement.

The persons named as proxies by a stockholder may propose and vote for one or more adjournments of the special meeting, including adjournments to permit further solicitations of proxies. No proxy voted against the proposal to adopt the merger agreement will be voted in favor of any such adjournment or postponement.

We do not expect that any matter other than the proposal to adopt the merger agreement will be brought before the special meeting. If, however, our board of directors properly presents other matters, the persons named as proxies will vote in accordance with their judgment as to matters that they believe to be in the best interests of the stockholders.

Revocability of Proxies

The grant of a proxy on the enclosed form of proxy does not preclude a stockholder from voting in person at the special meeting. A stockholder may revoke a proxy at any time prior to its exercise by (a) filing with the Secretary of Inktomi a duly executed revocation of proxy, (b) submitting a duly executed proxy to the Secretary of Inktomi bearing a later date or (c) appearing at the special meeting and voting in person. Attendance at the special meeting will not in and of itself constitute revocation of a proxy. If you have instructed your broker to vote your shares, you must follow directions received from your broker to change these instructions.

Solicitation of Proxies

We have retained Innisfree M&A Incorporated to aid in the solicitation of proxies. Innisfree will receive customary fees and expense reimbursement for its services. The extent to which these proxy soliciting efforts will be necessary depends entirely upon how promptly proxies are received. You should return your proxy without delay. We also reimburse brokers and other custodians, nominees and fiduciaries for their expenses in sending these materials to you and getting your voting instructions.

You should not send your stock certificates, if any, with your proxy. A letter of transmittal with instructions for the surrender of Inktomi common stock certificates will be mailed to our stockholders as soon as practicable after completion of the merger.

THE COMPANIES

Inktomi Corporation

We provide World Wide Web search services for Internet portal and search destination sites. Inktomi Web Search is a customizable, private label solution that offers portals and destination sites the ability to serve differentiated, highly relevant search results. Inktomi Web Search also provides content publishers access to end users through portal and destination site customers of our search engine services.

Inktomi was incorporated in the State of California in February 1996 and reincorporated in the State of Delaware in February 1998. Our principal executive offices are located at 4100 East Third Avenue, Foster City, California 94404, and our telephone number is (650) 653-2800. Additional information regarding Inktomi is contained in our filings with the Securities and Exchange Commission. See Where You Can Find More Information on page 46.

Yahoo! Inc.

Yahoo! Inc. is a leading provider of comprehensive online products and services to consumers and businesses worldwide. Headquartered in Sunnyvale, California, Yahoo! s global network includes 25 world properties and is available in 13 languages. Yahoo! was incorporated in the State of California in March 1995 and reincorporated in the State of Delaware in 1999. Its principal executive offices are located at 701 First Avenue, Sunnyvale, California 94089, and its telephone number is (408) 349-3300.

December 2002 Acquisition Corp. is a Delaware corporation and a wholly-owned subsidiary of Yahoo!. December 2002 Acquisition Corp. was organized solely for the purpose of entering into the merger agreement with Inktomi and completing the merger and has not conducted any business operations.

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THE MERGER

The following discussion summarizes the material terms of the merger. You should read the merger agreement which is attached as Annex A to this proxy statement.

Background to the Merger

Inktomi was originally established to provide Web search services, entering the market in May 1996 as the first OEM search infrastructure provider. Since 1996, we expanded our product offerings to provide additional network infrastructure applications in response to high initial growth rates in Internet traffic and the resulting need for the build out of networking infrastructure. As a result of such expanded product offering, we began our 2002 fiscal year with three main product and service offerings: (i) Web search services, (ii) content networking products and (iii) enterprise search software.

In January 2002, Vishal Makhijani, our Vice President and General Manager of Web Search, met with Scott Gatz, Vice President of Search and Directory for Yahoo!, to discuss the possibility of entering into a business relationship regarding Web search services. At that time, Yahoo! was a reseller and referral agent for our enterprise search products. In addition, until June 2000, we provided Web search results for Yahoo!. We believed that, based on its volume of Internet traffic, adding Yahoo! to our list of Internet portal customers would enable us to significantly enhance our revenues. From time to time over the next two months, our Web search team, led by Mr. Makhijani, met with Mr. Gatz and other Yahoo! representatives to demonstrate Inktomi s Web search product and to discuss a possible commercial agreement.

In April 2002, David C. Peterschmidt, our Chairman, President and Chief Executive Officer, spoke with Terry Semel, Chairman and Chief Executive Officer of Yahoo!, regarding the possibility of entering into a Web search services agreement. That conversation led to additional discussions between Mr. Makhijani and Jeffrey Weiner, then Senior Vice President Corporate Development at Yahoo!, regarding the possible terms of a commercial relationship under which we would provide Web search services to Yahoo!. As discussions between our representatives and Yahoo! s representatives continued over the next several months, Mr. Peterschmidt occasionally spoke with Mr. Semel regarding the progress of the discussions.

In July 2002, we announced that we would focus our business on the Web search and enterprise search markets with the goal of returning to profitability. In conjunction with that strategy, we also announced we would reduce our content networking group. At this time, we also announced a definitive agreement to acquire Quiver, Inc. to augment our enterprise search business.

In July 2002, discussions with Yahoo! regarding a commercial agreement had advanced to a state where the two parties began to exchange drafts of commercial agreements. The discussions also included the possibility of an equity investment in us by Yahoo!. Over the next few months our representatives continued to exchange and discuss proposals and draft agreements for a commercial agreement with Yahoo! s representatives. Although certain details were agreed to, certain significant issues remained unresolved.

At various meetings of our board of directors during this period, Mr. Makhijani and other members of our management updated the board on our Web search business, including the status of discussions with Yahoo! concerning the possibility of a commercial relationship.

In early October 2002, while representatives of Inktomi and Yahoo! were still discussing the possible terms of a commercial agreement regarding Web search services, Mr. Weiner indicated to Mr. Makhijani that Yahoo! was interested in exploring an acquisition of Inktomi. Mr. Makhijani responded that our management preferred to complete the commercial negotiations prior to discussing a possible business combination. Nevertheless, Mr. Makhijani suggested that, if Mr. Weiner wanted to discuss Yahoo! s interest in a possible acquisition of Inktomi, he should contact Timothy J. Stevens, our Senior Vice President of Business Development.

On October 10, 2002, we announced a strategic alliance with Satyam Computer Services, Ltd. under which Satyam agreed to assume the support contracts of the majority of our content networking customers and partners. The arrangement with Satyam was intended to enable us to substantially exit the content networking business by the end of our 2003 fiscal year.

On October 10, 2002, Mr. Weiner telephoned Mr. Stevens to discuss Yahoo! s potential interest in acquiring us and requested access to our Web search engineering and business personnel to better understand our technology and business. Mr. Stevens questioned whether a business combination transaction would be as mutually beneficial as a commercial relationship between the companies, but agreed to meet with Mr. Weiner to discuss each company s strategy.

Over the next two weeks, Mr. Stevens and Mr. Weiner spoke several more times regarding Yahoo! s interest in a potential acquisition of Inktomi. During these discussions, Mr. Stevens continued to stress our management s focus on concluding a commercial agreement with Yahoo! regarding Web search services prior to discussing a possible business combination.

On October 23, 2002, Mr. Semel telephoned Mr. Peterschmidt and communicated directly to Mr. Peterschmidt Yahoo! s interest in exploring a possible acquisition of Inktomi. Mr. Semel also repeated Yahoo! s request for access to our Web search engineering and business personnel for the purpose of better understanding our technology and business. Mr. Peterschmidt suggested that a commercial relationship might better serve each party s objectives, but agreed to meet to discuss the matter in greater detail. Later that same day, Mr. Weiner and Mr. Stevens agreed to set up an executive meeting between the two companies to discuss possible ways of moving forward.

On October 28, 2002, representatives of Inktomi, including Mr. Peterschmidt, Dr. Eric A. Brewer, our Chief Scientist and a member of our board of directors, Mr. Stevens and Mr. Makhijani, and representatives of Yahoo!, including Mr. Semel, Jerry Yang, Chief Yahoo! and a member of Yahoo! s board of directors, Mr. Weiner, now Senior Vice President of Search and Marketplace, and Toby Coppel, Senior Vice President of Corporate Development, met in Sunnyvale, California, to discuss each company s business strategies and objectives, including Yahoo! s interest in pursuing an acquisition of Inktomi and Inktomi s desire to enter into a commercial agreement. The parties agreed that, regardless of the form of business relationship or transaction they might ultimately agree to, it would be helpful for Yahoo! to have a better understanding of Inktomi s technical and business capabilities in the Web search area. In addition, our representatives committed to deliver a revised proposal for a commercial relationship addressing the unresolved negotiation points.

On November 4, 2002, we entered into an additional mutual nondisclosure agreement with Yahoo!, supplementing other nondisclosure arrangements the parties had previously executed in connection with their other commercial relationships and discussions. Over the next few days, representatives of Inktomi and Yahoo! met to discuss our search technology and engineering organization. We also delivered a revised commercial contract proposal, and follow-up discussions ensued between Yahoo! s and our representatives.

On November 11, 2002, Mr. Semel telephoned Mr. Peterschmidt and explained that, after reviewing our commercial contract proposal and the other information we had provided, Yahoo! still wanted to pursue an acquisition of Inktomi. Mr. Peterschmidt indicated that our management would be willing to consider an acquisition proposal by Yahoo! and suggested that Yahoo! representatives follow up with Mr. Stevens.

On November 13, 2002, Inktomi and Verity, Inc. jointly announced that we had entered into a definitive agreement providing for us to sell our enterprise search software business to Verity for $25 million in cash. On the same day, we also announced that we would focus exclusively on our Web search business.

In addition to the discussions with Yahoo!, from time to time during 2001 and 2002, Mr. Peterschmidt and other members of our senior management engaged in preliminary discussions with several other parties concerning the possibility of exploring a potential business combination or other strategic transaction. Although none of these discussions ultimately resulted in an agreement on a proposed transaction, we engaged in substantial negotiations with two of these parties. We also executed confidentiality agreements and provided non-public information to these parties and they held due diligence discussions with our management and other representatives. In connection with our discussions with these parties, we also retained nationally recognized investment banks to act as our financial advisors. One of these parties was interested primarily in our content networking and enterprise search technologies. That party terminated discussions with us in late

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February 2002. The second party (Company X) was mainly interested in our Web search business. Prior to the announcement of our agreement to sell our enterprise search business to Verity, Company X had made several proposals to acquire Inktomi or our Web search business, none of which resulted in an agreement on structure or valuation.

On November 14, 2002, the Chief Executive Officer of Company X contacted Mr. Peterschmidt and indicated that Company X remained interested in a possible acquisition of Inktomi. On November 19, 2002, representatives of each of Inktomi and Company X, including their respective Chief Executive Officers, met to discuss the possibility of an acquisition of us by Company X, including the potential terms of such a transaction. At that meeting, Mr. Peterschmidt informed Company X s representatives that our management would not consider any proposal that did not contemplate an acquisition of the entire company and that any acquisition proposal would have to include a significant premium to the current market price of our common stock. Mr. Peterschmidt also indicated that Company X was not the only party to have expressed interest in a potential acquisition of Inktomi. Following the meeting, the Chief Executive Officer of Company X indicated to Mr. Peterschmidt that he expected to deliver a proposal within a few days.

Also on November 19, Mr. Stevens contacted Mr. Coppel of Yahoo! and indicated that our management was considering other strategic alternatives. Following that conversation, Yahoo! delivered a due diligence request list and Yahoo! s representatives and legal and financial advisors were granted access to a data room and began to conduct extensive due diligence meetings and reviews.

On November 20, 2002, we retained Thomas Weisel Partners as our exclusive financial advisor in connection with the potential sale of the company.

On December 3, 2002, Mr. Peterschmidt called Mr. Semel to inform him that there would be a regularly scheduled meeting of our board of directors on December 10 and to inquire whether Yahoo! planned to submit a proposal in time for the board to consider at that meeting. Mr. Semel responded that Yahoo! was interested in submitting a proposal but stated that he did not expect to be in a position to submit a proposal until a day or two after our December 10 board meeting.

That same day, Mr. Peterschmidt telephoned the Chief Executive Officer of Company X and delivered the same message he had given to Mr. Semel. The Chief Executive Officer of Company X indicated that he expected to deliver a proposal prior to our December 10 board meeting.

Over the next several days, we responded to additional due diligence requests by both Yahoo! and Company X, making various personnel available and giving each company additional access to a data room.

On December 9, the Chief Executive Officer of Company X telephoned Mr. Peterschmidt and informed him that Company X would not be submitting a proposal for the following day s board meeting. Mr. Peterschmidt asked when he thought Company X would be prepared to do so. The Chief Executive Officer of Company X responded that he was not in a position to commit to a particular date.

The board of directors of Inktomi held its regularly scheduled meeting on December 10, 2002. At the meeting, Mr. Peterschmidt updated the board on the status of discussions with both Yahoo! and Company X. The board also reviewed in detail with members of management our current business plan and future prospects, on a stand-alone basis, including the risks and uncertainties relating to the Web search market.

On December 11, Mr. Semel telephoned Mr. Peterschmidt and informed him that Yahoo! would be prepared to submit an acquisition proposal to us in the next few days. Later that same day, representatives of Credit Suisse First Boston, or CSFB, Yahoo! s financial advisor, contacted representatives of Thomas Weisel Partners to discuss the next steps for making such proposal and sent them a form of exclusivity agreement that Yahoo! wished to have executed by Inktomi prior to presenting its proposal. The representatives of Thomas Weisel Partners later informed CSFB that Inktomi was not prepared to enter into an exclusivity agreement prior to receiving a proposal. Following additional discussions, our representatives agreed to meet with representatives of Yahoo! to receive Yahoo! s proposal and indicated that, if the proposal was attractive enough, subject to authorization from our board of directors, we would be willing to agree on a short period of exclusivity in order to facilitate the negotiation and execution of definitive agreements.

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On December 12, 2002, Mr. Coppel and other representatives of Yahoo!, CSFB and Davis Polk & Wardwell, or Davis Polk, Yahoo! s outside legal counsel, met with Mr. Stevens and representatives of Thomas Weisel Partners and Skadden, Arps, Slate, Meagher and Flom LLP, or Skadden Arps, Inktomi s outside legal counsel, at the offices of Skadden Arps in Palo Alto, California to present the terms of a proposed transaction, as laid out in a preliminary, non-binding term sheet, as well as a list of open due diligence items. Representatives of Yahoo! and CSFB explained that the proposal contemplated a cash merger at a price of $1.40 per share. They further explained that concurrently with the execution of a merger agreement, Yahoo! would expect to enter into (i) employment and non-competition agreements with certain key employees, (ii) voting agreements with our directors and executive officers and (iii) an agreement permitting Yahoo! to enter into a Web search services agreement with us in the event that the merger agreement were terminated under certain circumstances. In addition, the Yahoo! representatives reiterated that their willingness to negotiate the terms of a merger agreement was subject to execution of an exclusivity agreement. At the same meeting, after reviewing the proposed terms, our representatives informed Yahoo! s representatives that the price was significantly below the level that was acceptable to Inktomi. The meeting concluded without agreement to continue discussions.

On December 13, 2002, our board of directors held a telephonic meeting. Mr. Peterschmidt updated the board on the status of discussions with each of Yahoo! and Company X. Mr. Peterschmidt noted that, although representatives of Company X and its advisors continued to conduct due diligence, Company X had neither delivered a proposal nor indicated a date by which it expected to do so. Mr. Peterschmidt also informed the board that he would contact Mr. Semel later that day to discuss Yahoo! s proposal.

Later on December 13, Mr. Peterschmidt telephoned Mr. Semel and the two of them agreed that business representatives from each company should meet over the weekend to discuss the valuation of the proposal submitted by Yahoo!. Shortly thereafter, Mr. Stevens spoke with Mr. Coppel to make arrangements for such meeting.

On December 15, Mr. Stevens, Mr. Makhijani and Randy Gottfried, our Senior Vice President and Chief Financial Officer, met with Mr. Coppel, Gideon Yu, Yahoo! s Treasurer and Vice President of Corporate Finance, Manoj Verma, Yahoo! s Director of Corporate Development, and Dennis Morgan, Yahoo! s Director of Corporate Finance, to discuss the valuation of the proposal submitted by Yahoo!. At the conclusion of such meeting, Yahoo! s representatives indicated they would be prepared to support a price as high as $1.55 per share. However, our representatives believed that their valuation supported a price of at least $1.75 per share. The parties agreed to present this range of valuations to Messrs. Semel and Peterschmidt for further discussion. Our representatives also agreed to provide comments on the forms of term sheet and exclusivity agreement Yahoo! had proposed.

On December 16, Skadden Arps delivered mark-ups of Yahoo! s proposed term sheet and exclusivity agreement to Davis Polk.

On December 17, 2002, representatives of Inktomi, including Mr. Peterschmidt, and representatives of Yahoo!, including Mr. Semel, together with the companies financial advisors, met at the offices of Thomas Weisel Partners in San Francisco in an effort to agree on a valuation. Although the difference between the parties valuations had been narrowed to $1.60-$1.70 per share, and the parties reached an understanding regarding certain other terms of the proposed acquisition, the meeting concluded without agreement on a final value.

Later on December 17, Messrs. Peterschmidt and Semel spoke by telephone and continued to discuss the parties respective valuations of Inktomi. Mr. Semel agreed to increase the per share merger consideration in the proposed transaction to $1.65 per share and indicated that this was the highest price Yahoo! was prepared to pay. Mr. Peterschmidt agreed to discuss the revised proposal with our board of directors the following morning.

Later that evening, representatives of Skadden Arps and Davis Polk negotiated the terms of an exclusivity agreement. In addition, Davis Polk distributed a draft merger agreement to us and our advisors.

Also on December 17, we completed the sale of our enterprise search business to Verity.

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On December 18, 2002, a telephonic meeting of our board of directors was held. Mr. Peterschmidt reviewed with the board the discussions with Yahoo!, including the negotiations that resulted in an increase in the consideration per share from $1.40 to $1.65. Mr. Peterschmidt also advised the board that Company X had not submitted a proposal and that, based on his most recent conversation with the Chief Executive Officer of Company X earlier that day, he did not expect it to do so. A representative of Skadden Arps then reviewed with the board its fiduciary duties under applicable law with regard to the proposed transaction with Yahoo!. Representatives of Thomas Weisel Partners then gave a presentation with respect to the proposed merger, including a description of the material terms of the transaction as proposed by Yahoo! at that time and a preliminary financial presentation. At this point, the board discussed the proposed terms of the transaction, including the effects of the no-shop provision and break-up fee on other potential purchasers. The board instructed management to seek to include provisions in the definitive merger agreement that would permit Inktomi to respond to an unsolicited proposal and to terminate the merger agreement in order to accept a higher offer. Mr. Stevens then explained that Yahoo! was prepared to proceed with negotiations only if Inktomi agreed to negotiate exclusively with Yahoo! through December 25, 2002. Upon being polled, all members of the board indicated that they were in favor of continuing the negotiations with Yahoo! and authorized management to execute the exclusivity agreement.

Following the board meeting on December 18, 2002, Inktomi and Yahoo! executed an exclusivity agreement providing that we would negotiate exclusively with Yahoo! through 9:00 a.m. (PST) on December 25, 2002 regarding a potential acquisition of our company by Yahoo!.

Between December 18 and December 22, 2002, representatives of Inktomi, Skadden Arps and Thomas Weisel Partners and representatives of Yahoo!, Davis Polk and CSFB negotiated the terms of the merger agreement. During this period, we and our advisors responded to additional due diligence requests by Yahoo! and its advisors. We also made certain key employees available to representatives of Yahoo!. As a result of those meetings, representatives of Yahoo! determined not to require non-competition agreements from key employees, other than Mr. Peterschmidt.

On December 19, 2002, Davis Polk delivered to Skadden Arps a draft of the form of voting agreement Yahoo! expected to sign concurrently with the merger agreement. Yahoo! had determined to request such agreements only from Mr. Peterschmidt and Dr. Brewer, as they were the only members of the board of directors owning outstanding shares of our common stock.

Also on December 19, representatives of Yahoo! provided a draft of a binding term sheet for a portal services agreement under which we would provide Web search services to Yahoo! under certain circumstances following termination of the merger agreement. Our representatives subsequently informed Yahoo! s representatives that we were not prepared to execute an agreement that did not contain all necessary terms and conditions. Accordingly, on December 21, our representatives provided Yahoo! with a draft of a complete portal services agreement. The terms of the draft agreement were based on the parties most recent negotiations with respect to a commercial agreement, and were consistent with terms contained in our agreements with other large portal customers. As requested by Yahoo!, the agreement would become effective at Yahoo! s option if the merger agreement were terminated for any reason other than a breach of the merger agreement by Yahoo!. On December 21 and December 22, our representatives and Yahoo! s representatives continued to negotiate the terms of the portal services agreement.

On December 22, 2002, representatives of Yahoo! informed our representatives that Yahoo! s board approved the merger, with one director abstaining.

Later on December 22, our board held a telephonic meeting to consider the proposed merger agreement with Yahoo!. Mr. Peterschmidt updated the board on the status of negotiations on the agreement, explaining that the parties had agreed on all terms, subject only to board approval and completion of the disclosure schedule. A representative of Skadden Arps then reviewed again the board s fiduciary duties under applicable law. The representative of Skadden Arps also presented a summary of the terms of the agreement, a written copy of which had been distributed to each director, together with complete drafts of the merger agreement and form of voting agreements, prior to the meeting. The board then discussed the terms of the merger agreement, including the no-shop provisions, the break-up fee and our ability to terminate the merger agreement in order to accept an unsolicited superior offer, with the representatives of our management and our advisors. Representatives of Thomas Weisel Partners then presented a financial analysis of the transaction and delivered orally (confirmed later that day in writing) Thomas Weisel Partners opinion that, as of the date of the board meeting, the consideration to be received by our stockholders pursuant to the proposed merger was fair to our stockholders from a financial point of view. See Opinion of Inktomi s Financial Advisor on page 18. Mr. Stevens then described the portal services agreement. Mr. Stevens explained that the terms of the portal services agreement were in line with agreements we had entered into with other large portal customers and was an agreement that we would be willing to enter into even in the absence of the merger agreement. Following further discussion, our board of directors unanimously approved the merger agreement and the merger and resolved to recommend that Inktomi stockholders vote in favor of adoption of the merger agreement.

Following the board meeting, we and Yahoo! finalized and executed the merger agreement and the portal services agreement, and Yahoo! executed voting agreements with Mr. Peterschmidt and Dr. Brewer. Mr. Peterschmidt and Yahoo! also executed an agreement with respect to certain non-competition obligations. Prior to the opening of the financial markets on December 23, 2002, we and Yahoo! issued a joint press release announcing execution of the merger agreement.

Reasons for the Merger and the Recommendation of the Board of Directors

In the course of reaching its decision to unanimously approve the merger agreement, our board of directors consulted with senior management, our legal counsel and our financial advisor, and reviewed a significant amount of information and considered a number of factors, including the following factors:

the value of the consideration to be received by our stockholders in the merger pursuant to the merger agreement, as well as the fact that stockholders will receive the consideration in cash;

the fact that the $1.65 per share to be paid as the consideration in the merger represents a premium of approximately 27.9% over the one-month trailing average of $1.29 per share, a premium of approximately 37.1% over the one-week trailing average of $1.20 per share, and a premium of approximately 41.0% over the $1.17 closing sale price per share of our common stock on the Nasdaq National Market System on December 20, 2002, the last trading day prior to the public announcement of the execution of the merger agreement;

the opinion of Thomas Weisel Partners dated December 22, 2002 that, as of that date, the merger consideration to be received by our stockholders pursuant to the merger was fair to such stockholders from a financial point of view. A copy of the Thomas Weisel Partners opinion is attached to this proxy statement as Annex C. Such opinion should be read in its entirety for a description of the procedures followed, assumptions and qualifications made, matters considered and limitations of the review undertaken by Thomas Weisel Partners, see Opinion of Inktomi s Financial Advisor on page 18;

the possible alternatives to the merger (including the possibility of our continuing to operate as an independent entity, and the perceived risks of that alternative), the range of possible benefits to our stockholders of possible alternatives and the timing and the likelihood of accomplishing the goal of such alternatives, and our board of directors assessment that none of such alternatives were reasonably likely to present superior opportunities, or reasonably likely to create greater value for our stockholders, than the merger;

the then current financial market conditions, and historical market prices, volatility and trading information with respect to our common stock;

historical and current information concerning our business, financial performance and condition, operations, technology, management and competitive position, and current industry, economic and market conditions;

- the terms and conditions of the merger agreement, including: (i) the no solicitation provisions and our ability to engage in negotiations concerning, provide any confidential information or data to, and otherwise have certain discussions with, any person relating to an alternative acquisition proposal under certain circumstances; (ii) our ability to terminate the merger agreement in order to accept a superior offer from another party in the exercise of our board s fiduciary duties under specified conditions and upon the payment of a termination fee; (iii) the conditions to Yahoo! s obligation to effect the merger; (iv) the definition of material adverse effect ; (v) the limited ability of Yahoo! to terminate the merger agreement; and (vi) the absence of a financing condition;

- the likelihood that the proposed acquisition will be consummated, in light of the experience, reputation and financial capabilities of Yahoo!; and

- the terms of the portal services agreement.

In the course of its deliberations, our board of directors also considered, among other things, the following negative factors:

- risks and contingencies related to the announcement and pendency of the merger, including the potential impact of the proposed merger on our employees, customers and partners and on our existing relationships with third parties;

- the fact that our stockholders will not benefit from any future increase in our value; and

- the fact that the merger generally will be taxable to our stockholders.

In addition, our board of directors considered the interests of our directors and executive officers described in Interests of Inktomi s Directors and Executive Officers in the Merger on page 23. Our board of directors concluded that the judgment and performance of our directors and executive officers would not be impaired by those interests.

The above discussion of the material factors considered by our board of directors is not intended to be exhaustive, but does set forth the principal factors considered by the board. Our board of directors collectively reached the unanimous conclusion to approve the merger agreement and the merger in light of the various factors described above and other factors that each member of our board of directors felt were appropriate. In view of the wide variety of factors considered by our board of directors in connection with its evaluation of the merger and the complexity of these matters, our board of directors did not consider it practical, and did not attempt, to quantify, rank or otherwise assign relative weights to the specific factors it considered in reaching its decision and did not undertake to make any specific determination as to whether any particular factor, or any aspect of any particular factor, was favorable or unfavorable to the ultimate determination of the board of directors. Rather, our board of directors made its recommendation based on the totality of information presented to and the investigation conducted by it. In considering the factors discussed above, individual directors may have given different weights to different factors.

After evaluating these factors and consulting with outside legal counsel and its financial advisors, our board of directors determined that the merger agreement and the merger are fair to and in the best interests of our stockholders. Accordingly, our board of directors has unanimously approved the merger agreement and the merger and declared the merger agreement advisable. **Our board of directors recommends that you vote FOR the adoption of the merger agreement.**

Opinion of Inktomi s Financial Advisor

On December 22, 2002, Thomas Weisel Partners delivered to our board of directors its written opinion that, as of that date, the consideration to be received by our stockholders pursuant to the merger was fair to our stockholders from a financial point of view. A copy of the Thomas Weisel Partners opinion is attached as Annex C to this proxy statement. A summary of the Thomas Weisel Partners opinion is included below. However, you are urged to read the Thomas Weisel Partners opinion carefully in its entirety for the assumptions made, the procedures followed, the matters considered and the limits of the review made by Thomas Weisel Partners in connection with its opinion.

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On November 20, 2002, our board of directors engaged Thomas Weisel Partners to act as its exclusive financial advisor concerning the possible sale of Inktomi based on its qualifications, expertise and reputation. Thomas Weisel Partners is a nationally recognized merchant bank specializing in advising and investing in companies participating in growth sectors of the economy including: healthcare, technology and consumer.

Our board of directors did not impose any limitations on Thomas Weisel Partners with respect to the investigations made or procedures followed in rendering its opinion. However, as noted in the opinion, although Thomas Weisel Partners assisted us in preliminary discussions with another party that had expressed interest in proposing an acquisition of us, Thomas Weisel Partners was not instructed by us to solicit, nor did it solicit or assist us in soliciting, third parties that might be interested in acquiring all or any part of us.

Thomas Weisel Partners directed its opinion to our board of directors. The opinion does not constitute a recommendation to you as to how you should vote with respect to the merger. The opinion addresses only the fairness of the consideration to be received by our stockholders from a financial point of view. It does not address the relative merits of the merger or any alternatives to the merger. Further, it does not address our underlying decision to proceed with or effect the merger or any other aspect of the merger. In furnishing its opinion, Thomas Weisel Partners did not admit that it is an expert within the meaning of the term expert as used in the Securities Act, nor did it admit that its opinion constitutes a report or valuation within the meaning of the Securities Act and the rules and regulations promulgated under the Securities Act. The Thomas Weisel Partners opinion includes statements to these effects.

In connection with its opinion, Thomas Weisel Partners, among other things:

- reviewed certain publicly available financial and other data with respect to Inktomi, including our consolidated financial statements for recent years and interim periods to September 30, 2002, and certain other relevant financial and operating data relating to us made available to Thomas Weisel Partners from published sources and from our internal records;
- reviewed the financial terms and conditions of a draft of the merger agreement, dated December 22, 2002, and drafts of other related agreements;
- reviewed certain publicly available information concerning the trading of, and the trading market for, our common stock;
- compared Inktomi from a financial point of view with certain other companies in the Internet services industry which Thomas Weisel Partners deemed to be relevant;
- considered the financial terms, to the extent publicly available, of selected recent business combinations of companies in the Internet services industry which Thomas Weisel Partners deemed to be comparable, in whole or in part, to the merger;
- reviewed the premiums paid in selected recent business combinations in the technology sector;
- reviewed and discussed with representatives of our management certain information of a business and financial nature regarding Inktomi, furnished to Thomas Weisel Partners by our management;
- made inquiries regarding and discussed the merger and the draft merger agreement and other related matters with our legal counsel; and
- performed such other analyses and examinations as Thomas Weisel Partners deemed appropriate.

In preparing its opinion, Thomas Weisel Partners did not assume any responsibility to independently verify the information referred to above and relied on its being accurate and complete in all material respects. Thomas Weisel Partners made the following assumptions, in each case with our consent:

- with respect to the financial forecasts for Inktomi provided to Thomas Weisel Partners by our management, Thomas Weisel Partners assumed for purposes of its opinion, upon the advice of our management, that the forecasts for Inktomi had been reasonably prepared on bases reflecting the best available estimates and judgments of our management at the time of preparation as to the future business strategy and financial performance of Inktomi, and that these forecasts provided a reasonable basis upon which Thomas Weisel Partners could form its opinion;

that the merger would be consummated in a manner that complies in all respects with all applicable federal and state statutes, rules and regulations; and

that the merger would be consummated in accordance with the terms described in the December 22, 2002 draft of the merger agreement and other related agreements reviewed by Thomas Weisel Partners, without further amendment, and without any waiver by Yahoo! of any of the conditions to its obligations under the merger agreement.

In addition, for purposes of its opinion:

Thomas Weisel Partners did not assume responsibility for making an independent evaluation, appraisal or physical inspection of our assets or liabilities (contingent or otherwise), nor was Thomas Weisel Partners furnished with any such appraisals; and

Thomas Weisel Partners did not assume responsibility for making any independent evaluation of any legal or financial reporting matters with respect to Inktomi, the merger or the merger agreement.

The Thomas Weisel Partners opinion was based on economic, monetary, market and other conditions in effect, and the information made available to Thomas Weisel Partners, as of the date of its opinion. Thomas Weisel Partners has not assumed any obligation to update, revise or reaffirm its opinion.

The following represents a brief summary of the material financial analyses performed by Thomas Weisel Partners in connection with providing its opinion to our board of directors. Some of the summaries of financial analyses performed by Thomas Weisel Partners include information presented in tabular format. In order to fully understand the financial analyses performed by Thomas Weisel Partners, you should read the tables together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses. Considering the data in the tables without considering the full narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of the financial analyses performed by Thomas Weisel Partners.

Comparable Companies Analysis. Based on public and other available information, Thomas Weisel Partners calculated the multiples of enterprise value, which Thomas Weisel Partners defined as equity value plus debt less cash and cash equivalents, to estimated revenues for calendar year 2003 for relevant companies in the Internet services industry. Thomas Weisel Partners believes that the following six companies have operations similar to some of the operations of Inktomi, but noted that none of these companies have the same management, composition, size or combination of businesses as Inktomi: Ask Jeeves, Inc., CNET Networks, Inc., FindWhat.com Inc., InfoSpace, Inc., LookSmart Ltd. and Overture Services, Inc. In addition, Thomas Weisel Partners reviewed, but did not consider as equally comparable to Inktomi, the following large-cap Internet services companies: AOL Time Warner Inc., eBay Inc., Terra Networks SA, Ticketmaster and USA Interactive.

The following table sets forth multiples indicated by the analysis and the implied share price range resulting from such analysis.

	Inktomi Metric(1)	Relevant Public Market Multiples	Implied Per Share Value
Enterprise Value/ Calendar Year 2003 Estimated Revenue	$ 49.6 million	1.0x to 2.5x	$0.58 to $1.02

(1) Based on management estimates which include revenue from Web search business but does not include any revenue from enterprise search (sold in December 2002) or content networking (substantially disposed of) businesses.

Thomas Weisel Partners noted that the per share value of the consideration to be received by our stockholders in connection with the merger, $1.65, exceeds this range.

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While the comparable company analysis compared us to six public companies in the Internet services industry, Thomas Weisel Partners did not include every company that could be deemed to be a participant in this same industry, or in the specific sectors of this industry.

Comparable Transactions Analysis. Based on public and other available information, Thomas Weisel Partners calculated the multiples of enterprise value to Last Twelve Months (LTM) (defined for Inktomi as the estimated 12 months ended December 31, 2002) and Next Twelve Months (NTM) (defined for Inktomi as the estimated 12 months ending December 31, 2003) revenues for the following 11 comparable transactions that have been announced since January 1, 2000.

Announcement Date	Name of Acquiror	Name of Target
October 22, 2002	Microsoft Corporation	Vicinity Corporation
September 18, 2001	Ask Jeeves, Inc.	Teoma Technologies, Inc.
April 27, 2001	TransWestern Publishing Company LLC	WorldPages.com, Inc.
October 27, 2000	Primedia Inc.	About.com, Inc.
July 26, 2000	InfoSpace, Inc.	Go2Net, Inc.
July 18, 2000	CNET Networks, Inc.	Ziff-Davis Inc. (certain assets)
June 28, 2000	Yahoo! Inc.	eGroups, Inc.
June 8, 2000	Inktomi Corporation	Ultraseek Corporation
May 16, 2000	Terra Networks SA	Lycos, Inc.
January 25, 2000	Ask Jeeves, Inc.	Direct Hit Technologies, Inc.
January 19, 2000	CNET Networks, Inc.	mySimon, Inc.

The following table sets forth multiples indicated by this analysis and the implied share price range resulting from such analysis.

	Inktomi Metric(1)	Relevant Public Market Multiples(2)	Implied Per Share Value
Enterprise Value/ NTM Estimated Revenue	$ 49.6 million	0.5x to 2.0x	$0.43 to $0.87
Enterprise Value/ LTM Revenue	$ 46.5 million	1.0x to 4.0x	$0.56 to $1.39

(1) Based on management estimates which include revenue from Web search business but does not include any revenue from enterprise search (sold in December 2002) or content networking (substantially disposed of) businesses.

(2) Transaction multiples were adjusted to reflect current market conditions by indexing enterprise values against the performance of the acquirer s stock price from the transaction s initial announcement date.

Thomas Weisel Partners noted that the per share value of the consideration to be received by our stockholders in connection with the merger, $1.65, exceeds these ranges.

No company or transaction used in the comparable company or comparable transactions analyses is identical to us or the merger. Accordingly, an analysis of the results of the foregoing is not mathematical; rather, it involves complex considerations and judgments concerning differences in financial and operating characteristics of the companies and other factors that could affect the public trading value of the companies to which Inktomi and the transaction are being compared.

Premiums Paid Analysis. Thomas Weisel Partners reviewed the premiums paid by acquirors in selected technology transactions to the closing stock price one day, average stock price one week and average stock price one month prior to the announcement of each transaction. The transactions selected were those with an aggregate value of at least $10 million and announced since January 1, 1998.

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The following table sets forth premiums indicated by this analysis and the implied share price range resulting from such analysis.

	Inktomi Metric	Relevant Public Market Multiples	Implied Per Share Value
1 Day	$1.17	16.5% to 52.7%	$1.36 to $1.79
1 Week Average	$1.20	18.6% to 56.3%	$1.43 to $1.88
1 Month Average	$1.29	23.3% to 66.0%	$1.59 to $2.14

Thomas Weisel Partners noted that the per share value of the consideration to be received by Inktomi s stockholders in connection with the merger, $1.65, falls within these ranges.

Thomas Weisel Partners also derived an average arithmetic range of implied enterprise, implied equity and implied per share values from the comparable companies, comparable transactions and premiums paid analyses summarized above. These average ranges were $118.6 million-$223.6 million (implied enterprise value), $165.3 million-$270.3 million (implied equity value) and $0.99-$1.52 per share (implied per share value). Thomas Weisel Partners noted that the per share value of the consideration to be received by our stockholders in connection with the merger, $1.65, exceeds the upper limit of this average range of implied per share values.

The foregoing description is only a summary of the analyses and examinations that Thomas Weisel Partners considered in connection with its opinion. It is not a comprehensive description of all analyses and examinations actually conducted by Thomas Weisel Partners. The preparation of a fairness opinion necessarily is not susceptible to partial analysis or summary description. Thomas Weisel Partners believes that its analyses and the summary set forth above must be considered as a whole and that selecting portions of its analyses and of the factors considered, without considering all analyses and factors, would create an incomplete view of the process underlying the analyses set forth in its presentation to our board. In addition, Thomas Weisel Partners may have given various analyses more or less weight than other analyses, and may have deemed various assumptions more or less probable than other assumptions. The fact that any specific analysis has been referred to in the summary above is not meant to indicate that this analysis was given greater weight than any other analysis. Accordingly, the ranges of valuations resulting from any particular analysis described above should not be taken to be the view of Thomas Weisel Partners with respect to the actual value of Inktomi.

In performing its analyses, Thomas Weisel Partners made numerous assumptions with respect to industry performance, general business and economic conditions and other matters, many of which are beyond our control. The analyses performed by Thomas Weisel Partners are not necessarily indicative of actual values or actual future results, which may be significantly more or less favorable than those suggested by these analyses. These analyses were prepared solely as part of the analysis performed by Thomas Weisel Partners with respect to the financial fairness of the consideration to be received by our stockholders pursuant to the merger, and were provided to our board in connection with the delivery of the Thomas Weisel Partners opinion. The analyses do not purport to be appraisals or to reflect the prices at which a company might actually be sold or the prices at which any securities may trade at any time in the future.

We have agreed to pay Thomas Weisel Partners a customary fee for its financial advisory services, including delivery of its opinion, a majority of which is contingent upon the consummation of the merger and the remainder of which is a fixed fee. Further, we have agreed to indemnify Thomas Weisel Partners, its affiliates, and their respective, directors, officers, agents, consultants, employees and controlling persons against specific liabilities, including liabilities under the federal securities laws. Thomas Weisel Partners also acted as an underwriter in connection with an offering of our securities and performed various investment banking services for us and Yahoo! for which it received customary fees. In addition, Mr. Timothy Koogle, who is the former Chairman and Chief Executive Officer of Yahoo! and who continues to serve as a director of Yahoo!, is a member of Thomas Weisel Partners Advisory Board.

In the ordinary course of Thomas Weisel Partners business, it may act as a market maker and broker in the publicly traded securities of Inktomi and Yahoo! and consequently receive customary compensation in connection therewith. Thomas Weisel Partners also may actively trade the equity securities of Inktomi or

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Yahoo! for its own account and for the accounts of customers and, accordingly, may at any time hold a long or short position in these securities.

Interests of Inktomi s Directors and Executive Officers in the Merger

When considering the recommendation by our board of directors, you should be aware that a number of our directors and executive officers have interests in the merger that are different from the interests of other Inktomi stockholders. Such interests relate to or arise from, among other things:

- the terms of the merger agreement providing for the continued indemnification of our current directors and executive officers;
- the fact that all of our directors and executive officers own options to acquire our common stock and that these options will be converted into options to acquire Yahoo! common stock;
- the eligibility of our executive officers to receive payments under certain management retention and change of control agreements; and
- the fact that certain of our directors and executive officers have been or may be offered employment positions or other arrangements with Yahoo!.

All such additional interests are described below, to the extent material, and, except as described below, such persons have, to our knowledge, no material interest in the merger apart from those of stockholders generally. Our board of directors was aware of and considered these interests in approving the merger agreement and the merger.

Indemnification and Insurance. The merger agreement provides that Yahoo! or the surviving corporation in the merger will fulfill and honor in all respects our obligations pursuant to any indemnification agreements between us and our directors and officers as of the effective time of the merger and any indemnification provisions under our certificate of incorporation or bylaws as in effect on the date of the merger agreement. The provisions of the certificate of incorporation and bylaws of the surviving corporation in the merger with respect to exculpation and indemnification of directors and officers must be at least as favorable to the directors and officers as those contained in our certificate of incorporation and bylaws as of the date of the merger agreement, and such provisions may not be amended, repealed or otherwise modified for six years from the effective time of the merger in a manner adverse to our directors and officers as of the date of the merger agreement, except as may be required by law. If the surviving corporation in the merger should reincorporate in another U.S. state that prohibits indemnification on terms as favorable as Delaware s, the surviving corporation in the merger must provide for the maximum allowable indemnification in its certificate of incorporation and bylaws and Yahoo! must provide supplemental contractual indemnification such that the indemnification provided by such certificate of incorporation and bylaws and such contractual provisions is equivalent to the level of indemnification provided to our directors and officers as of the date of the merger agreement. The merger agreement also provides that for six years after the effective time of the merger, Yahoo! will maintain directors and officers liability insurance for acts or omissions occurring prior to the effective time of the merger covering those persons who were, as of the date of the merger agreement, covered by our directors and officers liability insurance policies, on terms comparable to those in effect on the date of the merger agreement. Yahoo! s obligation to provide this insurance coverage is subject to a cap of 150% of the current annual premium paid by us for our existing insurance coverage. If Yahoo! cannot maintain the existing or equivalent insurance coverage without exceeding the 150% cap, Yahoo! is required to maintain only that amount of insurance coverage that can be obtained by paying an annual premium equal to the 150% cap.

Stock Options. Each of our directors and executive officers holds options to acquire our common stock. See Securities Ownership of Certain Beneficial Owners and Management on page 44. Under the terms of the merger agreement, at the effective time of the merger, each stock option granted under our stock option plans will be assumed by Yahoo! and converted into an option to acquire shares of Yahoo! common stock. See The Merger Agreement Treatment of Inktomi Securities; Merger Consideration on page 29. In addition, under the terms of our stock option plans, our directors and executive officers have the ability to exercise their options prior to full vesting, subject to a repurchase right by us. If, prior to the effective time of the merger,

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any of our directors or executive officers exercise unvested options and receive shares of our common stock that are subject to a repurchase option, risk of forfeiture or other condition under any applicable restricted stock purchase agreement or other agreement with us, then, at Yahoo! s option and in Yahoo! s sole discretion, the right to receive $1.65 in cash per share will either vest upon consummation of the merger or over time upon satisfaction of the vesting requirements associated with the applicable restricted stock schedule.

*Inktomi s Retention Agreements*Each of our executive officers has entered into a Management Retention and Change of Control Agreement that provides for full vesting of all outstanding options and restricted stock in the event such executive officer s employment is constructively terminated within 12 months of a change of control of Inktomi. In addition, our executive officers are subject to the Inktomi Corporation Retention and Change of Control Severance Benefits Plan (Plan No. 14), which provides for payment of up to two years severance and bonus pay in the event of termination without good cause or voluntary termination by the executive for good reason within 12 months of a change of control of Inktomi. The merger will constitute a change of control for purposes of these agreements and plan.

Employment and Other Arrangements. Vishal Makhijani, our Vice President and General Manager of Web Search, has accepted an offer of employment with Yahoo!, conditioned upon completion of the merger. In addition to customary salary and benefits arrangements, Mr. Makhijani will participate in a retention program Yahoo! is making available for certain senior technical employees of Inktomi. Dr. Eric A. Brewer, our Chief Scientist and a member of our board of directors, is expected to join Yahoo! following completion of the merger.

Non-Compete Agreement. We have an employment agreement with David C. Peterschmidt, our Chairman, President and Chief Executive Officer. The agreement is for no specified length of term, and either party has the right to terminate the agreement at any time with or without cause. The agreement does not provide for any mandatory severance, although we have the right at the time of termination to continue to pay Mr. Peterschmidt his then current salary for up to 12 months, in which case Mr. Peterschmidt may not compete against us during that time period. In connection with the merger agreement, Mr. Peterschmidt agreed not to compete with us, including as an employee, consultant or in certain other capacities for certain specified companies, for a period of one year following the date of the termination of his employment with us.

Amendment to Preferred Stock Rights Agreement

We entered into a rights agreement dated as of August 10, 2000, with Wells Fargo Shareowners Services, as amended by Amendment No. 1 to the Preferred Stock Rights Agreement, effective December 22, 2002, between Inktomi and Wells Fargo Shareowners Services (referred to in this proxy statement as the rights agreement). Our board of directors adopted the rights agreement and issued the rights thereunder to protect our shareholders from coercive or otherwise unfair takeover tactics. In general, the rights agreement imposes a significant penalty upon any person or group that acquires 15% or more of our outstanding common stock without approval of our board of directors.

We have amended our rights agreement to render the rights inapplicable to the merger and the voting agreements. Specifically, the amendment ensures that none of Yahoo!, December 2002 Acquisition Corp. or any of their respective affiliates or associates is or will become an Acquiring Person, as defined in the rights agreement, by reason of the merger agreement, the voting agreements, the merger or any other transaction contemplated by the merger agreement or the voting agreements. The amendment also ensures that the Distribution Date, as defined in the rights agreement, will not occur by reason of the merger agreement, voting agreements, the merger or any other transaction contemplated by the merger agreement or the voting agreements.

Appraisal Rights

The discussion of the provisions set forth below is not a complete summary regarding your appraisal rights under Delaware law and is qualified in its entirety by reference to the text of the relevant provisions of Delaware law, which are attached to this proxy statement as Annex D. Stockholders intending to exercise

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appraisal rights should carefully review Annex D. Failure to follow precisely any of the statutory procedures set forth in Annex D may result in a termination or waiver of these rights.

If the merger is consummated, dissenting holders of our common stock who follow the procedures specified in Section 262 of the Delaware General Corporate Law within the appropriate time periods will be entitled to have their shares of our common stock appraised by a court and to receive the fair value of such shares in cash as determined by the Delaware Court of Chancery in lieu of the consideration that such stockholder would otherwise be entitled to receive pursuant to the merger agreement.

The following is a brief summary of Section 262, which sets forth the procedures for dissenting from the merger and demanding statutory appraisal rights. Failure to follow the procedures set forth in Section 262 precisely could result in the loss of appraisal rights. This proxy statement constitutes notice to holders of Inktomi s common stock concerning the availability of appraisal rights under Section 262. A stockholder of record wishing to assert appraisal rights must hold the shares of stock on the date of making a demand for appraisal rights with respect to such shares and must continuously hold such shares through the effective time of the merger.

Stockholders who desire to exercise their appraisal rights must satisfy all of the conditions of Section 262. A written demand for appraisal of shares must be filed with us before the special meeting on [l], 2003. This written demand for appraisal of shares is in addition to and separate from a vote against the merger. Stockholders electing to exercise their appraisal rights must not vote for the merger. Any proxy or vote against the merger will not constitute a demand for appraisal within the meaning of Section 262.

A demand for appraisal must be executed by or for the stockholder of record, fully and correctly, as such stockholder s name appears on the share certificate. If the shares are owned of record in a fiduciary capacity, such as by a trustee, guardian or custodian, this demand must be executed by or for the fiduciary. If the shares are owned by or for more than one person, as in a joint tenancy or tenancy in common, such demand must be executed by or for all joint owners. An authorized agent, including an agent for two or more joint owners, may execute the demand for appraisal for a stockholder of record; however, the agent must identify the record owner and expressly disclose the fact that, in exercising the demand, he is acting as agent for the record owner. A person having a beneficial interest in our common stock held of record in the name of another person, such as a broker or nominee, must act promptly to cause the record holder to follow the steps summarized below and in a timely manner to perfect whatever appraisal rights the beneficial owners may have.

An Inktomi stockholder who elects to exercise appraisal rights should mail or deliver his, her or its written demand to Inktomi at its address at 4100 East Third Avenue, Foster City, California 94404, Attention: President. The written demand for appraisal should specify the stockholder s name and mailing address, and that the stockholder is thereby demanding appraisal of his or her Inktomi common stock. Within ten days after the effective time of the merger, we must provide notice of the effective time of the merger to all of its stockholders who have complied with Section 262 and have not voted for the merger.

Within 120 days after the effective time of the merger, but not after, any stockholder who has satisfied the requirements of Section 262 may deliver to us a written demand for a statement listing the aggregate number of shares not voted in favor of the merger and with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Inktomi, as the surviving corporation in the merger, must mail any such written statement to the stockholder no later than the later of 10 days after the stockholders request is received by us or 10 days after the latest date for delivery of a demand for appraisal under Section 262.

Within 120 days after the effective time of the merger, but not after, either Inktomi or any stockholder who has complied with the required conditions of Section 262 and who is otherwise entitled to appraisal rights may file a petition in the Delaware Court of Chancery demanding a determination of the fair value of the Inktomi shares of stockholders entitled to appraisal rights. We have no present intention to file such a petition if demand for appraisal is made.

Upon the filing of any petition by a stockholder in accordance with Section 262, service of a copy must be made upon us, which must, within 20 days after service, file in the office of the Register in Chancery in which

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the petition was filed, a duly verified list containing the names and addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by us. If a petition is filed by us, the petition must be accompanied by the verified list. The Register in Chancery, if so ordered by the court, will give notice of the time and place fixed for the hearing of such petition by registered or certified mail to us and to the stockholders shown on the list at the addresses therein stated, and notice will also be given by publishing a notice at least one week before the day of the hearing in a newspaper of general circulation published in the City of Wilmington, Delaware, or such publication as the court deems advisable. The forms of the notices by mail and by publication must be approved by the court, and the costs thereof will be borne by us. The Delaware Court of Chancery may require the stockholders who have demanded an appraisal for their shares (and who hold stock represented by certificates) to submit their stock certificates to the Register in Chancery for notation of the pendency of the appraisal proceedings and the Delaware Court of Chancery may dismiss the proceedings as to any stockholder that fails to comply with such direction.

If a petition for an appraisal is filed in a timely fashion, after a hearing on the petition, the court will determine which stockholders are entitled to appraisal rights and will appraise the shares owned by these stockholders, determining the fair value of such shares, exclusive of any element of value arising from the accomplishment or expectation of the merger, together with a fair rate of interest to be paid, if any, upon the amount determined to be the fair value.

Inktomi stockholders considering seeking appraisal of their shares should note that the fair value of their shares determined under Section 262 could be more, the same or less than the consideration they would receive pursuant to the merger agreement if they did not seek appraisal of their shares. The costs of the appraisal proceeding may be determined by the court and taxed against the parties as the court deems equitable under the circumstances. Upon application of a dissenting stockholder, the court may order that all or a portion of the expenses incurred by any dissenting stockholder in connection with the appraisal proceeding, including reasonable attorneys fees and the fees and expenses of experts, be charged pro rata against the value of all shares entitled to appraisal. In the absence of a determination or assessment, each party bears his, her or its own expenses. The exchange of shares for cash pursuant to the exercise of appraisal rights will be a taxable transaction for United States federal income tax purposes and possibly state, local and foreign income tax purposes as well. See Certain U.S. Federal Income Tax Consequences on page 27.

Any stockholder who has duly demanded appraisal in compliance with Section 262 will not, after the effective time of the merger, be entitled to vote for any purpose the shares subject to demand or to receive payment of dividends or other distributions on such shares, except for dividends or distributions payable to stockholders of record at a date prior to the effective time of the merger.

At any time within 60 days after the effective time of the merger, any stockholder will have the right to withdraw his demand for appraisal and to accept the terms offered in the merger agreement. After this period, a stockholder may withdraw his demand for appraisal and receive payment for his shares as provided in the merger agreement only with our consent. If no petition for appraisal is filed with the court within 120 days after the effective time of the merger, stockholders rights to appraisal (if available) will cease. Inasmuch as we have no obligation to file such a petition, any stockholder who desires a petition to be filed is advised to file it on a timely basis. No petition timely filed in the court demanding appraisal may be dismissed as to any stockholder without the approval of the court, which approval may be conditioned upon such terms as the court deems just.

Failure by any Inktomi stockholder to comply fully with the procedures described above and set forth in Annex D to this proxy statement may result in termination of the stockholder s appraisal rights.

Form of the Merger

Subject to the terms and conditions of the merger agreement and in accordance with Delaware General Corporation Law, at the effective time of the merger, December 2002 Acquisition Corp., a wholly-owned subsidiary of Yahoo! and a party to the merger agreement, will merge with and into Inktomi. Inktomi will survive the merger as a wholly-owned subsidiary of Yahoo!.

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Conversion of Shares; Procedures for Exchange of Certificates

The conversion of our common stock into the right to receive $1.65 per share in cash, without interest, will occur automatically at the effective time of the merger. Promptly after the effective time of the merger, [l], the paying agent, will send a transmittal letter to each former Inktomi stockholder. The transmittal letter will contain instructions for obtaining cash in exchange for shares of our common stock. Stockholders should not return stock certificates with the enclosed proxy.

In the event of a transfer of ownership of our common stock that is not registered in the records of our transfer agent, the cash consideration for shares of our common stock may be paid to a person other than the person in whose name the certificate so surrendered is registered if:

the certificate is properly endorsed or otherwise is in proper form for transfer; and

the person requesting such payment (a) pays any transfer or other taxes resulting from the payment to a person other than the registered holder of the certificate or (b) establishes to Yahoo! that the tax has been paid or is not applicable.

The cash paid upon conversion of shares of Inktomi s common stock will be issued in full satisfaction of all rights relating to the shares of Inktomi s common stock.

Certain U.S. Federal Income Tax Consequences

The following is a summary of certain U.S. federal income tax consequences of the merger to stockholders. This discussion is based on provisions of the Internal Revenue Code, or the Code, applicable Treasury regulations promulgated under the Code, Internal Revenue Service, or IRS, rulings and judicial interpretations thereof all in effect as of the date of this proxy statement, and all of which are subject to change after such date, possibly with retroactive effect. There can be no assurance that future legislative, judicial or administrative action will not affect the accuracy of the statements or conclusions in this proxy statement.

This summary does not address all the U.S. federal income tax considerations that may be relevant to shares received pursuant to the exercise of employee stock options or otherwise as compensation or with respect to stockholders who are subject to special tax treatment under the Code, including without limitation persons who are non-U.S. persons, insurance companies, dealers or brokers in securities or currencies, tax-exempt organizations, life insurance companies, regulated investment companies and financial institutions and may not apply to stockholders in light of individual circumstances, such as holding shares as a hedge or as part of a hedge, straddle, conversion, synthetic security integrated investment or other risk-reduction transaction or who are subject to alternative minimum tax. It also does not address the tax consequences of the merger under foreign, state or local tax laws. Accordingly, stockholders are urged to consult with their tax advisor with respect to the particular U.S. federal, state, local or foreign income tax or other tax consequences of the merger to them.

The exchange of Inktomi shares for cash in the merger will be a taxable transaction for U.S. federal income tax purposes, and accordingly a stockholder will recognize gain or loss equal to the difference between the cash received and such stockholder s adjusted tax basis in the Inktomi shares exchanged. In general, a stockholder must calculate gain or loss separately for each block of Inktomi shares that is exchanged in the merger. Provided a stockholder holds his or her Inktomi shares as a capital asset, this gain or loss will be capital gain or loss, which will be long-term capital gain or loss if the stockholder has held his or her Inktomi shares for more than one year at the time of the merger. A non-corporate stockholder is subject to a maximum U.S. federal income tax rate of 20% on any net long-term capital gains. In addition, there are limits on the deductibility of capital losses.

Unless a stockholder complies with certain reporting or certification procedures or is an exempt recipient (in general, corporations and certain other entities) under applicable provisions of the Code and Treasury regulations, such stockholder may be subject to a withholding tax of 30% with respect to any cash payments received pursuant to the merger. Backup withholding is not an additional tax. Any amount withheld under these rules will be credited against a stockholder s U.S. federal income tax liability provided such

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stockholder furnishes the required information to the IRS. If a stockholder does not comply with the backup withholding rules, such holder may be subject to penalties imposed by the IRS.

The preceding summary is general in nature and does not consider any particular stockholder s individual facts and circumstances. The tax consequences of the merger to any particular stockholder will depend on his or her individual facts and circumstances. Stockholders are strongly urged to consult their tax advisors as to the tax consequences to them of the merger.

Regulatory Matters

Antitrust. Under the Hart-Scott-Rodino Antitrust Improvements Act and the rules under the Act, certain transactions, including the merger, may not be completed unless certain waiting period requirements have expired or been terminated. Yahoo! and Inktomi each filed a notification and report form pursuant to the Hart-Scott-Rodino Act with the Antitrust Division of the Department of Justice and the Federal Trade Commission on January 10, 2003, and requested early termination of the required waiting period. If such early termination is granted or the waiting period expires, the requirements of the Hart-Scott-Rodino Act will be satisfied if the merger is completed within one year from the termination or expiration of the waiting period. The merger may also be subject to consents, approvals and filings under foreign antitrust laws. There can be no assurance that a challenge to the merger on antitrust grounds will not be made or, if such a challenge is made, that it would not be successful.

General. It is possible that any of the governmental entities with which filings are made may seek, as conditions for granting approval of the merger, various regulatory concessions. There can be no assurance that Yahoo! or Inktomi will be able to satisfy or comply with these conditions or be able to cause their respective subsidiaries to satisfy or comply with these conditions, or that compliance or noncompliance will not have adverse consequences for Yahoo! after completion of the merger, or that the required regulatory approvals will be obtained within the time frame contemplated by Yahoo! and Inktomi and referred to in this proxy statement or on terms that will be satisfactory to Yahoo! and Inktomi. However, neither we nor Yahoo! is required to divest or enter into any licensing or similar arrangement with respect to any assets or any portion of the business of Yahoo!, Inktomi or any of Yahoo! s or our respective subsidiaries or to litigate specified kinds of suits, claims, actions, investigations or proceedings brought by any governmental entity. See The Merger Agreement Reasonable Efforts on page 34.

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THE MERGER AGREEMENT

The following summary of the material terms of the merger agreement is qualified in its entirety by reference to the merger agreement, which is incorporated by reference in its entirety and attached as Annex A to this proxy statement. We urge you to read the merger agreement carefully and in its entirety.

The merger agreement provides for the merger of Yahoo! s wholly-owned subsidiary, December 2002 Acquisition Corp., with and into Inktomi, following the adoption of the merger agreement by the requisite vote of our stockholders and the satisfaction or waiver, as permitted, of the other conditions to the merger. Following the merger, Inktomi will be the surviving corporation and a wholly-owned subsidiary of Yahoo!.

Effective Time of the Merger

The merger will become effective upon the filing of a certificate of merger with the Delaware Secretary of State or at such later time as is agreed upon by Yahoo! and Inktomi and specified in the certificate of merger. The filing of the certificate of merger will occur no later than the second business day after satisfaction or waiver of the conditions to the completion of the merger described in the merger agreement.

Treatment of Inktomi Securities; Merger Consideration

At the effective time of the merger:

- each outstanding share of our common stock, including the associated preferred stock purchase rights, other than shares owned by us or by Yahoo! and shares as to which appraisal rights have been perfected, will be canceled and automatically converted into the right to receive $1.65 in cash, without interest;

- each outstanding option to purchase shares of our common stock granted under any of our option plans and non-plan option agreements will be assumed by Yahoo! and, at the effective time, will be converted automatically into options to purchase shares of Yahoo! common stock, subject to the same terms and conditions (other than the number of underlying shares and the exercise price) as under the applicable option plan or non-plan option agreement. The number of shares of Yahoo! common stock (rounded down to the nearest whole share) underlying such option after conversion will be determined by multiplying the number of shares of our common stock subject to the option by a fraction, with a numerator of $1.65 and with a denominator of the average closing price of Yahoo! common stock on the Nasdaq National Market System over the 10 trading days immediately preceding, but not including, the date on which the effective time occurs, and the exercise price per share of Yahoo! common stock (rounded up to the nearest whole cent) will be equal to (A) the per share exercise price divided by (B) the fraction described above; and

- for each share of our outstanding common stock that is unvested or is subject to a repurchase option, risk of forfeiture or other condition under any applicable restricted stock purchase agreement or other agreement, Yahoo! will, at its option and in its sole discretion, either (i) pay to the holder of such share $1.65 in cash upon surrender of the stock certificates representing such shares, or (ii) pay to the holder of such share the merger consideration over time as the vesting requirements of the applicable restricted stock schedule are satisfied.

As soon as practicable after the completion of the merger, but in any event within 20 days of completion of the merger, Yahoo! will prepare and file with the Securities and Exchange Commission an appropriate registration statement registering the shares of Yahoo! common stock underlying assumed Inktomi stock options.

Exchange of Inktomi Stock Certificates

Promptly after the effective time of the merger, [l], as the paying agent, will mail to you a letter of transmittal and instructions for you to use in surrendering your share certificates. When you properly surrender your share certificates to the agent for cancellation, together with a duly executed letter of transmittal and any other documents as the agent may require, the agent will promptly deliver to you a check payable to you in the

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amount to which you are entitled in accordance with the merger agreement, after giving effect to any required tax withholdings, and your certificates will be canceled. Until properly surrendered, each certificate representing shares of our common stock will be deemed, at any time after the effective time of the merger, to represent only the right to receive $1.65 in cash, without interest, for each share of common stock represented by the certificate.

Yahoo! is entitled to cause the paying agent to deliver to it any funds that have not been disbursed within six months after the effective time of the merger. After that date, holders of certificates who have not complied with the instructions to exchange their certificates will be entitled to look to Yahoo! for payment with respect to the cash payable upon surrender of their certificates.

You should not send in your share certificates before you receive a letter of transmittal and instructions from the paying agent.

Restated Certificate of Incorporation and By-Laws

The merger agreement provides that, after the effective time of the merger, the certificate of incorporation of Inktomi, as in effect immediately prior to the effective time of the merger, will be the certificate of incorporation of the surviving corporation, as amended at the effective time of the merger in accordance with the merger agreement, and that the by-laws of December 2002 Acquisition Corp., as in effect immediately prior to the effective time of the merger, will be the by-laws of the surviving corporation following the merger until changed or amended.

Officers and Directors of Inktomi Following the Merger

After the effective time of the merger, the directors and officers of December 2002 Acquisition Corp. will become the directors and officers of Inktomi, until their successors are duly elected, appointed and qualified.

Representations and Warranties

The merger agreement contains customary representations and warranties by Inktomi relating to, among other things:

- our corporate organization and other corporate matters;
- our subsidiaries;
- our capital structure;
- authorization, execution, delivery, performance and enforceability of, and required consents, approvals, orders and authorizations of governmental authorities relating to, the merger agreement and related matters of Inktomi;
- documents filed by us with the SEC, the accuracy of the financial statements and other information contained in such documents and the absence of certain liabilities;
- the accuracy of information supplied by Inktomi in connection with this proxy statement;
- absence of certain changes or events concerning Inktomi;
- outstanding and pending litigation involving Inktomi;
- certain contracts of Inktomi;
- compliance with applicable laws and permits;

environmental matters;

matters relating to the Employee Retirement Income Security Act and other employee benefits matters;

filing of material tax returns and payment of material taxes;

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- title to our material properties and assets and rights to leasehold interests;
- absence of liens and encumbrances;
- our intellectual property;
- our insurance policies;
- our satisfaction of certain state takeover statute requirements; and
- receipt of Thomas Weisel Partners opinion.

The merger agreement contains customary representations and warranties by Yahoo! relating to, among other things:

- corporate organization and other corporate matters with respect to each of Yahoo! and its wholly-owned subsidiary;
- authorization, execution, delivery, performance and enforceability of, and required consents, approvals, orders and authorizations of governmental authorities relating to, the merger agreement and related matters of Yahoo!;
- the accuracy of information supplied by Yahoo! in connection with this proxy statement;
- the previous operations of December 2002 Acquisition Corp.; and
- the availability of funds sufficient to complete the merger.

Definition of Material Adverse Effect

Several of our representations and warranties and certain conditions contained in the merger agreement are qualified by reference to whether the item in question would have a material adverse effect on us. The merger agreement provides that a material adverse effect means, when used in connection with any entity, any state of facts, change, event, circumstance or occurrence that has a material adverse effect on the business, assets (including intangible assets), financial condition or results of operations of such entity taken as a whole with its subsidiaries, provided, however, that no change, event, circumstance or occurrence will be considered in determining whether there has been or will be a material adverse effect on such entity if such change, event, circumstance or occurrence results from certain specified matters, including:

- the announcement or pendency of the merger, including litigation relating to the proposed merger;
- any failure to meet published revenue or earnings projections;
- any change in the entity s stock price or trading volume;
- general business or economic conditions;
- changes affecting the principal industries in which the entity operates, which changes do not disproportionately affect such entity; or
- any action required or expressly contemplated to be taken or prohibited from being taken under the merger agreement.

Conduct of Business Pending the Merger

Except as expressly contemplated by the merger agreement or as Yahoo! may consent in writing between December 22, 2002 and the effective time of the merger, we will carry on our business in the ordinary course, in substantially the same manner as currently conducted and in compliance in all material respects with all applicable laws and regulations, pay our debts and taxes when due subject to good faith disputes over such debts or taxes, pay or perform other material obligations when due, and use all reasonable efforts consistent with past practices and policies to preserve intact our present business organization, keep available the services

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of our present officers, employees and contractors and preserve our relationships with customers, suppliers, licensors, licensees and others with which we have business dealings.

Prior to the effective time of the merger, we have agreed not to do any of the following nor permit our subsidiaries to do any of the following, except as contemplated by the merger agreement, without the prior written consent of Yahoo!:

waive any stock repurchase rights, take any action to accelerate, amend or change the period of vesting or exercisability of options or restricted stock, or reprice options granted under any employee, consultant, director or other stock plans or authorize cash payments in exchange for any options granted under any of such plans, except in connection with the termination of the employment relationship with any employee, individually in an amount not to exceed $25,000 and in the aggregate in an amount not to exceed $250,000;

adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization;

grant any severance or termination pay to any employee, except as required by applicable law or pursuant to written agreements in effect or policies existing on the date hereof and as previously disclosed in writing to Yahoo!, or adopt any new severance, retention or change in control plan, except with respect to our commerce or shopping division, wireless division, digital goods, network products division or content network solutions group or enterprise search (or Ultraseek) software division;

transfer or license to any person or entity or otherwise extend, amend or modify in any material respect any of the intellectual property rights owned by us or our subsidiaries, other than nonexclusive licenses in the ordinary course of business consistent with past practice or with respect to our commerce or shopping division, wireless division, digital goods, network products division or content network solutions group or enterprise search (or Ultraseek) software division;

declare, set aside, or pay any dividends on or make any other distributions (whether in cash, stock, equity securities or property) in respect of any capital stock or split, combine or reclassify any capital stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for any capital stock;

purchase, redeem or otherwise acquire, directly or indirectly, any shares of our capital stock or our subsidiaries, or any instrument or security that consists of a right to acquire such shares except repurchases of unvested shares at cost in connection with the termination of the employment relationship with any employee pursuant to stock option or purchase agreements in effect on the date hereof, and except for actions taken relating to the winding-up of non-U.S. subsidiaries;

issue, deliver, sell, authorize, pledge or otherwise encumber any shares of capital stock or any securities convertible into shares of capital stock, or subscriptions, rights, warrants or options to acquire any shares of capital stock or any securities convertible into shares of capital stock, or enter into other agreements or commitments of any character obligating it to issue any such shares or convertible securities, other than the issuance, delivery and/or sale of (i) shares of our common stock pursuant to the exercise of stock options or warrants therefore outstanding as of the date hereof, and (ii) shares of our common stock issuable to participants in the Inktomi Corporation 1998 Inktomi Employee Purchase Plan consistent with the terms thereof;

split, combine or reclassify any class of capital stock;

cause, permit or propose any amendments to our certificate of incorporation, bylaws or other organizational documents;

acquire or agree to acquire by merging or consolidating with, or by purchasing any equity interest in or a portion of the assets of, or by any other manner, any business or any corporation, partnership, association or other business organization or division thereof; or otherwise acquire or agree to acquire

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any assets which are material, individually or in the aggregate, to us or enter into any, strategic partnerships or alliances;

sell, transfer, lease, mortgage, pledge, encumber or otherwise dispose of any properties or assets which are material, individually or in the aggregate, to us, other than physical assets no longer in day-to-day use by us and other than in the ordinary course of business consistent with past practice or with respect to our commerce or shopping division, wireless division, digital goods, network products division or content network solutions group or enterprise search (or Ultraseek) software division;

incur any indebtedness for borrowed money or guarantee any such indebtedness of another person, issue or sell any debt securities or options, warrants, calls or other rights to acquire any of our debt securities, enter into any keep well or other agreement to maintain any financial statement condition, incur or modify any other material liability or enter into any arrangement having the economic effect of any of the foregoing other than under existing arrangements with Silicon Valley Bank;

adopt or amend any employee benefit plan or employee stock purchase or employee stock option plan, or enter into any employment contract, consulting agreement or collective bargaining agreement (other than offer letters and letter agreements entered into in the ordinary course of business consistent with past practice with employees who are terminable at will), pay any special bonus or special remuneration to any director, officer, consultant or employee, increase the salaries or wage rates or fringe benefits (including rights to severance or indemnification) of our directors, officers, employees or consultants (other than increases to employees who are not directors or affiliates in the ordinary course of business, consistent with past practice), make any loans to any of our officers, directors, employees, affiliates, agents or consultants or make any change in our existing borrowing or lending arrangements for or on behalf of any of such persons, except as required by applicable law;

except in the ordinary course of business consistent with past practice pursuant to the Inktomi employee benefits plans, (i) pay or make any accrual or arrangement for payment of any pension, retirement allowance or other employee benefit pursuant to any existing plan, agreement or arrangement to any officer, director, employee or affiliate or pay or agree to pay or make any accrual or arrangement for payment to any officers, directors, employees or affiliates of ours or any of our subsidiaries of any amount relating to unused vacation days; or (ii) adopt or pay, grant, issue, accelerate or accrue salary or other payments or benefits pursuant to any pension, profit sharing, bonus, extra compensation, incentive, deferred compensation, stock purchase, stock option, stock appreciation right, group insurance, severance pay, retirement or other employee benefit plan, agreement or arrangement, or any employment or consulting agreement with or for the benefit of any of our or our subsidiary s director, officer, employee, agent or consultant, whether past or present, or amend in any material respect any such existing plan, agreement or arrangement in a manner inconsistent with the foregoing;

modify, amend or terminate any material contract or agreement to which we or any of our subsidiaries is a party, including, without limitation, any customer contract, leases, licensing, distribution, sponsorship, advertising, merchant program, encoding services, hosting or other similar agreement, or joint venture agreement involving annual revenues to us in excess of $100,000, or waive, release or assign any material rights or claims thereunder, other than any modification, amendment or termination of any such Inktomi material contract in the ordinary course of business or consistent with past practice or with respect to our commerce or shopping division, wireless division, digital goods, network products division or content network solutions group or enterprise search (or Ultraseek) software division;

settle any claims, liabilities or obligations (whether absolute, accrued, contingent or otherwise), other than the payment, discharge or satisfaction of any such claims, liabilities or obligations, in the ordinary course of business consistent with past practice, or of claims, liabilities or obligations reflected or reserved against in, or contemplated by, the consolidated financial statements (or the notes thereto) of Inktomi, or with respect to our commerce or shopping division, wireless division, digital goods, network

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products division or content network solutions group or enterprise search (or Ultraseek) software division;

except in the ordinary course of business consistent with past practice, enter into any sponsorship, advertising, merchant program, encoding services, hosting or other similar contracts, agreements, or obligations which may not be canceled without penalty by us or our subsidiaries upon notice of 30 days or less or which provide for annual payments by or to us or our subsidiaries in an amount in excess of $100,000 or which involve any exclusive terms of any kind;

permit any insurance policy naming us as a beneficiary or a loss payee to be canceled or terminated unless such insurance policy is replaced with a substantially equivalent policy;

materially revalue any of our assets or, except as required by generally accepted accounting principles, applicable accounting requirements or the published rules and regulations of the SEC with respect thereto in effect during the periods involved;

except in the ordinary course of business consistent with past practice, make or change any tax election, change an annual accounting period, adopt or change any accounting method, file any amended return, enter into any closing agreement, settle or consent to any tax claim, surrender any right to claim a refund of taxes, or consent to any extension or waiver of the statutory period of limitations applicable to any tax claim except as required by any legal requirement;

fail to make in a timely manner any filings with the SEC required under the Securities Act or the Exchange Act, or the rules and regulations promulgated thereunder;

subject Yahoo! or the surviving corporation after the merger or any of their respective subsidiaries to any non-compete or other material restriction on any of their respective businesses following the closing;

enter into any agreement or commitment the effect of which would be to grant to a third party following the merger any actual or potential right of license of any material intellectual property rights owned by us or any of our subsidiaries;

waive any standstill or similar restrictions contained in any confidentiality or other agreements to which we are a party;

take any action that would or is reasonably likely to result in any of the conditions to the merger not being satisfied, or would make any of our representations or warranties contained in the merger agreement inaccurate in any material respect at, or as of any time prior to, the effective time, or that would materially impair our ability to complete the merger in accordance with the terms of the merger agreement or materially adversely affect our ability to complete the merger within the time frame in which the merger would otherwise be completed in the absence of such action; or

enter into any written agreement, contract, commitment or arrangement to do any of the foregoing, or authorize, recommend, propose, in writing or announce an intention to do any of the foregoing.

Reasonable Efforts

We and Yahoo! have each agreed, subject to limits set forth in the merger agreement, to use all reasonable efforts to take, or cause to be taken, all actions necessary, proper or advisable to consummate in the most expeditious manner practicable the merger and the other transactions contemplated by the merger agreement, including among other things using all reasonable efforts to take, obtain, execute or deliver:

all reasonable acts necessary to cause the conditions to the merger to be satisfied;

all necessary actions or nonactions, waivers, consents, approvals, orders and authorizations from governmental entities and make all necessary registrations, declarations and filings, and take all reasonable steps as may be necessary to avoid any suit, claim, action, investigation or proceeding by any governmental entity;

all other consents as specified in the merger agreement; and

any additional instruments necessary to consummate the transactions and to carry out fully the purposes of the merger agreement.
Neither Yahoo! nor we are required to:

litigate or agree to litigate against any governmental entity; or

take or agree to take any of the following actions:

make proposals, execute or carry out agreements or submit to certain governmental laws and rules providing for the license, sale or other disposition or the holding separate of any assets or category of assets that are material to Yahoo!, us or any of our or Yahoo! s respective subsidiaries or the holding separate of our capital stock or imposing or seeking to impose any limitation on the ability of Yahoo!, us or any of our or Yahoo! s respective subsidiaries, to conduct their respective business or own those assets or to acquire, hold or exercise full rights of ownership of our business; or

take any step to avoid or eliminate any impediment which may be asserted under any of certain governmental laws and rules governing competition, monopolies or restrictive trade practices.

No Solicitation

We have agreed that neither we nor any of our subsidiaries, officers or directors will, and we will use all reasonable efforts to cause our and our subsidiaries employees, agents and representatives, including any investment banker, attorney or accountant retained by us or any of our subsidiaries, not to, and will not authorize any of them to, directly or indirectly:

solicit, initiate, intentionally encourage, take any action to facilitate or intentionally induce any inquiry with respect to, or the making, submission or announcement of, any alternative acquisition proposal, as described below;

enter into or participate in any discussions or negotiations regarding, or furnish to any person any non-public information or afford access to our or our subsidiaries business, properties, assets, books or records, with respect to, or take any other action to facilitate or intentionally encourage any inquiries or the making of any proposal that constitutes or may reasonably be expected to lead to any alternative acquisition proposal, except for discussions as to the existence of these no solicitation provisions of the merger agreement;

approve, endorse or recommend any alternative acquisition proposal;

enter into any letter of intent or similar document or any contract, agreement or commitment contemplating or otherwise relating to any alternative acquisition proposal or transaction contemplated by any alternative acquisition proposal; or

grant any waiver or release under any standstill or similar agreement with respect to any equity securities of Inktomi or our subsidiaries.

We have agreed that as promptly as practicable, and in any event within 24 hours, after receiving any alternative acquisition proposal, or any expression by any person of an intention to make an alternative acquisition proposal, or any request for nonpublic information, or inquiry that we reasonably believe may lead to an alternative acquisition proposal or for a waiver or release under any standstill or similar agreement, that we will provide Yahoo! with oral and written notice of the material terms and conditions of the alternative acquisition proposal, indication, request or inquiry and the identity of the person or group making the alternative acquisition proposal, indication, request or inquiry. We have agreed to provide Yahoo! as promptly as practicable notice, which may be oral, setting forth all information that is reasonably necessary to keep Yahoo! informed on a current basis of the status and details, including material amendments or proposed material amendments, of any alternative acquisition proposal, indication, request or inquiry.

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We have also agreed to provide Yahoo! with 48 hours prior notice, or lesser prior notice equal to the prior notice provided to our board of directors, of any meeting of our board of directors at which our board of directors is reasonably expected to consider any alternative acquisition proposal.

Even though we have agreed to the provisions described above relating to the solicitation of an alternative acquisition proposal, if we receive an unsolicited, bona fide written alternative acquisition proposal that includes an indication of value in excess of the merger consideration, and that our board of directors in good faith concludes, after receiving advice from our outside legal counsel and financial advisor, is from a person reasonably capable of completing the alternative acquisition proposal and is or is reasonably likely to result in a superior offer (as described below), we may take the following actions:

furnish nonpublic information to the third party making the alternative acquisition proposal, request or inquiries provided that concurrently with furnishing any nonpublic information to the third party, we give Yahoo! notice of our intention to furnish the information and we receive from the third party an executed confidentiality agreement, the terms of which do not include any provision calling for any exclusive right to negotiation with the third party or having the effect of prohibiting us from satisfying our obligations under the merger agreement with Yahoo!, and are, in all material respects, no less favorable to us than the confidentiality agreement we entered into with Yahoo!, and contemporaneously with furnishing any nonpublic information to the third party, we furnish the same nonpublic information to Yahoo! if we have not previously done so; and

engage in negotiations with the third party with respect to the alternative acquisition proposal, provided that concurrently with entering into negotiations with the third party, we give Yahoo! notice of our intention to do so.

In response to the receipt of a superior offer, our board of directors may withhold, withdraw, amend or modify its recommendation in favor of adoption of the merger agreement, and in the case of a superior offer that is a tender or exchange offer made directly to our stockholders, our board may recommend that our stockholders accept the tender or exchange offer, if all of the following conditions are met:

the stockholders meeting to vote on the adoption of the merger agreement has not occurred;

we deliver to Yahoo!, no later than concurrently with changing our recommendation, written notice of our change of recommendation, including the material terms and conditions of the superior offer and the identity of the person or group making the superior offer;

our board of directors has concluded in good faith, after receipt of advice from our outside legal counsel that, in light of the superior offer, the failure of our board of directors to change its recommendation is reasonably likely to be inconsistent with its fiduciary obligations to our stockholders under applicable law; and

we have not breached in any material respect the no solicitation provisions of the merger agreement.

For five business days after delivering written notice of our change of recommendation, we will provide Yahoo! a reasonable opportunity to make adjustments in the terms and conditions of the merger agreement with Yahoo!, and to negotiate in good faith with respect to that agreement.

We have agreed that unless the merger agreement has been terminated in accordance with its terms, we will be obligated to call, give notice of, convene and hold a meeting of our stockholders to vote on adoption of the merger agreement, regardless of the commencement, disclosure, announcement or submission to us of any alternative acquisition proposal, or of any withdrawal, amendment or modification of our recommendation, and we will not submit to the vote of our stockholders any alternative acquisition proposal, or propose to do so.

However, nothing in our agreement with Yahoo! will prohibit us or our board of directors from taking and disclosing a position to our stockholders as contemplated by Rules 14d-9 and 14e-2(a) under the Exchange Act.

For purposes of the merger agreement, alternative acquisition proposal means any offer or proposal, whether or not subject to due diligence, relating to any transaction or series of related transactions (other than the merger with Yahoo!) involving any acquisition by any person or group of more than 15% of our total outstanding voting securities, or any tender offer or exchange offer that if consummated would result in any person or group beneficially owning 15% or more of our total outstanding securities, or any merger, consolidation, business combination or similar transaction involving us or, any sale, lease, exchange, transfer, license or acquisition by a third party of more than 15% of our and our subsidiaries assets, taken as a whole.

For purposes of the merger agreement, a superior offer means an unsolicited, bona fide written offer made by a third party to acquire, directly or indirectly, through a tender offer, exchange offer, merger, consolidation or other business combination all or substantially all of our assets, or a majority of our total outstanding voting securities on terms our board of directors reasonably determines, in good faith, following receipt of advice from our outside legal counsel and financial advisor, provides consideration to our stockholders that is more favorable, from a financial point of view, than the consideration offered in the merger agreement, and is not subject to any financing condition, with any required financing being either fully committed or otherwise reasonably determined to be available, and taking into account all legal, financial, regulatory and other aspects of the offer and the person making the offer, is reasonably capable of being completed without significant additional delay.

Board Recommendation

Neither our board of directors nor any committee to the board of directors may withdraw, amend or modify in any manner adverse to Yahoo!, its recommendation that you vote in favor of adoption of the merger agreement, except in response to the receipt of a superior offer and under the circumstances described above under No Solicitation on page 35.

Conditions to the Merger

The respective obligations of each of the parties to complete the merger are subject to the satisfaction or waiver of the following conditions:

- the merger agreement must be adopted, by the requisite vote, under applicable law, of our stockholders;
- there must be no statute, rule, regulation, executive order, decree or injunction or other order, whether temporary, preliminary or permanent, enacted, issued, promulgated, enforced or entered by any governmental entity, which is in effect and has the effect of making the merger illegal or otherwise prohibiting completion of the merger;
- all waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act must have expired or been terminated, any required approval by the European Commission must have been obtained pursuant to the EC Merger Regulation and all other material foreign antitrust approvals must have been obtained; and
- there must be no pending or overtly threatened suit, action or proceeding asserted by any governmental authority challenging or seeking to restrain or prohibit the completion of the merger or any of the transactions contemplated by the merger agreement, or seeking to require Yahoo!, us or any of our subsidiaries or affiliates, to make proposals, execute or carry out agreements or submit to legal requirements providing for the license, sale or other disposition or holding separate of any assets or categories of assets that are material to Yahoo!, us or any of our or Yahoo! s subsidiaries or the holding separate of our capital stock or imposing or seeking to impose any limitation on the ability of Yahoo!, us or our and Yahoo! s respective subsidiaries, to conduct their respective businesses or own such assets or to acquire, hold or exercise full rights of ownership of our business or otherwise take any step to avoid or eliminate any impediment which may be asserted under any legal requirement governing competition, monopolies or restrictive trade practices.

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Our obligation to complete the merger is also subject to the satisfaction or waiver, at or prior to the effective time of the merger, of the following additional conditions:

Yahoo! and Yahoo! s wholly-owned subsidiary s representations and warranties must be true and correct in all respects as of the closing date, except in each case, or in the aggregate, as would not reasonably be expected to impede the receipt of the merger consideration by our stockholders;

Yahoo! and Yahoo! s wholly-owned subsidiary must have performed or complied in all material respects with all the agreements and covenants required by the merger agreement to be performed by it on or prior to the closing date; and

we must have received a certificate with respect to Yahoo! and the Yahoo! wholly-owned subsidiary with respect to the correctness and completeness of their respective representations and warranties, and performance of their respective agreements and covenants, executed by a senior executive officer of Yahoo! and an authorized officer of Yahoo! s wholly-owned subsidiary.

The obligation of Yahoo! to complete the merger is also subject to the satisfaction or waiver, at or prior to the effective time of the merger, of the following additional conditions:

our representations and warranties contained in the merger agreement must be true and correct in all respects as of the closing date, with such exceptions as do not, individually or in the aggregate, constitute a material adverse effect on us at the time of the completion of the merger, and we must provide to Yahoo! a certificate executed by our chief executive officer, certifying our representations and warranties as true and correct as of the closing date;

we must have performed or complied in all material respects with all agreements and covenants required by the merger agreement to be performed or complied by us, at or prior to the closing date, and we must provide to Yahoo! a certificate executed by one of our senior executive officers certifying our compliance with the required agreements and covenants as of the closing date;

no change, event, circumstance or occurrence must have occurred and be continuing that has a material adverse effect on us;

all consents, permits and approvals of governmental entities and other private third parties, as designated by the merger agreement, must have been obtained, with no material adverse conditions attached and no material expense imposed on us; and

shares of our common stock outstanding immediately prior to the consummation of the merger and held by holders who have not voted in favor of the merger and who have demanded appraisal for such shares in accordance with Delaware General Corporation Law must not comprise more than 15% of our shares of common stock outstanding immediately prior to the merger.

Benefit Arrangements

Yahoo! will provide, or will cause the surviving corporation in the merger to provide, our employees who are subsequently employed by Yahoo! or its subsidiaries after the effective time of the merger, with employee benefits (other than equity-based benefits) that are substantially comparable in the aggregate to the employee benefits provided to similarly-situated active employees of Yahoo!, its subsidiaries or the surviving corporation, and to honor the severance payments and benefits payable under Inktomi s severance plans and agreements in effect immediately prior to the closing.

Prior to the effective time of the merger, Yahoo! s board of directors, or an appropriate committee of non-employee directors thereof, will, if necessary, adopt a resolution consistent with the interpretative guidance of the SEC so that the assumption of the options to purchase our common stock held by company insiders will be an exempt transaction for purposes of Section 16 of the Exchange Act by any officer or director of Inktomi who may become a covered person of Yahoo! for purposes of that provision.

Prior to the effective time and in accordance with the terms and conditions of the Inktomi Corporation 1998 Employee Stock Purchase Plan, our board of directors will shorten the purchase periods, then in

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progress, for our employee stock purchase plan by setting a new exercise date prior to the effective time and notifying all participants in the plan of such new exercise date at least 10 business days prior to such new date and each participant s option under the plan will be exercised automatically on the new exercise date, unless prior to that date the participant has withdrawn from the offering period. Any offering periods, then in progress, will end on the new exercise date, and our board of directors will terminate the plan prior to the effective time.

Expenses

Other than the termination fee described under Termination Fee, on page 41, all fees and expenses incurred in connection with the merger agreement and transactions contemplated by the merger agreement will be paid by the party incurring those fees or expenses; provided, however, that we and Yahoo! will share all fees and expenses equally (other than attorneys and accountants fees and expenses) incurred in connection with printing, filing and mailing this proxy statement, and the filing fees for certain antitrust notification and report forms.

Termination of the Merger Agreement

The merger agreement may be terminated:

- by mutual written consent duly authorized by Yahoo! s and Inktomi s boards of directors;
- by either Yahoo! or Inktomi, if:
  - the merger is not completed by May 31, 2003 (or in the event that the merger has not been completed because of a governmental order prohibiting completion of the merger or because the relevant waiting periods of the Hart-Scott-Rodino Act have not expired or been terminated or certain other necessary antitrust or competition authority approvals have not been obtained or because a governmental authority has any pending or overtly threatened suit, action or proceeding challenging, seeking to restrain or prohibit completion of the merger or seeking to require certain divestitures, then July 31, 2003); provided, however, the agreement may not be terminated by any party whose action or failure to act is a principle cause or results in the merger failing to be completed on or before such date and such action or failure to act constitutes a material breach;
  - any final nonappealable order, decree or ruling issued by a governmental entity permanently restrains or prohibits the merger; or
  - the merger agreement is not adopted by the required vote of our stockholders at a meeting of the stockholders duly convened for the purpose of voting on the merger agreement; provided, however, that we may not terminate the agreement if our actions or failure to act causes our stockholders to fail to approve the merger agreement and the merger, and our actions or failure to act constitutes a material breach of the merger agreement;
- by Inktomi if:
  - Yahoo! breaches any of its representations, warranties, covenants or agreements under the merger agreement or if any representation or warranty of Yahoo! will have become untrue, in either case, such that either Inktomi s condition relating to representations and warranties or Inktomi s condition relating to agreements and covenants would not be satisfied at the time of such breach or as of the time such representation or warranty shall have become untrue, subject to a 30-day cure period and the condition that if we have materially breached the agreement we may not terminate the agreement, or
  - if prior to the adoption and approval of the merger agreement and the merger by the required vote of our stockholders we have provided written notice to Yahoo! that we intend to enter into a binding,

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written agreement for a superior offer, with the agreement terminating upon our entering into a binding written agreement, provided, that each of the following events has occurred:

we have complied in all material respects with the no solicitation provisions of the merger agreement;

we have delivered to Yahoo! notice of a change of recommendation notice by our board;

Yahoo! does not make, within 72 hours after receiving our written notice, an offer that the Inktomi board of directors has reasonably concluded in good faith (following consultation with its financial advisor and outside counsel) is at least as favorable to our stockholders as such superior offer;

we have received opinions from our financial advisor and an additional investment banking firm of national reputation to the effect that the consideration to be provided to our stockholders by the superior offer is superior from a financial point of view to the merger consideration; and

we pay to Yahoo! a cash termination fee of $11,200,000 concurrently with entering into such binding, written agreement;

by Yahoo! if:

we breach any of our representations, warranties, covenants or agreements under the merger agreement or if any representation or warranty of ours shall have become untrue, in either case, such that either Yahoo! s condition relating to representation and warranties or Yahoo! s condition relating to agreements and covenants would not be satisfied at the time of such breach or as of the time such representation or warranty shall have become untrue, subject to a 30-day cure period and the condition that if Yahoo! has materially breached the agreement it may not terminate the agreement; or

any one of the following events occurs prior to the adoption and approval of the merger and merger agreement by the required vote of our stockholders:

our board of directors or any committee of the board of directors withdraws, amends or modifies in a manner adverse to Yahoo! its recommendation in favor of the adoption and approval of the merger agreement with Yahoo! and the merger;

our board fails to publicly reaffirm its recommendation in favor of the adoption and approval of the merger agreement with Yahoo! and the merger within 10 business days after Yahoo! requests in writing that our board of directors reaffirms its recommendation following the public announcement of any alternative acquisition proposal;

our board of directors or any committee of the board of directors approves or recommends an alternative acquisition proposal from a third party;

our board of directors does not convey to our stockholders a statement in respect to a tender offer or exchange offer by a third party that our board recommends rejection of such offer within 10 business days after the tender or exchange offer is first published or received by our board of directors; or

we deliver a change of recommendation notice to Yahoo!.

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Termination Fee

We must pay Yahoo! a cash termination fee of $11,200,000 promptly, but in no event later than two business days, after the merger agreement is terminated because:

- we willfully and materially breach a representation, warranty, covenant or agreement or a representation or warranty becomes untrue, in either case, such that Yahoo! s condition relating to representations and warranties would not be satisfied;
- our board of directors or any committee of our board of directors withdraws, amends or modifies in a manner adverse to Yahoo! its recommendation in favor of the adoption and approval of the merger agreement;
- our board fails to reaffirm its recommendation of the merger agreement within 10 business days after Yahoo! requests it to do so following the public announcement of an alternative acquisition proposal;
- our board of directors approves or recommends an alternative acquisition proposal;
- a tender or exchange offer relating to our securities will have been commenced by a person unaffiliated with Yahoo! and we will not have sent to our stockholders within 10 business days after such tender or exchange offer is first published, sent or given, a statement disclosing that our board of directors recommends rejection of such tender or exchange offer;
- we deliver a change of recommendation notice to Yahoo!; or
- we have entered into a binding written agreement with respect to a superior offer.

We must also pay Yahoo! a cash termination fee of $11,200,000 promptly, but in no event later than two business days after completion of an acquisition of Inktomi by a third party, if prior to the termination of the merger agreement, there has been public disclosure of an alternative acquisition proposal and within 12 months of the termination of the merger agreement an acquisition of Inktomi is completed, and the merger agreement is terminated for one of the following reasons:

- the merger fails to be consummated by May 31, 2003 (or, under certain circumstances, July 31, 2003); or
- the merger agreement is not adopted by the required vote of our stockholders; provided that the consideration paid to our stockholders in such alternative acquisition, valued as of the date we enter into the alternative acquisition proposal, exceeds the merger consideration.

Amendment; Extension and Waiver

The merger agreement may be amended by the parties, by action taken or authorized by their respective boards of directors, at any time before or after approval of the matters presented in connection with the merger by the stockholders of Inktomi, provided, that after any approval, no amendment can be made which by law requires further approval by such stockholders without further stockholder approval. The merger agreement may not be amended except by executing a written agreement signed by each of the parties.

At any time prior to the effective time any party to the agreement, by action taken or authorized by their respective board of directors, may, to the extent legally allowed: (i) extend the time for the performance of any of the obligations or other acts of the other parties to the merger agreement, (ii) waive any inaccuracies in the representations and warranties made to such party contained in the agreement or in any document delivered pursuant to the agreement, and (iii) waive compliance with any of the agreements or conditions for the benefit of such party contained in the agreement. Any agreement to grant an extension or waiver is valid only if set forth in a written document executed on behalf of the party agreeing to the extension or waiver. Delay in exercising any right under the merger agreement does not constitute a waiver of that right.

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THE VOTING AGREEMENTS

Concurrently with the execution and delivery of the merger agreement, Yahoo! entered into a voting agreement with each of David C. Peterschmidt, Chairman, President and Chief Executive Officer of Inktomi, and Dr. Eric A. Brewer, Chief Scientist of Inktomi and a member of our board of directors, who on the record date held 237,437 and 3,850,276 shares, respectively, of Inktomi common stock representing approximately [l]% of the outstanding Inktomi common stock. The following summary of the material terms of the voting agreements is qualified in its entirety by reference to the form of voting agreement, which is incorporated by reference in its entirety and attached as Annex B to this proxy statement.

Under the voting agreements, Mr. Peterschmidt and Dr. Brewer agreed, among other things, to vote their shares of Inktomi s common stock in favor of the adoption of the merger agreement at any meeting of Inktomi s stockholders and at every adjournment or postponement of a meeting. Mr. Peterschmidt and Dr. Brewer also agreed to vote against any action or agreement presented to stockholders of Inktomi for which the vote or consent of either of them is requested or sought that would result in a breach in any respect of any covenant, representation or warranty or any other obligation or agreement of ours under the merger agreement, or which would deprive Yahoo! of any material portion of the benefits anticipated by Yahoo! to be received from the consummation of the merger or other transactions contemplated by the merger agreement, or which would change in any manner the voting rights of our common stock, except as may, in each case, be approved in advance by Yahoo!. In order to secure these obligations, Mr. Peterschmidt and Dr. Brewer granted a proxy and power of attorney with respect to all of their shares of Inktomi common stock with respect to such matters to certain officers of Yahoo! or a person designated by Yahoo!.

Mr. Peterschmidt and Dr. Brewer also agreed not to offer for sale, sell, transfer, tender, pledge, encumber, assign or otherwise dispose of, or enter into any contract, option or other arrangement or understanding with respect to or consent to the offer for sale, sale, transfer, tender, pledge, encumbrance, assignment or other disposition of any or all of their shares of Inktomi common stock subject to their respective voting agreements prior to the date of the stockholder meeting to consider adoption of the merger agreement. In addition, Mr. Peterschmidt and Dr. Brewer agreed not to grant any proxy or power of attorney, deposit of any of their shares of Inktomi common stock subject to their respective voting agreements into a voting trust, or enter into a voting agreement or arrangement with respect to such shares except as provided in their respective voting agreements, nor to take any other action that would make any of their representations and warranties in such voting agreements untrue or incorrect or have the effect of preventing or disabling each of them from performing his obligations under such voting agreements.

Each voting agreement provides that it will terminate upon the earliest of the termination of the merger agreement pursuant to its terms, written agreement of the parties to the voting agreements to terminate such agreements, a change of our board of directors recommendation that our stockholders vote in favor of adoption of the merger agreement, or the completion of the merger.

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PORTAL SERVICES AGREEMENT

Concurrently with the execution and delivery of the merger agreement, we entered into a portal services agreement with Yahoo!. If the merger agreement is terminated for any reason, except by us as a result of a breach by Yahoo! under the merger agreement, Yahoo! has the option for 30 days to effectuate the agreement and obtain Web search services from us pursuant to the agreement.

If the agreement becomes effective, at Yahoo! s election, we will provide Yahoo! and its affiliates a nonexclusive right to access our Internet search services. We will also provide Yahoo! with a programming interface and software tools to enable Yahoo! to build interfaces to access our Web search services and will permit Yahoo! to implement these interfaces on websites owned or controlled by Yahoo! or its affiliates. In addition, we will provide Web search services to Yahoo! that incorporate features consistent with those provided by us to other third parties or an Inktomi website. We will provide Web search services in accordance with certain operational parameters, including ensuring the availability of the Web search services to Yahoo!. Yahoo! may also choose to participate in our paid inclusion services.

Under the portal services agreement, we will charge Yahoo! a usage-based fee for Web search services and will pay Yahoo! a percentage of the revenue we earn from paid inclusion program participants. The fees under these arrangements will be based upon the most favorable terms for such services under our agreements with other large customers.

The term of the agreement, if implemented, will be two years. After the first year, Yahoo! may terminate the agreement on six months written notice.

We have obligations to indemnify Yahoo! for certain matters, and Yahoo! has obligations to indemnify us for certain matters.

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SECURITIES OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table shows the common stock beneficially owned by (i) each person who is known by us to beneficially own 5% or more of our outstanding common stock, (ii) each of the executive officers of Inktomi, (iii) each of our directors and (iv) all officers and directors as a group, as of January 1, 2003. Except as otherwise noted, the address of each person listed in the table is c/o Inktomi Corporation, 4100 East Third Avenue, Foster City, California 94404.

Name	Amount and Nature of Beneficial Ownership(1)	Percent of Common Stock
David C. Peterschmidt(2)	5,338,237	3.18%
Eric A. Brewer(3)	4,575,276	2.80%
Allen J. Gula, Jr.(4)	200,000	*
Greg Myers(5)	200,000	*
Roger Noall(6)	100,000	*
Randy S. Gottfried(7)	503,053	*
Vishal Makhijani(8)	607,194	*
Timothy J. Stevens(9)	910,000	*
All directors and executive officers as a group (8 Persons)	12,433,760	7.26%

* Less than one percent of the outstanding common stock as of January 1, 2003.

(1) This table is based on information supplied by executive officers and directors of Inktomi and on any Schedules 13D or 13G filed with the SEC. Beneficial ownership is determined in accordance with the rules of the SEC. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of common stock subject to options held by that person that are currently exercisable or will become exercisable within 60 days after January 1, 2003 are deemed outstanding, while such shares are not deemed outstanding for purposes of computing percentage ownership of any other person. Percentage of beneficial ownership is based on 162,890,548 shares of Inktomi common stock outstanding as of January 1, 2003. Unless otherwise indicated in the footnotes below, the persons named in the table have sole voting and investment power with respect to all shares beneficially owned, subject to community property laws where applicable.

(2) Includes 215,178 shares held by David C. Peterschmidt and Roxanne N. Peterschmidt, Trustees of the Peterschmidt Family Trust U/D/T Dtd 12/30/91, and 22,259 shares held by Mr. Peterschmidt. Also includes options held by Mr. Peterschmidt to purchase 5,100,800 shares of common stock. The options are fully exercisable although as of January 1, 2003, 2,090,325 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Mr. Peterschmidt ceases to be an employee of Inktomi.

(3) Includes 3,156,931 shares held by Dr. Eric A. Brewer and 693,345 shares held by the Dr. Eric A. Brewer Living Trust, Dr. Eric A. Brewer, Trustee. Also includes options held by Dr. Brewer to purchase 725,000 shares of common stock. The options are fully exercisable, although as of January 1, 2003, 439,333 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Dr. Brewer ceases to be an employee of Inktomi.

(4) Includes options held by Allen J. Gula, Jr. to purchase 200,000 shares of common stock. The options are fully exercisable, although as of January 1, 2003, 178,000 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Mr. Gula ceases to be a director of Inktomi.

(5) Includes options held by Greg Myers to purchase 200,000 shares of common stock. The options are fully exercisable, although as of January 1, 2003, 176,000 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Mr. Myers ceases to be a director of Inktomi.

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(6) Includes options held by Roger Noall to purchase 100,000 shares of common stock. The options are fully exercisable, although as of January 1, 2003, 100,000 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Mr. Noall ceases to be a director of Inktomi.

(7) Includes 3,053 shares held by Randy S. Gottfried. Also includes options held by Mr. Gottfried to purchase 500,000 shares of common stock. The options are fully exercisable, although as of January 1, 2003, 500,000 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Mr. Gottfried ceases to be an employee of Inktomi.

(8) Includes 10,495 shares held by Vishal Makhijani. Also includes options held by Mr. Makhijani to purchase 596,699 shares of common stock. The options are fully exercisable, although as of January 1, 2003, 379,029 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Mr. Makhijani ceases to be an employee of Inktomi.

(9) Includes options held by Timothy J. Stevens to purchase 910,000 shares of common stock. The options are fully exercisable although as of January 1, 2003, 457,914 shares issuable upon exercise of the options were subject to a right of repurchase at cost in the event Mr. Stevens ceases to be an employee of Inktomi.

STOCKHOLDER PROPOSALS

If the merger is completed, we will not have any public stockholders and will not hold any more annual meetings of stockholders. However, if the merger is not completed, we will hold a 2003 annual meeting of stockholders as soon as practicable after the termination of the merger agreement. In that event:

stockholder proposals pursuant to Rule 14a-8 under the Exchange Act intended to be included in the proxy statement for our 2003 annual meeting of stockholders must be received at our executive offices a reasonable time before we begin to print and mail proxy materials for the 2003 annual meeting of stockholders, if any; and

stockholder proposals under our bylaws submitted outside of Rule 14a-8 must also be received at our executive offices a reasonable time before we begin to print and mail proxy materials for our 2003 annual meeting of stockholders, if any. Stockholder suggestions for nominees must include certain required information.

OTHER MATTERS

As of the date of this proxy statement, our board of directors knows of no matters that will be presented for consideration at the special meeting other than as described in this proxy statement.

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WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the Securities and Exchange Commission. You may read and copy any reports, statements or other information that Inktomi file, with the Securities and Exchange Commission at the Securities and Exchange Commission s public reference room at the following location:

Public Reference Room

450 Fifth Street, N.W., Room 1024
Washington, D.C. 20549

Please call the Securities and Exchange Commission at 1-800-SEC-0330 for further information on the public reference room. These Securities and Exchange Commission filings are also available to the public from commercial document retrieval services and at the Internet world wide web site maintained by the Securities and Exchange Commission at http://www.sec.gov . Reports, proxy statements and other information concerning Inktomi may also be inspected at the offices of the Nasdaq Stock Market at 1735 K Street, N.W., Washington, D.C. 20006.

The Securities and Exchange Commission allows Inktomi to incorporate by reference information into this proxy statement, which means that we can disclose important information by referring you to another document filed separately with the Securities and Exchange Commission. All documents filed by us pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, subsequent to the date hereof and prior to the special meeting shall be deemed to be incorporated by reference into this proxy statement.

You may obtain the above-mentioned documents by requesting them in writing or by telephone from us at the following address:

Inktomi Corporation

4100 East Third Avenue
Foster City, California 94404
Attention: Investor Relations
Telephone: (650) 653-2800

If you would like to request documents from us, please do so by [l] to receive them before the special meeting.

You should not send in your Inktomi certificates, if any, until you receive the transmittal materials from the paying agent. If you are a stockholder of record who has further questions about your share certificates or the exchange of your Inktomi common stock for cash, you should call our proxy solicitor, Innisfree M&A Incorporated, toll free at 1-877-456-3463.

You should rely only on the information contained in this proxy statement. We have not authorized anyone to provide you with information that is different from what is contained in this proxy statement. This proxy statement is dated as of [l]. You should not assume that the information contained in this proxy statement is accurate as of any date other than that date. Neither the mailing of this proxy statement to stockholders nor the issuance of cash in the merger creates any implication to the contrary.

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ANNEX A

AGREEMENT AND PLAN OF MERGER

by and among
YAHOO! INC.
DECEMBER 2002 ACQUISITION CORP.
and
INKTOMI CORPORATION
dated as of
December 22, 2002

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NOTE 13 Subsequent Events

On November 3, 2011, the Company s board of directors approved extending the maturity date of each of the outstanding secured promissory notes held by the Company that had been issued by certain non-officer employees in connection with stock options that otherwise would have expired prior to the Company s initial public offering. See Note 10 for more information about the promissory notes. As a result of the extension approved by the Company s board of directors, the promissory notes will now be due on the earlier of: (i) (x) November 11, 2013 for the promissory notes related to 36,400 nonqualified options and (y) May 11, 2012 for the promissory notes related to 29,163 incentive stock options; (ii) immediately prior to the dissolution or liquidation of the Company or upon a transaction resulting in a change of control, including by merger or by sale of all or substantially all of the Company s assets; (iii) the employee s termination as an employee or consultant of the Company; or (iv) the occurrence of an event of default as defined in the promissory note. The Company expects the additional stock-based compensation expense associated with the extension to be immaterial.

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

This Quarterly Report on Form 10-Q, including this Management s Discussion and Analysis of Financial Condition and Results of Operations, contains forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act). These statements relate to future events or our future financial performance. Forward-looking statements may include words such as may, will, should, expect, plan, intend, anticipate, believe, estimate, predict, potential, continue or other wording indicating future results or expectations. Forward-looking statements are subject to risks and uncertainties, and actual events or results may differ materially. Factors that could cause our actual results to differ materially include, but are not limited to, those discussed under Risk Factors in this report. We also face risks and uncertainties relating to our business including: our ability to accurately forecast revenues and appropriately plan our expenses; the impact of changes in mortgage interest rates; the volume of mortgages originated by our Encompass users; fluctuations in mortgage lending volume; the number of Encompass users, and in particular Lender Encompass Users; transaction volume on the Ellie Mae Network; the risk that the anticipated benefits, growth prospects and synergies expected from the Del Mar Datatrac acquisition may not be fully realized or may take longer to realize than expected; the impact of uncertain domestic and worldwide economic conditions, including the resulting effect on residential mortgage volumes; the effectiveness of our marketing and sales efforts to attract new and retain existing Encompass SaaS users and Ellie Mae Network participants; our ability to enhance the features and functionality of our Encompass software and the Ellie Mae Network; the level of demand for our Encompass Closer document preparation and other services we offer; the timing of the introduction and acceptance of new Ellie Mae Network offerings and additional services including our Encompass SaaS offering; changes in mortgage originator, lender, investor or service provider behavior and any related impact on the residential mortgage industry; changes in government regulation affecting Ellie Mae Network participants or our business; our ability to successfully manage any future acquisitions of businesses, solutions or technologies; the timing of future acquisitions of businesses, solutions or technologies and new product launches; the attraction and retention of qualified employees and key personnel; our ability to protect our intellectual property, including our proprietary Encompass software; interruptions in Ellie Mae Network service, our hosted Encompass software and any related impact on our reputation; and costs associated with defending intellectual property infringement and other claims. We undertake no obligation to revise or update any forward-looking statements to reflect any event or circumstance that arises after the date of this report, or to conform such statements to actual results or changes in our expectations.

Overview

We host one of the largest electronic mortgage origination networks in the United States, connecting mortgage origination professionals to lenders, investors and service providers integral to the origination and funding of residential mortgages. Mortgage originators participating in the Ellie Mae Network use our Encompass software, a comprehensive operating system that handles key business and management functions in running a mortgage origination business. Mortgage originators use Encompass as a single tool for loan processing, marketing, customer communication and to interact electronically with lenders, investors and service providers over the Ellie Mae Network. We also offer Encompass users a variety of additional services, including Encompass Closer, which automatically prepares the disclosure and closing documents necessary to fund a mortgage; CenterWise, a bundled offering of electronic document management and websites used for customer relationship management; Encompass Compliance Service, our compliance service powered by Mavent; and tax transcript services which provides income verification capability to our customers. In addition, in January 2011 we acquired and began integrating assets from Mortgage Pricing System, LLC, or MPS, to introduce our Encompass Product and Pricing Service, which allows Encompass users to compare loans offered by different lenders and investors to determine the best product and price available to a particular borrower.

Lenders, service providers and certain government-sponsored entities using the Ellie Mae Network pay us fees, which we refer to as Network Transaction revenues, when they effect a transaction over the Ellie Mae Network. A Network Transaction occurs when an Encompass user sends an electronic service request to any lender, service provider or other participant through our network and that request has been accepted.

We also generate revenues from the sale of our software and services, which we refer to as Software and Services revenues. The software component of Software and Services revenues is derived from mortgage originators who either license Encompass software for an initial fee as a perpetual license with annual maintenance fees or subscribe to the Encompass software as a service, or Encompass SaaS, for a monthly per user subscription fee or for fees on a success basis with monthly minimums, which we refer to as success-based pricing. In addition, we offer CenterWise software either as a standalone product on a subscription fee basis or bundled as part of our Encompass SaaS offering. The services component of Software and Services revenues is derived from fees paid by mortgage originators for Ellie Mae services they order. These services include document preparation and Encompass compliance reports.

Our Network Transaction revenues and the services component of Software and Services revenues generally track the seasonality of the mortgage industry, with increased activity in the second and third quarters and reduced activity in the first and fourth quarters as home buyers tend to purchase their homes during the spring and summer in order to move to a new home before the start of the school year. These revenues are also affected by factors that impact mortgage volumes, such as interest rate fluctuations and general economic conditions.

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We achieve our highest gross margins on our Network Transaction revenues. Our gross margins on the services component of our Software and Services revenues have been affected by our use of third-party providers and we intend to continue to reduce third-party costs by internally developing or acquiring additional document preparation and other technology.

We were formed in 1997 and reincorporated in Delaware in November 2009. From inception through 2000, we developed initial versions of our network. We launched our first transaction platform in late 2000, the present version of which is the Ellie Mae Network. We acquired two software companies in 2000 and 2001 as our initial entry into the business of providing loan processing software and document preparation services for mortgage originators. We introduced our internally developed Encompass software solution in 2003. We acquired software and related assets from Online Documents, Inc., or ODI, to enhance our document preparation services in September 2008, commenced our compliance services offering in December 2009 through our acquisition of Mavent, and added our Encompass Product and Pricing Service to our Encompass software in January 2011 through our acquisition of assets from MPS. On August 15, 2011, we acquired all of the outstanding shares of Del Mar Datatrac, Inc., or DMD, a mortgage lending automation business, to increase our customer base and our product offerings by providing additional proprietary back-end mortgage lending software and to broaden the functionality of our Encompass solutions.

Prior to 2006, we financed our operations and capital expenditures primarily through private sales of preferred stock and lease financing. Since 2006, we have not required additional equity financings and have financed our operations with existing cash and cash flows from operating activities. Our business is not capital intensive and we have responded to adverse economic conditions, such as those that commenced in 2007, by reducing headcount, which is a major component of our operating expenses.

The mortgage industry has undergone significant changes since 2007, largely in response to the hundreds of billions of dollars of loan defaults and massive losses suffered by lenders and investors. Our business strategy has evolved to address recent industry trends, including:

- the lower mortgage lending volumes expected in 2011 and 2012 as compared to 2010, as forecasted by Fannie Mae, Freddie Mac and the Mortgage Bankers Association;
- decreased profitability for mortgage originators as a result of reduced mortgage originations;
- a continued significant decline in the number of mortgage brokerages and an increase in the relative importance of mortgage lenders, which not only arrange but also fund loans;
- increased lender quality requirements for new loans; and
- regulatory reforms that have significantly increased the complexity and importance of regulatory compliance.

We are responding to the forecasted decline in mortgage lending volume in several ways. We are promoting increased use of the Ellie Mae Network to produce additional Network Transactions revenues, and seeking to expand the services component of our Software and Services revenues through an increase in the number and usage of our services, such as compliance and document preparation. We believe that Encompass and the Ellie Mae Network also directly address mortgage originators need for increased efficiency and profitability during a period of decreased mortgage origination volumes. We are addressing the increasing role of mortgage lenders, as compared to mortgage brokerages, by emphasizing our Encompass Banker Edition software, which provides additional functionality for mortgage lenders. We have hired sales personnel focused on sales of our Ellie Mae Network offerings and our Encompass Banker Edition in light of the increasing percentage of potential customers which are mortgage lenders rather than mortgage brokerages. We also intend to continue to increase marketing activities focused on our Encompass Banker Edition, our Ellie Mae Network offerings and our Encompass Compliance Service. We believe that this shift will provide us increased opportunities because mortgage lenders typically use more sophisticated and comprehensive software solutions to run their businesses, use more services and effect more Network Transactions on the Ellie Mae Network. Our offerings through the Ellie Mae Network directly address lenders and service providers increased emphasis on efficiency and quality standards by allowing lenders and service providers to set specific criteria for loans and obtain automated responses when a loan fits those criteria. We purchased Mavent to provide compliance services for our Encompass users to respond to the increased focus on regulatory compliance due to regulatory reforms.

As an additional response to market conditions, we have, beginning in late 2009, focused our marketing and sales efforts on our Encompass SaaS offering, and particularly our Encompass SaaS success-based pricing model, in contrast to our license model. In our Encompass SaaS offering, the customer does not pay the significant up-front licensing fee associated with our license model, which we believe is particularly attractive in the present residential mortgage origination market. Our Encompass SaaS success-based pricing model builds on this value proposition by aligning the payments of our customers for our software and services with their own receipt of revenues. The effect of these changes is a delay in our receipt of a significant portion of our revenues from the time of the initial sale until subsequent periods, which decreased our revenues in the first half of 2010. Customers of our Encompass SaaS success-based pricing model are comprised of customers that have converted from our licensed Encompass software or flat monthly per user hosted offerings and new customers to Encompass. At September 30, 2011 and 2010, we had 21,328 and 12,844 Active SaaS Encompass Users, respectively, of which 16,196 and 6,785, respectively, used our success-based pricing model. SaaS Encompass Users generated $12.9 million and $10.7 million of our revenues for the three months ended September 30, 2011 and 2010, respectively, and $33.4 million and $27.2 million of our revenues for the nine months ended September 30, 2011 and 2010, respectively, of which $4.2 million and $1.6 million for the three months ended September 30, 2011 and 2010, and $9.3 million and $2.5 million for the nine months ended September 30, 2011 and 2010, respectively, was generated by users of our success-based pricing model. We typically generate higher revenues per user through our Encompass SaaS offering than through our license offering.

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Initial Public Offering

On April 20, 2011, we sold 5,000,000 newly issued shares of common stock, par value $0.0001 per share, at a price of $6.00 per share in our initial public offering, or IPO. We received net proceeds from the IPO of approximately $21.3 million after deducting underwriting discounts and commissions of $2.1 million and offering expenses of $6.6 million. Immediately prior to the consummation of the IPO on April 20, 2011, we effected the conversion of all of our outstanding shares of redeemable convertible preferred stock into shares of common stock on a 1-for-1 basis.

Acquisition of DMD

On August 15, 2011, we entered into a Stock Purchase Agreement and acquired all of the outstanding shares of DMD, a mortgage lending automation business, for a total purchase consideration of approximately $25.2 million in cash, of which $17.2 million was paid at closing subject to a post-closing working capital adjustment and the remaining $8.0 million will be paid without interest as follows: (i) $3.0 million on August 15, 2012; (ii) $3.0 million on August 15, 2013; and (iii) $2.0 million August 15, 2014. The operating results of DMD have been included in our condensed consolidated financial statements commencing as of the acquisition date of August 15, 2011. In connection with the acquisition, we incurred related transaction expenses of approximately $0.4 million, which we expensed as incurred. For more information, see Note 5 to our Condensed Consolidated Financial Statements.

Operating Metrics

Encompass-related revenues per Average Active Encompass User is a key operational metric we use to evaluate our business, determine allocation of our resources and make decisions regarding corporate strategy. This metric is calculated by dividing Encompass-related revenues by the average number of Active Encompass Users during the period.

This metric has two subcategories: Encompass-related revenues per Average Active Lender Encompass User and Encompass-related revenues per Average Active Broker Encompass User. An Active Lender Encompass User is a mortgage origination professional working at a mortgage lender, such as a mortgage bank, commercial bank, thrift or credit union which source and fund loans and generally sell these funded loans to investors. An Active Broker Encompass User is a mortgage origination professional working for a mortgage brokerage which typically processes and submits loan files to a mortgage lender or mega lender that funds the loan. We believe it is important to evaluate these subcategories separately for two reasons. First, the percentage of the overall loan origination market represented by mortgage lenders, including mortgage banks, commercial banks, thrifts and credit unions continues to increase as the number of mortgage brokerages has declined. In addition, mortgage lenders normally require more software and other service functionality, providing potential leverage for revenue growth. We focus on these metrics to determine our success in leveraging our Encompass User base to increase our revenues. We also track each Active Encompass User subcategory at the end of a period to gauge the degree of our market penetration.

We believe that marketing Encompass through our Encompass SaaS offering on a success-based pricing model is at present our most important marketing method. Accordingly, we track the number of Active SaaS Success-Based Pricing Encompass Users at the end of each period to gauge the degree of market penetration. In addition, we track revenues generated by our Active SaaS Success-Based Pricing Encompass Users during each period.

The components used to calculate these metrics are defined below.

Active Encompass Users. An Active Encompass User is a mortgage origination professional who has used Encompass software at least once within a 90-day period preceding the measurement date. This metric represents the sum total of the subcategories of Active Lender Encompass Users and Active Broker Encompass Users.

Average Active Encompass Users. Average Active Encompass Users during a period is calculated by averaging the monthly Active Encompass Users or subcategory during a period.

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Active SaaS Success-Based Pricing Encompass Users. An Active SaaS Success-Based Pricing Encompass User is a mortgage origination professional who has used the Encompass SaaS system under our success-based pricing model at least once within a 90-day period preceding the measurement date.

Encompass-related revenues and SaaS success-based pricing revenues for a period consists of revenues derived from such users as well as any other revenue derived from interactions between such users and third parties through the Ellie Mae Network during the period. These operating metrics exclude revenues from our legacy and acquired products to the extent it does not involve a sale to such users.

The following table shows these operating metrics as of and for the three and nine months ended September 30, 2011 and 2010:

	Three months ended September 30, 2011	Three months ended September 30, 2010	Nine Months Ended September 30, 2011	Nine Months Ended September 30, 2010
	(Unaudited)			
Active Encompass Users (at end of period):				
Active Lender Encompass Users	43,183	39,368	43,183	39,368
Active Broker Encompass Users	8,375	12,565	8,375	12,565
Total Active Encompass Users	51,558	51,933	51,558	51,933
Average Active Encompass Users (during period):				
Average Active Lender Encompass Users	42,443	37,312	41,445	35,589
Average Active Broker Encompass Users	8,543	13,926	9,432	16,642
Average Total Active Encompass Users	50,986	51,238	50,877	52,231
Encompass-related revenues (in thousands):				
Encompass-related revenues Lenders	$ 12,141	$ 9,549	$ 30,706	$ 23,462
Encompass-related revenues Brokers	743	1,143	2,650	3,725
Total Encompass-related revenues	$ 12,884	$ 10,692	$ 33,356	$ 27,187
Encompass-related revenues per Average Active Encompass Users:				
Encompass-related revenues Lenders per Average Active Lender	$ 286	$ 256	$ 741	$ 659
Encompass-related revenues Brokers per Average Active Broker	$ 87	$ 82	$ 281	$ 224
Encompass-related revenues per Average Active Encompass Users	$ 253	$ 209	$ 656	$ 521
SaaS success-based pricing related data:				
Active SaaS Success-Based Pricing Encompass Users (at end of period)	16,196	6,785	16,196	6,785
SaaS success-based pricing-related revenues (in thousands)	$ 4,187	$ 1,551	$ 9,263	$ 2,536

Basis of Presentation

General

Our consolidated financial statements include the accounts of Ellie Mae, Inc. and its wholly owned subsidiaries. All significant intercompany accounts and transactions have been eliminated upon consolidation.

Revenue Recognition

We generate revenue primarily from transaction-based fees and fees for software and related services. Sales taxes assessed by a governmental authority are excluded from revenue.

Network Transaction Revenues

We have entered into agreements with various lenders, service providers and certain government agencies participating in the mortgage origination process that provides them access to, and interoperability with, mortgage originators on the Ellie Mae Network. Under these agreements, we have the opportunity to earn transaction fees when transactions are processed through our Ellie Mae Network. Transaction revenues are recognized when there is evidence that the qualifying transactions have occurred on the Ellie Mae Network and collection of the resulting receivable is reasonably assured. Associated set-up fees are recognized ratably, beginning upon completion of the integration and continuing over the remaining estimated life of the relationship with our customer, which generally is the remaining life of the contract.

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Software and Services Revenues

These revenues include:

(a) License and Maintenance Revenues. Revenue from the sale of software licenses is recognized in the month in which the required revenue recognition criteria are met, generally in the month in which the software is delivered. Revenue is recognized when persuasive evidence of an arrangement exists which is evidenced by a signed agreement, the product has been downloaded or delivered freight on board shipping point, the fee is fixed or determinable and collection of the resulting receivable is reasonably assured.

For arrangements with multiple elements (e.g., undelivered maintenance and support contracts bundled with licenses), when vendor specific objective evidence, or VSOE, is determinable, we allocate revenue to the delivered elements of the arrangement using the residual value method based on objective evidence of the fair value of the undelivered elements, which is specific to us. When VSOE is not determinable, we allocate all revenue to the undelivered elements and the entire arrangement is recognized ratably over the term of the contract. We recognize revenue under this model upon receipt of cash payment from the customer, if collectability is not reasonably assured. The VSOE of fair value for maintenance and support obligations related to licenses is based upon the prices paid for the separate renewal of these services by the customer. Maintenance revenues are recognized ratably over the period of the contract. License revenues include the nominal shipping and handling charges associated with most license orders. Actual shipping costs incurred by us are included in cost of revenues.

(b) Subscription Services and Usage-Based Fee Arrangements. Subscription services and usage-based fee arrangements generally include a combination of our products delivered as software as a service, product updates and support services. These revenues generally include the following:

Encompass SaaS Revenues. We offer web-based access to our Encompass software for a monthly recurring fee. We provide the right to access our loan origination software and handle the responsibility of managing the servers, providing robust security, backing-up the data and applying updates; however, customers under these arrangements may not take possession of the software at any time during the term of the agreement. Associated set-up fees are recognized ratably over the life of the relationship with our customers, which is generally the life of the contract. Contracts generally range from one to three years. Alternatively, customers can elect to pay on a per closed loan, or success, basis with a monthly minimum. The success basis contracts generally have a term of two years. Monthly minimums are recognized as the service is performed and additional amounts arising from closed loans are recognized when the loans close. This offering also includes CenterWise for Encompass as an integrated component, which is a combined element of the arrangement that is delivered in conjunction with the Encompass SaaS offering and therefore is not accounted for separately.

CenterWise for Encompass Licensees. We provide a bundled offering of electronic document management and websites used for customer relationship management. We recognize revenue for CenterWise as the service is performed. It is also automatically included as an integrated component of the Encompass SaaS offering, and the associated revenue is recognized as indicated above.

Services Revenues. We have entered into agreements with customers that provide mortgage related and other business services, including automated documentation preparation and compliance reports. Revenue is recognized only when the price is fixed or determinable, persuasive evidence of an arrangement exists, the service is performed, and collectability of the resulting receivable is reasonably assured.

Effective January 1, 2011, we adopted Accounting Standards Update, or ASU, 2009-13, *Multiple-Deliverable Revenue Arrangements,* (amendments to ASC Topic 605, *Revenue Recognition*), or ASU 2009-13. The new standard changes the requirements for establishing separate units of accounting in a multiple element arrangement and requires the allocation of arrangement consideration to each deliverable to be based on the relative selling price. We adopted this new standard on a prospective basis; therefore, it applies only to revenue arrangements entered into or materially modified beginning January 1, 2011. For revenue arrangements that were entered into or materially modified after the adoption of this standard, implementation of this new authoritative guidance has not had a significant impact on our reported revenue in the three and nine months ended September 30, 2011 as compared to revenue if the related arrangements entered into or modified after the effective date were subject to the accounting requirements in effect during the prior year periods. We do not expect the adoption of this new accounting standard will have significant impact on our revenue recognition in the future.

When subscription services and usage-based fee arrangements involve multiple elements that qualify as separate units of accounting, we allocate arrangement consideration in multiple-deliverable revenue arrangements at the inception of an arrangement to all deliverables based on the relative selling price method in accordance with the selling price hierarchy, which includes: (i) VSOE if available; (ii) the third-party evidence, or TPE, if VSOE is not available; and (iii) the best estimate of selling price, or BESP, if neither VSOE nor TPE is available.

VSOE. We determine VSOE based on our historical pricing and discounting practices for the specific product or service when sold separately. In determining VSOE, we require that a substantial majority of the selling prices for these services fall within a reasonably narrow pricing range.

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TPE. When VSOE cannot be established for deliverables in multiple element arrangements, we apply judgment with respect to whether we can establish a selling price based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, our go-to-market strategy differs from that of our peers and our offerings contain a significant level of differentiation such that the comparable pricing of services with similar functionality cannot be obtained. Furthermore, we are unable to reliably determine what similar competitor services selling prices are on a stand-alone basis. As a result, we have not been able to establish selling price based on TPE.

BESP. When we are unable to establish a selling price using VSOE or TPE, we use BESP in our allocation of arrangement consideration. The objective of BESP is to determine the price at which we would transact a sale if the service were sold on a stand-alone basis. We determine BESP for deliverables by considering multiple factors including, but not limited to, prices we charge for similar offerings, market conditions, competitive landscape and pricing practices.

Arrangement consideration is allocated using the relative selling price method. We have not historically priced our subscription services and usage-based fee arrangements within a narrow range and have limited standalone sales or renewals for these arrangements. As a result, we have determined that neither VSOE nor TPE are available and use BESP to allocate the selling price to subscription services and usage-based fee deliverables.

In general, we recognize revenue for monthly fees (including monthly minimums) on a straight-line basis over the contractual subscription period commencing on the date the services are made available to the customer. Usage-based fees, that are determined monthly based on closed loans or other metrics, are recognized when the loans close. In general, upfront non-refundable fees received at the inception of an arrangement are deferred and recognized over the longer of the contractual term or the estimated customer relationship period.

Cost of Revenues

Our cost of revenues consists primarily of: salaries and benefits, including stock-based compensation and allocated facilities costs; expenses for document preparation and compliance services, operations and customer support personnel; depreciation on computer equipment used in supporting the Ellie Mae Network, our Encompass SaaS and CenterWise offerings; amortization of acquired intangible assets that are directly related to our revenues and professional services associated with implementation of our software.

Operating Expenses

Sales and Marketing

Our sales and marketing expenses consist primarily of: salaries; benefits and incentive compensation; including stock-based compensation; and allocated facilities costs. Sales and marketing expenses also include expenses for trade shows, public relations and other promotional and marketing activities, including travel and entertainment expenses, as well as the amortization of acquired intangibles such as customer lists and contracts. We have hired sales personnel to focus on sales of our Ellie Mae Network offerings and our Encompass Banker Edition in light of the increasing percentage of potential customers which are mortgage lenders rather than mortgage brokerages. We also intend to increase marketing activities focused on Encompass Banker Edition, our Ellie Mae Network offerings and our compliance services.

Research and Development

Our research and development expenses consist primarily of: salaries and benefits, including bonuses and stock-based compensation; fees to contractors engaged in the development and support of the Ellie Mae Network infrastructure, Encompass software and other products; and allocated facilities costs. We expect that our research and development expenses will continue to increase in absolute dollars.

General and Administrative

Our general and administrative expenses consist primarily of: salaries and benefits, including stock-based compensation, for employees involved in finance, accounting, human resources, administrative and legal roles, and allocated facilities costs. In addition, general and administrative expenses include consulting, legal, accounting and other professional fees for third-party providers. We expect general and administrative expenses to continue to increase in absolute dollars due to costs associated with being a public company.

Other Income, Net

Other income, net consists primarily of interest income earned on our cash accounts and notes receivables, net of interest expense paid on equipment and software lease lines and imputed interest related to the DMD holdback payments.

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Income Taxes

We record income taxes using the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized in our financial statements or tax returns. In estimating future tax consequences, generally all expected future events other than enactments or changes in the tax law or rates are considered. Valuation allowances are provided when necessary to reduce deferred tax assets to the amount expected to be realized. Our determination of our valuation allowance is based upon a number of assumptions, judgments and estimates, including forecasted earnings, future taxable income and the relative proportions of revenue and income before taxes in the various jurisdictions in which we operate.

We operate in various tax jurisdictions and are subject to audit by various tax authorities. We provide for tax positions whenever it is deemed likely that a tax asset has been impaired or a tax liability has been incurred for events such as tax claims or changes in tax laws. The tax effects of a position are recognized only when they are considered more likely than not to be sustained based solely on its technical merits as of the reporting date.

We consider many factors when evaluating and estimating our tax positions and tax benefits, which may require periodic adjustments and which may not accurately anticipate actual outcomes. Our judgments, assumptions and estimates relative to the current provision for income tax take into account current tax laws, our interpretation of current tax laws and possible outcomes of current and future audits conducted by foreign and domestic tax authorities. Changes in tax laws or our interpretation of tax laws and the resolution of current and future tax audits could significantly impact the amounts provided for income taxes in our consolidated balance sheets and consolidated statements of operations. We must also assess the likelihood that deferred tax assets will be realized from future taxable income and, based on this assessment; establish a valuation allowance, if required. Our determination of our valuation allowance is based upon a number of assumptions, judgments and estimates, including forecasted earnings, future taxable income and the relative proportions of revenue and income before taxes in the various jurisdictions in which we operate. To the extent we establish a valuation allowance or change the valuation allowance in a period, we reflect the change with a corresponding increase or decrease to our tax provision in our consolidated statements of operations.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations are based on our condensed consolidated financial statements which are prepared in accordance with accounting principles generally accepted in the United States, or GAAP. The preparation of these condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosures. We evaluate our estimates and assumptions on an ongoing basis. Our estimates are based on historical experience and various other assumptions that we believe to be reasonable under the circumstances. Our actual results could differ from these estimates.

We believe that the assumptions and estimates associated with revenue recognition, income taxes, stock-based compensation and goodwill and intangible assets have the greatest potential impact on our consolidated financial statements. Therefore, we consider these to be our critical accounting policies and estimates. Management believes that there have been no material changes during the three and nine months ended September 30, 2011 to our critical accounting policies and estimates. For more information on our critical accounting policies and estimates, see our prospectus dated April 14, 2011 filed with the Securities and Exchange Commission, or SEC, pursuant to Rule 424(b) under the Securities Act of 1933, as amended, or the Securities Act.

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Results of Operations

The following tables set forth our results of operations for the periods presented and as a percentage of our revenues for those periods. The period-to-period comparison of financial results is not necessarily indicative of future results

	Three months ended September 30, 2011	Three months ended September 30, 2010	Nine months ended September 30, 2011	Nine months ended September 30, 2010
	(in thousands)			
Revenues	$ 14,673	$ 11,924	$ 36,740	$ 30,566
Cost of revenues (1)	4,045	3,146	10,920	9,308
Gross profit	10,628	8,778	25,820	21,258
Operating expenses				
Sales and marketing (1)	3,047	2,411	7,995	7,070
Research and development (1)	3,452	2,566	8,862	7,825
General and administrative (1)	3,376	2,040	9,103	7,553
Total operating expenses	9,875	7,017	25,960	22,448
Income (loss) from operations	753	1,761	(140)	(1,190)
Other income, net	16	31	95	92
Income (loss) before income taxes	769	1,792	(45)	(1,098)
Income tax provision	(241)	12	(216)	28
Net income (loss)	$ 1,010	$ 1,780	$ 171	$ (1,126)

(1) Stock-based compensation included in above line items:

	Three months ended September 30, 2011	Three months ended September 30, 2010	Nine months ended September 30, 2011	Nine months ended September 30, 2010
	(in thousands)			
Cost of revenues	$ 22	$ 20	$ 59	$ 138
Sales and marketing	23	59	132	212
Research and development	98	82	246	301
General and administrative	233	147	696	851
	$ 376	$ 308	$ 1,133	$ 1,502

	Three months ended September 30, 2011	Three months ended September 30, 2010	Nine months ended September 30, 2011	Nine months ended September 30, 2010
	(as percentage of revenues)			
Revenues	100.0%	100.0%	100.0%	100.0%
Cost of revenues	27.6	26.4	29.7	30.5
Gross profit	72.4	73.6	70.3	69.5
Operating expenses				
Sales and marketing	20.8	20.2	21.8	23.1
Research and development	23.5	21.5	24.1	25.6

General and administrative	23.0	17.1	24.8	24.7
Total operating expenses	67.3	58.8	70.7	73.4
Income (loss) from operations	5.2	14.8	(0.4)	(3.9)
Other income, net	0.1	0.2	0.3	0.3
Income (loss) before income taxes	5.3	15.0	(0.1)	(3.6)
Income tax provision	(1.6)	0.1	(0.6)	0.1
Net income (loss)	6.9%	14.9%	0.5%	(3.7)%

The following table sets forth certain operating data for the periods presented:

Revenues

	Three months ended September 30, 2011	Three months ended September 30, 2010	Nine months ended September 30, 2011	Nine months ended September 30, 2010
	(in thousands)			
Revenue by type:				
Software and Services	$ 11,827	$ 9,121	$ 29,452	$ 23,795
Network Transactions	2,846	2,803	7,288	6,771
Total	$ 14,673	$ 11,924	$ 36,740	$ 30,566

	Three months ended September 30, 2011	Three months ended September 30, 2010	Nine months ended September 30, 2011	Nine months ended September 30, 2010
Revenue by type:				
Software and Services	80.6%	76.5%	80.2%	77.8%
Network Transactions	19.4%	23.5%	19.8%	22.2%
Total	100.0%	100.0%	100.0%	100.0%

Total revenues increased $2.8 million, or 23.1%, for the three months ended September 30, 2011 as compared to the same period of 2010. This increase was primarily due to a $2.7 million increase in software and services revenues, comprised of a $2.6 million increase in success-based pricing revenues due to the continued focus of our selling effort on the success based pricing model which resulted in the continued growth in users, a $0.4 million increase in license and maintenance revenue primarily due to our DMD acquisition in August 2011, a $0.4 million increase in our tax transcript services which we began offering in the first quarter of 2011, a $0.1 million increase in product and pricing services which we began offering in the first quarter of 2011 in connection with our acquisition of MPS in January 2011, and a $0.1 million increase in compliance services due to increased usage by our customer base. These increases were partially offset by a $0.6 million decrease in document preparation revenue due to lower loan volume and a $0.3 million decrease in standard hosted Encompass revenues due to existing customers converting to the success-based pricing model.

Total revenues increased $6.2 million, or 20.2% in the nine months ended September 30, 2011 as compared to the same period of 2010. This increase was primarily due to a $5.7 million increase in Software and Services revenues, comprised of a $6.7 million increase in success-based pricing revenues due to the continued focus of our selling effort on the success based pricing model which only starting to generate revenue in its early stages in the first nine months of 2010, a $0.5 million increase in our tax transcript services which we began offering in the first quarter of 2011, a $0.4 million increase in product and pricing services which we began offering in the first quarter of 2011 in connection with our acquisition of MPS in January 2011, and a $0.2 million increase in CenterWise revenue due to additional customers, partially offset by a $0.4 million decrease in self-hosted software and maintenance revenues due to our focus on our Encompass SaaS offering, which led to conversions of existing users of our license model and fewer new license sales and maintenance renewals, a $1.1 million decrease in document preparation services due to lower loan volume and a $0.6 million decrease in standard hosted Encompass revenues due to existing customers converting to the success-based pricing model.

Network Transaction revenues remained stable at $2.8 million for both the three months ended September 30, 2011 and 2010. Network Transaction revenues increased $0.5 million or 7.6% for the nine months ended September 30, 2011 as compared to the same period of 2010 primarily due to a $0.3 million increase in title insurance revenue and a $0.2 million increase due to increased loan activity from lenders on our Ellie Mae Network.

The number of Active Lender Encompass Users increased by 9.7% from 39,368 users at September 30, 2010 to 43,183 users at September 30, 2011, primarily due to new lender customers adopting our Encompass SaaS success-based pricing offering. The number of Active Encompass Users decreased by 0.7% from 51,933 users at September 30, 2010 to 51,558 users at September 30, 2011 due to the 33.3% decline in Active Broker Encompass Users as a result of the continued industry-wide decline in the number of mortgage brokerages, partially offset by the increase of 9.7% in the number of Active Lender Encompass Users. Encompass-related Revenues per Average Active Broker Encompass User increased by 6.1% and 25.4% for the three and nine months ended September 30, 2011, respectively, compared to same periods of prior year due to the significant reduction in the number of Active Broker Encompass Users that had previously provided only minimal revenues. Encompass-related revenues per Average Active Lender Encompass User increased by 11.7% and 12.4% for the three and nine months ended September 30, 2011, respectively, due to the growth in the number of Active Lender Encompass Users using our success-based pricing offering.

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Gross Profit

	Three months ended September 30, 2011	2010	Nine months ended September 30, 2011	2010
	(dollars in thousands)			
Gross profit	$ 10,628	$ 8,778	$ 25,820	$ 21,258
Gross margin	72.4%	73.6%	70.3%	69.5%

Gross profit increased by $1.9 million while gross margin percentage decreased by 1.2% in the three months ended September 30, 2011 as compared to the same period of 2010 as revenues increased by $2.8 million and cost of revenues increased by $0.9 million. Cost of revenues increased primarily due to a $0.4 million increase in salaries and employee benefits from increased professional services and customer support headcount as well as the increase in headcount in hiring former DMD employees during the quarter. The cost of revenues increase was also attributable to a $0.5 million increase in third party royalty expenses to support the increased revenue, a $0.1 million increase in depreciation expense due to an increase in assets purchased and a $0.1 million increase in amortization of intangible assets related to the DMD acquisition, partially offset by $0.2 million decrease in temporary staff expenses used for additional customer support and for assistance with integration of the Mavent acquisition during 2010.

Gross profit and gross margin percentage increased by $4.6 million and 0.8% respectively, for the nine months ended September 30, 2011 as compared to the same period of 2010 as revenues increased by $6.2 million and cost of revenues increased by only $1.6 million. Cost of revenues increased primarily due to a $1.0 million increase in salaries and employee benefits from increased professional services and customer support headcount as well as the increase in headcount in hiring former DMD employees , a $0.7 million increase in expense primarily due to the third party royalty expenses to support the increased revenue, a $0.1 million increase in consulting expenses due to increased consulting activities, $0.1 million increase in expenses related to implementation services and $0.1 million increase in amortization of intangible assets related to the DMD acquisition, partially offset by a $0.2 million decrease in server-related expenses primarily due to reduced data center costs as a result of less usage and $0.2 million decrease in temporary staff expense used for additional customer support and for assistance with integration of the Mavent acquisition during 2010.

We expect that our gross margins, as a percentage of revenue, will fluctuate as a result of shifts in loan origination volume, average selling prices, number of customers and our ability to reduce cost of revenues.

Sales and Marketing

	Three months ended September 30, 2011	2010	Nine months ended September 30, 2011	2010
	(dollars in thousands)			
Sales and marketing	$ 3,047	$ 2,411	$ 7,995	$ 7,070
Sales and marketing as % of revenues	20.8%	20.2%	21.8%	23.1%

Sales and marketing expenses increased by $0.6 million, or 26.4% in the three months ended September 30, 2011 as compared to the same quarter of 2010. This increase was due to a $0.2 million increase in salaries and employee benefits primarily due to additional headcount from hiring former DMD employees, a $0.1 million increase in amortization of acquired intangible assets related to the DMD acquisition, a $0.1 million increase in hotel and airfare expenses due to increased travel activities for sales and promotion events, a $0.1 million increase in marketing, advertising and related temporary staff expenses due to an increase in marketing and promotion activities and a $0.1 million increase in commissions due to higher cash receipts in the third quarter of 2011.

Sales and marketing expenses increased by $0.9 million, or 13.1%, in the nine months ended September 30, 2011 as compared to the same period of 2010. This increase was due to a $0.5 million increase in salaries and employee benefits due to increased headcount as well as additional headcount from hiring former DMD employees during the third quarter, a $0.1 million increase in amortization of acquired intangible assets related to the DMD acquisition, a $0.1 million increase in commissions due to higher cash receipts during 2011 and a $0.4 million increase in advertising, public relations and related temporary staff expenses due to an increase in marketing and promotion activities, partially offset by a $0.2 million decrease due to reduced consulting activities.

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Research and Development

	Three months ended September 30, 2011	2010	Nine months ended September 30, 2011	2010
	(dollars in thousands)			
Research and development	$ 3,452	$ 2,566	$ 8,862	$ 7,825
Research and development as % of revenues	23.5%	21.5%	24.1%	25.6%

Research and development expenses increased by $0.9 million, or 34.5% in the three months ended September 30, 2011 compared to the same period of 2010. The increase was primarily due to a $0.6 million increase in salary and employee benefits due to increased headcount as well as additional headcount from hiring former DMD employees during the quarter, and a $0.2 million increase in consulting expenses due to increased consulting activities.

Research and development expenses increased by $1.0 million, or 13.3% in the nine months ended September 30, 2011 as compared to the same period of 2010 primarily due to a $0.9 million increase in salaries and employee benefits due to increased headcount as well as additional headcount from hiring former DMD employees during the third quarter, and a $0.1 million increase in consulting expense due to increased consulting activities.

General and Administrative

	Three months ended September 30, 2011	2010	Nine months ended September 30, 2011	2010
	(dollars in thousands)			
General and administrative	$ 3,376	$ 2,040	$ 9,103	$ 7,553
General and administrative as % of revenues	23.0%	17.1%	24.8%	24.7%

General and administrative expenses increased by $1.3 million, or 65.4% in the three months ended September 30, 2011 as compared to the same quarter of 2010 primarily due to a $0.4 million increase in salaries and other employee benefits due to an increase in headcount including the hiring of former DMD employees, a $0.4 million increase in legal, accounting and consulting fees primarily related to the DMD acquisition and from being a public company partially offset by lower litigation costs, a $0.1 million increase in recruiting expense related to placement of certain senior positions, a $0.1 million increase in insurance expense due to increased insurance premiums related to being a public company, a $0.1 million increase in stock-based compensation expense due to increased grants of stock options, a $0.1 million increase in depreciation expense related to increased asset purchases during the period and a $0.1 million increase in bad debt expense due to write-offs primarily caused by the downturn in the mortgage industry.

General and administrative expenses increased by $1.6 million, or 20.5%, in the nine months ended September 30, 2011 as compared to the same period of 2010 primarily due to a $1.2 million increase in salaries, temporary staff, accounting and consulting expenses related to an increase in headcount, temporary agency, accounting and consulting fees in preparation to become a public company, a $0.2 million increase in insurance related to increased insurance premiums for being a public company, a $0.2 million increase in recruiting expense related to placement of certain senior positions, a $0.1 million increase related to the new director compensation program initiated in 2010 in preparation of being a public company, a $0.1 million increase in depreciation expense due to increased capital expenditures in 2011, a $0.1 million increase in franchise tax expense, a $0.1 million increase in bad debt expense due to write-offs primarily affected by the downturn in the mortgage industry and a $0.1 million increase in bonus expense due to a higher number of employees eligible for performance-based pay. These amounts were partially offset by a $0.3 million decrease in sales tax expenses accrued during 2010, a $0.2 million decrease in legal fees primarily due to lower litigation costs in the first nine months of 2011 and a $0.1 million decrease in stock-based compensation expense due to stock options under variable accounting.

Other Income, Net

Other income, net was primarily related to interest income from notes receivable and investments.

Income Taxes

Income tax (benefit) expense was at $(241,000) and $12,000 for the three months ended September 30, 2011 and 2010, respectively; and $(216,000) and $28,000 for the nine months ended September 30, 2011 and 2010, respectively. Income tax (benefit) expense for the three and nine months ended September 30, 2011 consists primarily of minimum state taxes and a one time refund of $266,000 of prior year alternative minimum taxes paid obtained via carry back of eligible small business tax credits. Income tax (benefit) expense for the three and nine months ended September 30, 2010 consists primarily of minimum state taxes. We maintain a full valuation allowance on our deferred tax assets.

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Liquidity and Capital Resources

As of September 30, 2011, we had cash, cash equivalents and short term investments of $20.8 million. Cash and cash equivalents consist of cash and money market accounts. Short-term investments consist of U.S. government agency securities.

We believe that our existing cash, cash equivalents and short term investments will be sufficient to fund capital expenditures, operating expenses and other cash requirements for at least the next 12 months. We may enter into acquisitions in the future, which could require us to seek additional equity or debt financing. Additional funds may not be available on terms favorable to us or at all.

The following table sets forth our statement of cash flows data for the periods presented:

	Nine months ended September 30, 2011	2010
	(in thousands)	
Net Cash provided by (used) in operating activities	$ 1,902	$ (675)
Net Cash (used in) provided by investing activities	(21,535)	228
Net Cash provided by (used in) financing activities	23,512	(569)
Purchases of property and equipment	3,351	1,265
Depreciation and amortization	$ 1,385	$ 1,268

Operating Activities

Cash provided by operating activities of $1.9 million for the nine months ended September 30, 2011 was the result of a (a) $0.2 million in net income, (b) $1.1 million of non-cash charges for stock-based compensation, (c) $0.4 million provision for uncollectible accounts receivable, (d) $1.9 million of depreciation and amortization expense, (e) $0.5 million decrease in deposits and other assets due to the termination of a restricted cash covenant related to a capital lease and (f) $0.9 million increase in accounts payable due to timing of disbursements. These amounts were offset in part by a (i) $2.3 million increase in accounts receivable due to higher success based pricing revenue, (ii) $0.6 million increase in prepaid and other assets due to higher insurance premiums related to being a public company, (iii) $0.1 million decrease in deferred rent arising primarily from payments on our corporate office facility, and (iv) $0.1 million decrease in deferred revenue primarily due to less prepaid maintenance revenues associated with our lower Encompass software license sales.

Cash used in operating activities of $0.7 million for the first nine months of 2010 was the result of a (i) $2.3 million increase in accounts receivable due to the higher sales levels of Encompass software, document preparation services and Network Transactions, (ii) net loss of $1.1 million, (iii) $0.5 million decrease in deferred rent arising from payments on vacant office space that we acquired in the ODI transaction and (iv) $0.7 million decrease in deferred revenue due to decrease in maintenance revenues that are amortized on an annual basis. These amounts were offset in part by a (a) $1.5 million of non-cash charges for stock-based compensation, (b) $1.5 million of depreciation and amortization expense, (c) $0.5 million increase in accrued liabilities and accounts payable due to increased accruals for sales tax and litigation costs and (d) $0.3 million increase in the provision for uncollectible accounts receivables primarily due to clients acquired through the Mavent acquisition.

Investing Activities

Cash used in investing activities of $21.5 million for the nine months ended September 30, 2011 was the result of $18.2 million cash payment related to the acquisition of DMD and MPS, and purchases of property and equipment of $3.4 million primarily related to computer equipment and software to support the growth of our business and to enhance our disaster recovery solution.

Cash provided by investing activities of $0.2 million in the nine months ended September 30, 2010 was the result of $1.5 million of net sales of short-term investments partially offset by $1.3 million for purchases of property and equipment.

Financing Activities

Cash provided by financing activities of $23.5 million for the nine months ended September 30, 2011 consisted of $23.1 million in proceeds from the IPO, net of offering costs, and $0.5 million in proceeds from the exercise of stock options by our employees and directors, partially offset by $0.1 million in payments on our capital lease obligations.

Cash used in financing activities of $0.6 million for the nine months ended September 30, 2010 consisted of a $1.1 million increase in deferred offering costs related to cash payments for legal and other fees that were capitalized in connection with the IPO and $0.3 million in payments on our capital lease obligations, partially offset by a $0.8 million in proceeds from the issuance of common stock upon the exercise of stock options.

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Off Balance Sheet Arrangements

As of September 30, 2011, operating leases were the only financing arrangements not reported on our condensed consolidated financial statements.

Contractual Obligations

As of September 30, 2011, our contractual payment obligations are as follows:

	Payment Due by Period (as of September 30, 2011)				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
			(in thousands)		
Payments due pursuant to DMD acquisition	$ 8,000	$ 3,000	$ 5,000	$ 0	$ 0
Operating lease obligations	4,076	1,217	2,859	0	0
Capital lease obligations	12	7	5	0	0
Total	$ 12,088	$ 4,224	$ 7,864	$ 0	$ 0

Recent Accounting Pronouncements

In September 2011, the Financial Accounting Standards Board, or FASB, issued an amendment to ASC Topic 350, *Intangibles Goodwill and Other*, in the Accounting Standards Update, or ASU, 2011-08. Under the amendments of ASU 2011-08, an entity has the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If, after assessing the totality of events or circumstances, an entity determines it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is unnecessary. However, if an entity concludes otherwise, then it is required to perform the first step of the two-step impairment test by calculating the fair value of the reporting unit and comparing the fair value with the carrying amount of the reporting unit, as described in this ASU. If the carrying amount of a reporting unit exceeds its fair value, then the entity is required to perform the second step of the goodwill impairment test to measure the amount of the impairment loss. Under the amendments in ASU 2011-08, an entity has the option to bypass the qualitative assessment for any reporting unit in any period and proceed directly to performing the first step of the two-step goodwill impairment test. An entity may resume performing the qualitative assessment in any subsequent period. The amendments under ASU 2011-08 are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. Early adoption is permitted, including for annual and interim goodwill impairment tests performed as of a date before September 15, 2011, if an entity s financial statements for the most recent annual or interim period have not yet been issued or, for nonpublic entities, have not yet been made available for issuance. We do not expect the adoption of ASU 2011-08 to have a material impact on our consolidated financial statements.

In June 2011, FASB issued an amendment to ASC Topic 220, *Comprehensive Income*, in ASU 2011-05, where an entity has the option to present the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. Under both choices, an entity is required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for comprehensive income. ASU 2011-05 eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders equity but does not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. ASU 2011-05 should be applied retrospectively and are effective for fiscal years and interim periods within those years, beginning after December 15, 2011. We do not expect the adoption of ASU 2011-05 to have a material impact on our consolidated financial statements.

In May 2011, FASB issued ASU 2011-04, which generally represents clarifications of Topic 820, *Fair Value Measurement*, but also include some instances where a particular principle or requirement for measuring fair value or disclosing information about fair value measurements has changed. This ASU 2011-04 results in common principles and requirements for measuring fair value and for disclosing information about fair value measurements in accordance with U.S. GAAP and International Financial Reporting Standards, or IFRSs. ASU 2011-04 should be applied prospectively and are effective for annual periods beginning after December 15, 2011. Early adoption is not permitted. We do not expect the adoption of this ASU 2011-04 to have a material impact on our consolidated financial statements.

In December 2010, FASB issued an amendment to ASC Topic 805, *Business Combinations*, in ASU 2010-29, where a public entity is required to disclose pro forma information for business combinations that occurred in the current reporting period. The disclosures include pro forma revenue and earnings of the combined entity for the current reporting period as though the acquisition date for all business combinations that occurred during the year had been as of the beginning of the annual reporting period. If comparative financial statements are presented, the pro forma revenue and earnings of the combined entity for the comparable prior reporting period should be reported as though the acquisition date for all business combinations that occurred during the current year had been as of the beginning of the comparable prior annual reporting period. We do not expect the adoption of ASU 2010-29 to have a material impact on our consolidated financial statements.

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ITEM 3 QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Quantitative and Qualitative Disclosure About Market Risk

We are exposed to market risks in the ordinary course of our business. These risks include primarily interest rate risks and inflation.

Interest Rate Fluctuation Risk

We do not have any long-term borrowings.

Our investments include cash, cash equivalents and short-term investments. Cash and cash equivalents consist of cash, money market accounts, certificates of deposit and commercial paper. Short-term investments consist of U.S. government agency securities, commercial paper and certificates of deposit. The primary objective of our investment activities is to preserve principal while maximizing income without significantly increasing risk. We do not enter into investments for trading or speculative purposes. Our investments are exposed to market risk due to a fluctuation in interest rates, which may affect our interest income and the fair market value of our investments. Due to the short-term nature of our investment portfolio, we do not believe a 10% increase in interest rates would have a material effect on the fair market value of our portfolio, and therefore we do not expect our operating results or cash flows to be materially affected to any degree by a sudden change in market interest rates.

Inflation Risk

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition and results of operations.

ITEM 4 CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2011. The term disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company s management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of September 30, 2011, our Chief Executive Officer and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the period covered by this report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

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PART II OTHER INFORMATION

ITEM 1 LEGAL PROCEEDINGS

On August 28, 2009, DocMagic Inc., or DocMagic, filed a lawsuit against Ellie Mae in the U.S. District Court for the Northern District of California (*DocMagic, Inc. v. Ellie Mae, Inc*., Case No. 3:09-CV-4017), which we refer to in this report as the Federal Action, alleging that we had engaged in monopolization and/or attempted monopolization of an alleged product market composed of internet portal[s] providing electronic linkages for mortgage loan closing document preparation services, and that we are subject to liability for related state court claims for intentional interference with contractual relationship, interference with prospective economic advantage and unfair competition. DocMagic s claims relate to the August 2009 expiration of a September 2006 Electronic Bridge Agreement pursuant to which DocMagic had been a vendor on the Ellie Mae Network. In addition, DocMagic filed a separate lawsuit against Ellie Mae in the Superior Court of California for the City and County of San Francisco (*DocMagic, Inc. v. Ellie Mae, Inc.*, Case No. CGC-09-491986), which we refer to in this report as the State Action, wherein it alleged a related claim of breach of a September 2006 reseller agreement between the parties and also alleged unfair competition. The State Action was later dismissed without prejudice pursuant to an agreement between the parties so that the parties could re-file their state law claims in the Federal Action. DocMagic amended its complaint to include the state claims and also Lanham Act and Copyright Act claims.

In response to DocMagic s federal claim, we filed an answer and counterclaim, denying all material allegations. In the counterclaim, we raised various affirmative claims against DocMagic for copyright infringement, violation of the federal Computer Fraud and Abuse Act and violation of state law claims for breach of the Electronic Bridge Agreement inducing our customers to breach contracts and engaging in unfair competition. Subsequent to the State Action being dismissed, we filed an amended counterclaim in the Federal Action, adding an additional state claim for violation of California s Comprehensive Computer Data Access and Fraud Act.

The initial complaint was dismissed with leave to amend as to certain claims and DocMagic s claims for attempted monopolization and false advertising were dismissed with prejudice. DocMagic then filed a second amended complaint, re-alleging claims that were dismissed with leave to amend. We answered the second amended complaint, denying all material allegations, and filed our second amended counterclaim. DocMagic answered the second amended counterclaim, denying all material allegations. Discovery is proceeding. On May 16, 2011, the Court ordered the parties to mediation, which the parties attended on August 24, 2011.

On March 25, 2011, Industry Access Incorporated filed a patent infringement lawsuit against us and another defendant in the U.S. District Court for the Central District of California. The complaint alleges, among other things, that certain aspects of our Encompass 360 loan management software system and related operations infringe a single patent, and seeks declaratory relief and unspecified damages from the defendants, including enhanced damages for willful infringement and reasonable attorneys fees. On June, 24, 2011, the Court issued an order requiring plaintiff to serve the complaint on all defendants within three days of the order. On June 28, 2011, plaintiff served us with the complaint and we filed our answer on August 5, 2011 denying all material allegations of the complaint. We intend to defend this claim vigorously.

Although we believe that we have substantial and meritorious defenses in each of these cases, neither the outcomes of the litigation nor the amount and range of potential damages associated with the litigation can be estimated.

We are also subject to various other legal proceedings and claims arising in the ordinary course of business. We cannot predict the ultimate outcome of these other legal proceedings. An unfavorable outcome of these litigations could materially adversely affect our business, financial condition and results of operations.

ITEM 1A RISK FACTORS

You should carefully consider the risks described below and the other information in this report. If any of the following risks materialize, our business could be materially harmed, and our financial condition and results of operations could be materially and adversely affected. The risks described below are not the only ones facing us. Additional risks not currently known to us or that we currently believe are immaterial may also impair our business, results of operations, financial condition and liquidity.

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The extreme turmoil in the mortgage industry that began in 2007 has adversely affected and may continue to affect our business adversely.

As a result of the extreme turmoil in the mortgage industry and general economy that began in 2007, many mortgage originators, especially mortgage brokers, and other mortgage industry participants have gone out of business. In addition, those industry participants that continue in business face increased operating and regulatory challenges. Conditions that negatively impact our Encompass users or Ellie Mae Network participants have had a significant adverse effect on our business. For example, the number of Encompass users declined 34% from approximately 79,000 at December 31, 2006 to approximately 52,000 at September 30, 2011. During this period, the number of Active Broker Encompass Users declined by approximately 80% and 30 of the 44 lenders accepting loans through the Ellie Mae Network went out of business or stopped funding loans through their wholesale channel for mortgage brokers between March 2007 and August 2009. In addition, the population of mortgage origination professionals who are the potential users of our Encompass software dropped 53% from approximately 495,000 at December 31, 2006 to approximately 234,400 at August 31, 2011.[1] If conditions in the mortgage industry were to deteriorate further, our business would be materially adversely affected.

Mortgage lending volume is expected to be lower in 2011 and 2012 than it was in 2010 due to various economic factors, including the anticipated increase in mortgage interest rates, which could adversely affect our business.

Mortgage lending volume has been expected to be lower in 2011 and 2012 than it was in 2010 due to various economic factors. In June 2011, Fannie Mae, Freddie Mac and the Mortgage Bankers Association lowered their forecasts for mortgage origination volume for the second half of 2011 even further. Factors that adversely impact mortgage lending volumes include reduced consumer and investor demand for mortgages, more stringent underwriting guidelines, increased illiquidity in the secondary mortgage market, high levels of unemployment, high levels of consumer debt, lower consumer confidence, changes in tax and other regulatory policies, including the recent expiration of the home buyer s tax credit and other macroeconomic factors.

In addition, mortgage interest rates are currently near historic lows and many economists predict that mortgage interest rates will rise modestly in 2012. Mortgage interest rates are influenced by a number of factors, particularly monetary policy. The Federal Reserve Bank may raise the Federal funds rate and has ceased purchasing Fannie Mae and Freddie Mac mortgage-backed securities, each of which would likely cause mortgage interest rates to rise. Increases in mortgage interest rates would reduce the volume of new mortgages originated, in particular the volume of mortgage refinancings. For example, the increase in mortgage interest rates in the second half of 2009 contributed to a significant decline in our revenues from transactions through the Ellie Mae Network and the services we provide.

The expected lower levels in residential mortgage loan volume in 2011 and 2012 as compared to 2010 levels will require us to increase our revenues per loan effected through the Ellie Mae Network in order to maintain our financial performance. Any additional decrease in residential mortgage volumes would exacerbate our need to increase revenues per loan effected through the Ellie Mae Network. We cannot assure you that we will be successful in our efforts to increase our revenues per loan effected through the Ellie Mae Network, which could materially adversely affect our business.

Our future performance will be highly dependent on our ability to continue to attract Encompass SaaS customers and, to a lesser extent, to grow revenues from new Ellie Mae Network offerings and new services.

Mortgage loan volume is expected to be lower in 2011 and 2012 than it was in 2010. To increase our revenues, we must increase the percentage of our software users who choose Encompass SaaS, from which we generate higher revenues than from our license offering. We believe that recent increases in the number of Encompass SaaS customers have been driven by our success-based pricing strategy. Initiatives that we have implemented in the past have, from time to time, been successful initially but not over the long term. We cannot assure you that our success-based pricing strategy will continue to be successful. If it is not successful, or if we are unable to identify an alternate strategy and successfully increase the number of Encompass SaaS customers, we may be materially adversely affected.

We must also increase use of our Ellie Mae Network offerings and our services, such as compliance and document preparation. We only began to offer certain Ellie Mae Network offerings in the fourth quarter of 2009 and our Encompass Compliance Service in the first quarter of 2010. We cannot assure you that these Ellie Mae Network offerings will achieve market acceptance and be successful. In the event these efforts are not successful, our business and growth prospects would be adversely affected.

If we fail to increase the number of Lender Encompass Users and other Ellie Mae Network participants or retain existing users and participants, our business may be harmed.

Ellie Mae revenue from Broker Encompass Users has declined significantly as a result of the significant reduction in the number of mortgage brokers. Our growth depends in large part on increasing the number of Lender Encompass Users and other Ellie Mae Network participants. To attract mega lenders and service providers to the Ellie Mae Network, we must convince them that the utility of, and access to mortgage originators on, the Ellie Mae Network is worth making payments to us for transactions ordered through the network by Encompass users. To grow our base of Encompass software users, in particular, we must increase the number of our Lender Encompass Users. We must also enhance the features and functionality of our Encompass software, convince mortgage lenders of the benefits of our software solution and the Ellie Mae Network and encourage them to switch from competing loan origination software products or to forego using traditional mortgage origination methods, including paper, facsimile, courier, mail and e-mail. Due to the fragmented nature of the mortgage industry, many mortgage industry participants may not be familiar with our Encompass solutions and the benefits of the Ellie Mae Network. We cannot assure you that we will be successful in attracting new Lender Encompass Users and other Ellie Mae Network participants and if we are unsuccessful in these efforts, our business may be harmed.

[1] Bureau of Labor Statistics, *Mortgage Employment Statistics*, October 2011.

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Additionally, existing Lender Encompass Users and other Ellie Mae Network participants may decide not to continue to use our solutions in favor of other means for financial or other reasons. We have agreements in place with various third-party lenders, service providers and investors to facilitate integration between their businesses and the Ellie Mae Network. Most of these contracts are not long term or are subject to termination rights. An unexpected termination, or a failure to renew, of a significant number of our agreements or relationships with third-party lenders, service providers or investors could have an adverse effect on our business.

The success of our business depends both on the continuation of the trend toward electronic processing of mortgages and our ability to increase the use of the Ellie Mae Network to order settlement services.

In order to grow our business, we must expand the use of settlement services on, and increase the number of transactions ordered through, the Ellie Mae Network. Our Encompass users currently employ the Ellie Mae Network to handle on average only four out of the approximately ten transactions per loan file, typically including ordering credit reports and accessing the automatic underwriting systems of Fannie Mae and Freddie Mac. This limited use is in part due to the fact that many providers of other settlement services, such as title reports and appraisals, do not provide electronic solutions that are superior to traditional processes. Increasing the number of transactions ordered through the Ellie Mae Network depends in large part on our ability to educate providers of settlement services of the benefits of electronic origination and network participation and our ability to encourage providers of settlement services to deliver their services electronically through the Ellie Mae Network in a manner that is attractive to mortgage professionals. If our future sales and marketing efforts are not successful in educating and encouraging additional mortgage originators and providers of settlement services to change their current business practices and adopt electronic mortgage origination and electronic delivery practices, our business may be adversely affected.

A continuation of the shift in residential mortgage volume to the retail channels of mega lenders would adversely affect our business opportunities.

Due in part to the turmoil in the mortgage industry, the percentage of the national volume of residential mortgages in the United States that were funded directly through the retail channels of mega lenders increased from 38% in 2006 to 50% in 2010.[2] Based on information published by Inside Mortgage Finance, for the three months ended June 30, 2011, these retail channels funded approximately 54.3%.[3] We provide our Encompass software to mortgage lenders and mortgage brokers. We do not market Encompass software to the mega lenders, as they generally have their own proprietary loan origination software and do not participate on the Ellie Mae Network. If this shift continues, our business and growth prospects would be materially adversely affected.

We expect a number of factors to cause our operating results to fluctuate on a quarterly and annual basis, which may make it difficult to predict our future performance.

Our revenues and operating results have in the past varied and could in the future vary significantly from quarter to quarter and year to year because of a variety of factors, many of which are outside of our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful. In addition to other risk factors discussed in this section, factors that may contribute to the variability of our quarterly and annual results include:

- fluctuations in mortgage lending volume;
- the number of Encompass users;
- the volume of mortgages originated by our Encompass users, especially users on our success-based pricing model;
- transaction volume on the Ellie Mae Network;
- the level of demand for our Encompass Closer document preparation and other services we offer;

- the timing of the introduction and acceptance of new Ellie Mae Network offerings and additional services;

- our ability to successfully integrate and capture synergies from the DMD acquisition;

- costs associated with defending intellectual property infringement and other claims; and

- changes in government regulation affecting Ellie Mae Network participants or our business.

As a result of these and other factors, our results have in the past not achieved and may in the future not achieve our internal projections. In addition, our operating results in future periods may not meet the expectations of investors or public market analysts who follow our company, which could cause our stock price to decline rapidly and significantly. The results of any prior quarterly or annual periods should not be relied upon as indications of our future operating performance.

[2] Inside Mortgage Finance, *Retail Reigned in 2010 as Lenders Shun Mortgage Broker Production Channel*, February 25, 2011, p. 3.

[3] Inside Mortgage Finance, *Second-Quarter Slump Hits Retail Production Hard, BofA Exit Puts Wholesale Market Up for Grabs*, September 2, 2011 p. 3.

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As a public company, we are required to maintain a system of effective control over financial reporting. Our independent registered public accountants have determined that we have significant deficiencies in internal controls with respect to our accounting and recordkeeping for stock-based compensation and corporate governance and qualifications of key personnel. If we do not remediate these significant deficiencies and develop effective controls, our impaired ability to produce accurate and timely financial reports could cause our stock price to decline.

As a public company, we are required to maintain a system of effective internal controls over financial reporting. In addition, we are required to evaluate periodically the effectiveness of the design and operation of these internal controls. We will need to hire additional personnel to meet these requirements. We have not begun the process of evaluating or documenting our internal control processes and systems. We cannot assure that we will be successful in these activities.

In connection with the audit of our financial results for 2009, our independent registered public accountants determined that we had significant deficiencies in internal controls relating to our accounting and recordkeeping for stock-based compensation. These significant deficiencies arose from minutes of meetings of the board of directors that did not adequately document the granting of stock options or the terms of stock options granted, the absence of stock option agreements for a number of holders of options, errors in our stock option database and the failure in one case to identify and properly to account for a specific stock-based compensation arrangement in 2004 and subsequent periods. By reason of these inadequate controls and a lack of understanding of the legal issues associated with proper documentation of stock option grants that led to an inappropriate attempt by the employee who was then responsible for stock option administration and documentation to recreate missing documentation, our independent registered public accountants also determined that we had significant deficiencies with respect to corporate governance and qualification of key personnel. In addition, we had deficiencies in our issuances of outstanding equity securities, which included in certain cases our failure to document properly the issuance of stock as evidenced by missing signatures or stock purchase agreements, inadequate stock ledger documentation of transfers and names of record holders or the absence of resolutions of our board of directors and stockholders properly authorizing the issuances of shares.

To remediate these deficiencies, we have taken a number of actions. With respect to outstanding stock issuances we have obtained agreements from all our stockholders except for one confirming the securities they hold. With respect to stock options, we have corrected the identified errors in our stock option database, transferred stock option responsibilities to our finance and legal departments and engaged an outside stock option administration consultant to oversee this process. We also took action in April 2010 to provide the holders of defective stock options with economic benefits equal to the defective stock options. We cannot assure that these actions will entirely remediate these deficiencies or that we will not receive claims in the future from other persons asserting rights to shares of our capital stock or to stock options.

If we do not develop effective controls, we may be unable to produce accurate and timely financial reports and our stock price could decline. Similarly, if we fail to establish and maintain corporate governance standards applicable to companies with publicly traded securities, it could result in loss of investor confidence and a decline in our stock price.

System interruptions that impair access to the Ellie Mae Network or our hosted Encompass software could damage our reputation and brand and substantially harm our business.

The satisfactory performance, reliability and availability of the Ellie Mae Network, our hosted Encompass software, website and network infrastructure are critical to our reputation and our ability to attract and retain Ellie Mae Network participants and Encompass software users. Any systems interruption that results in the unavailability of our network or our Encompass software or impairs access to Ellie Mae Network participants connected to our network could result in negative publicity, damage our reputation and brand, and hinder our ability to enroll new customers and cause us to lose current customers, all of which could cause our business and operating results to suffer.

We have experienced and may in the future continue to experience temporary system interruptions, either to the Ellie Mae Network or to our Encompass software hosting locations, for a variety of reasons, including network failures, power failures, software errors, including problems with our Encompass software and other third party firmware updates, as well as when an overwhelming number of Ellie Mae Network participants and Encompass software users trying to access our network during periods of strong demand. In addition, our two primary data centers, located in Santa Clara, California and Chicago, Illinois, are hosted by a third-party service provider over which we have little control. We depend on this third-party service provider to provide continuous and uninterrupted access to the Ellie Mae Network and our hosted Encompass software. If for any reason our relationship with this third-party were to end, it would require a significant amount of time to transition the hosting of our data centers to a new third-party service provider.

Because we are dependent on third-parties for the implementation and maintenance of certain aspects of our systems and because some of the causes of system interruptions may be outside of our control, we may not be able to remedy such interruptions in a timely manner, if at all. As we rely heavily on our servers, computer and communications systems and the Internet to conduct our business, any system disruptions could negatively impact our ability to run our business and either directly or indirectly disrupt our customers businesses, which could have an adverse effect on our business.

The mortgage industry is heavily regulated and changes in current legislation or new legislation could adversely affect our business.

Changes in the regulations that govern our customers could adversely affect our business.

The U.S. mortgage industry is heavily regulated. Federal and state governments and agencies could enact legislation or other policies that could negatively impact the business of our Encompass users and other Ellie Mae Network participants. Any changes to existing laws or regulations or adoption of new laws or regulations that increase restrictions on the residential mortgage industry may decrease residential mortgage volume or otherwise limit the ability of our Encompass users and Ellie Mae Network participants to operate their businesses, resulting in decreased usage of our solutions.

Changes in current legislation or new legislation may increase our costs by requiring us to update our products and services.

Changes to existing laws or regulations or adoption of new laws or regulations relating to the residential mortgage industry could require us to incur significant costs to update our products and services. For example, our Encompass Compliance Service analyzes mortgage loan data for compliance with consumer protection laws and institutionally mandated compliance policies and must continually be updated to incorporate changes to such laws and policies. Additionally, we substantially updated our Encompass software in 2009 to reflect the changes to the Real Estate Settlement Procedures Act of 1974, as amended, or RESPA, that went into effect on January 1, 2010. The Dodd-Frank Wall Street Reform and Consumer Protection Act, or Dodd-Frank Act, have also and will continue to cause us to make similar updates to our Encompass software to address, among other things, regulations that protect consumers against unfair, deceptive and abusive practices by lenders. These updates have caused us to incur significant expense, and future updates will likely similarly cause us to incur significant expense.

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A failure of our products and services or a failure to appropriately update our products and services to reflect and comply with changes to existing laws or regulations or with new laws or regulations may contribute to violations by our customers of such laws and regulations. We also provide a limited warranty for our Encompass Compliance Service, pursuant to which we agree to reimburse customers for losses incurred due to fines, penalties or judgments as a result of a violation of a specific law, rule or regulation tied to an error in the provision of our Encompass Compliance Service up to $2,500 per occurrence. However, with respect to some legacy customers that we inherited from our acquisition of Mavent Holdings Inc., or Mavent, our exposure could be greater. Our typical services agreement with new customers limits our exposure to a maximum of three months of fees paid by customer preceding the claim and, with respect to CenterWise and Encompass Closer, the lesser of three months of fees paid by customer preceding the claim or $25,000 per occurrence. For most customers, our exposure for warranties is limited to an amount equal to the total service fees paid by a customer for base services during a specified period preceding the relevant claim, typically six to 12 months. For a few of these legacy customers, our liability is a specified dollar amount, which in the aggregate does not exceed approximately $1.0 million. Although we have not historically incurred any claims and maintain professional liability insurance coverage of $5.0 million per occurrence and in the aggregate, to the extent we were to become liable for an amount in excess of such coverage, our business and our reputation would be materially adversely affected.

Potential structural changes in the U.S. residential mortgage industry, in particular recent proposals to diminish the role of Fannie Mae and Freddie Mac, could disrupt the mortgage market and have a material adverse affect on our business.

Fannie Mae and Freddie Mac play a very important role in providing liquidity, stability and affordability in the current U.S. residential mortgage market. In particular, they participate in the secondary mortgage market by purchasing mortgage loans and mortgage-related securities for investment and by issuing guaranteed mortgage-related securities. In February 2011, the Obama administration delivered a report to Congress, which proposed the winding down of Fannie Mae and Freddie Mac and shrinking the federal government s role in the housing market. This proposal includes the withdrawal of government insurance currently available on certain residential loans and increasing the down payment requirements for borrowers, both of which could reduce mortgage lending volume. The effects of this proposal or any significant structural change to the U.S. residential mortgage industry, if implemented, would cause significant disruption to the mortgage market. If we are unable to react effectively and quickly to changes in the residential mortgage industry, our business could be harmed.

We may be limited in the way in which we market our business or generate revenue by U.S. federal law prohibiting referral fees in real estate transactions; if we are found to be in violation of such laws we would be subject to significant liability.

RESPA generally prohibits the payment or receipt of fees or any other thing of value for the referral of business related to a residential real estate settlement service and prohibits fee shares or splits or unearned fees in connection with the provision of such services. Our Encompass software and services and the Ellie Mae Network were designed with payment methods that are not currently prohibited by the restrictions under RESPA. Nonetheless, RESPA may restrict our ability to enter into marketing and distribution arrangements with third-parties, for existing or newly developed products and services, particularly to the extent that such arrangements may be characterized as involving payments for the referral of residential real estate settlement service business. Additionally, any amendments to RESPA or court opinions interpreting the provisions of RESPA that result in restrictions on our current payment methods, or any determination that our payment methods have been and currently are subject to the restrictions under RESPA, could have a material adverse effect on our business. Finally, if we were found to be in violation of RESPA rules, we would be exposed to significant potential liability that could have a material adverse effect on our reputation and business.

Our failure to protect the confidential information of our Encompass users, our Ellie Mae Network participants and their respective customers could damage our reputation and brand and substantially harm our business.

Certain confidential information relating to certain of our Encompass users, our Ellie Mae Network participants and their respective customers resides on our third-party hosted data center servers and is transmitted over our network. We rely on encryption and authentication technology licensed from third parties to effect secure transmission of confidential information, including personal information and credit card numbers. Advances in computer capabilities, new discoveries in the field of cryptography or other developments may result in a compromise or breach of the technology used by us to protect customer transaction data. These servers may also be vulnerable to computer viruses, break-ins and similar disruptions from unauthorized tampering with our computer systems, which could lead to loss of critical data or the unauthorized disclosure of confidential customer data. The possession and use of personal information in conducting our business subject us to legislative and regulatory burdens that may require notification to customers of a security breach, restrict our use of personal information and hinder our ability to acquire new customers or market to existing customers.

We cannot guarantee that our security measures will prevent security breaches. Any such compromise of our security could damage our reputation and brand and expose us to a risk of loss or litigation and potential liability, which would substantially harm our business and operating results. We may need to expend significant resources to protect against and remedy any potential security breaches and their consequences.

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We depend on key and highly skilled personnel to operate our business, and if we are unable to retain our current or hire additional personnel, our ability to develop and successfully market our business could be harmed.

We believe our future success will depend in large part upon our ability to attract and retain highly skilled managerial, technical, finance, creative and sales and marketing personnel. Moreover, we believe that our future success is highly dependent on the contributions of our named executive officers. All of our officers and other employees are at-will employees, which means they may terminate their employment relationship with us at any time, and their knowledge of our business and industry would be extremely difficult to replace. In addition, the loss of any key employees or the inability to attract or retain qualified personnel could delay the development and introduction of, and harm our ability to sell, our solutions and harm the market s perception of us. Competition for qualified personnel is particularly intense in the San Francisco Bay Area, where our headquarters are located. Qualified individuals are in high demand, and we may incur significant costs to attract them. We may be unable to attract and retain suitably qualified individuals who are capable of meeting our growing sales, operational and managerial requirements, or may be required to pay increased compensation in order to do so. If we are unable to attract and retain the qualified personnel we need to succeed, our business will suffer.

Volatility or lack of performance in our stock price may also affect our ability to attract and retain our key employees. Our named executive officers have become, or will soon become, vested in a substantial amount of stock options. Employees may be more likely to leave us if the shares they own or the shares underlying their vested options have significantly appreciated in value relative to the original purchase prices of the shares or the exercise prices of the vested options, or if the exercise prices of the options that they hold are significantly above the market price of our common stock. If we are unable to retain our named executive officers or other key employees, our business will be harmed.

Growth may place significant demands on our management and our infrastructure.

Our growth has placed and may continue to place significant demands on our management and our operational and financial infrastructure. As our operations grow in size, scope and complexity, we will need to improve and upgrade our systems and infrastructure to offer an increasing number of customers enhanced solutions, features and functionality. The expansion of our systems and infrastructure will require us to commit substantial financial, operational and technical resources in advance of an increase in the volume of business, with no assurance that the volume of business will increase. Continued growth could also strain our ability to maintain reliable service levels for our customers, develop and improve our operational, financial and management controls, enhance our reporting systems and procedures and recruit, train and retain highly skilled personnel.

Managing our growth will require significant expenditures and allocation of valuable management resources. If we fail to achieve the necessary level of efficiency in our organization as it grows, our business would be harmed.

We operate in a highly competitive market, which could make it difficult for us to attract and retain Encompass users and Ellie Mae Network participants.

The mortgage origination software market is highly competitive. There are many software providers, such as Calyx Technology, Inc., Byte Software Inc., PCLender.com and Harland Financial Solutions, that compete with us by offering loan origination software to mortgage originators. Some software providers, including Calyx Technology, Inc., also provide connectivity between their software users and lenders and service providers. Other connectivity alternatives are provided by vendors such as MGIC Investment Corporation and RealEC Technologies. We also compete with compliance and document preparation service providers that are much larger and more established than us. There is vigorous competition among providers of these services and we may not succeed in convincing potential customers, which use other services, to switch to our services. Many service providers connect directly to mortgage originators without using any loan origination software. Some of our competitors also offer services on a closed loan basis, which could adversely impact the effectiveness of our success-based pricing strategy for increasing the number of Encompass SaaS customers. If we are unsuccessful in competing effectively by providing attractive functionality, customer service or value, we could lose existing Encompass users to our competitors and our ability to attract new Encompass users could be harmed.

We only offer our Encompass services to Encompass users. There are many other service providers that offer our Encompass users competing services, including borrower-facing websites, document preparation services, compliance services and electronic document management. We may be unsuccessful in continuing to differentiate our Encompass service offerings to the extent necessary to effectively compete in some or all of these markets.

The Ellie Mae Network is only available to mortgage originators using Encompass software. The principal alternative to the use of the Ellie Mae Network by Encompass users remains traditional methods of exchanging data and documents among mortgage industry participants by e-mail, facsimile, phone, courier and mail. In addition, mortgage originators use standalone web browsers to go individually to each investor, lender or service provider s website and then manually upload loan data or enter information into the website. Mortgage originators may continue to use these methods due to habit, personal business relationships or otherwise. The success of the Ellie Mae Network depends on our ability to achieve and offer access to both the critical mass of investors, lenders and service providers necessary to attract and retain mortgage originators on the Ellie Mae Network and the critical mass of active mortgage originators necessary to attract and retain investors, lenders and service providers on our network.

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Many of our actual and potential competitors have longer operating histories and significantly greater financial, technical, marketing and other resources than we do and, as a result, these companies may be able to respond more quickly to changes in regulations, new technologies or customer demands, or devote greater resources to the development, promotion and sale of their software and services than we can. We expect the mortgage origination market to continue to attract new competitors and there can be no assurance that we will be able to compete successfully against current or future competitors, or that competitive pressures we face will not materially adversely affect our business.

Failure to adapt to technological changes may render our technology obsolete or decrease the attractiveness of our solutions to our customers.

If new industry standards and practices emerge, or if competitors introduce new solutions embodying new services or technologies, our Encompass software and the Ellie Mae Network technology may become obsolete. Our future success will depend on our ability to:

- enhance our existing solutions;
- develop and potentially license new solutions and technologies that address the needs of our prospective customers; and
- respond to changes in industry standards and practices on a cost-effective and timely basis.

We must continue to enhance the features and functionality of our Encompass software and the Ellie Mae Network. The effective performance, reliability and availability of our Encompass software and the Ellie Mae Network infrastructure are critical to our reputation and our ability to attract and retain Encompass users and Ellie Mae Network participants. If we do not continue to make investments in product development and, as a result, or due to other reasons, fail to attract new and retain existing mortgage originators, lenders, investors and service providers, we may lose existing Ellie Mae Network participants, which could significantly decrease the value of the Ellie Mae Network to all participants.

Failure to adequately protect our intellectual property could harm our business.

The protection of our intellectual property rights, including our proprietary Encompass software and Ellie Mae Network technology, is crucial to the success of our business. We rely on a combination of patent, copyright, trademark and trade secret law and contractual restrictions to protect our intellectual property. Our present and future patents may provide only limited protection for our technology and may not be sufficient to provide competitive advantage to us. Furthermore, we cannot assure you that any patents will be issued to us as a result of our patent applications. We also rely in part on confidentiality and invention assignment agreements with our employees, independent contractors and consultants. Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy aspects of our Ellie Mae Network and Encompass software features and functionality or obtain and use information that we consider proprietary. Policing our proprietary rights is difficult and may not always be effective.

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We have registered Ellie Mae and Encompass and certain of our other trademarks as trademarks in the United States. Competitors may adopt service names similar to ours, thereby impeding our ability to build brand identity and possibly leading to customer confusion. In addition, there could be potential trade name or trademark infringement claims brought by owners of other registered trademarks or trademarks that incorporate variations of the terms Ellie Mae, Encompass or our other trademarks.

Litigation or proceedings before the U.S. Patent and Trademark Office or other governmental authorities and administrative bodies in the United States and abroad may be necessary in the future to enforce our intellectual property rights, protect our patent and copyright rights, trade secrets and domain names and determine the validity and scope of the proprietary rights of others. Our efforts to enforce or protect our proprietary rights may be ineffective and could result in substantial costs and diversion of resources and could harm our business.

Assertions that we infringe third-party intellectual property rights could result in significant costs and substantially harm our business.

Other parties have asserted, and may in the future assert, that we have infringed their intellectual property rights. For example, on March 25, 2011, we were named a defendant in a patent infringement lawsuit filed by Industry Access Incorporated alleging that our Encompass 360 loan management software system and related operations infringes a single patent. See Legal Proceedings above. In addition, we generally agree to indemnify our customers against legal claims that our software products infringe intellectual property rights of third parties and, in the event of an infringement, to modify or replace the infringing product or, if those options are not reasonably possible, to refund the cost of the software, as pro-rated over a period of years. We cannot predict whether assertions of third-party intellectual property rights or claims arising from such assertions will substantially harm our business and operating results. If we are forced to defend against any infringement claims, whether they are with or without merit or are determined in our favor, we may face costly litigation and diversion of technical and management personnel. Furthermore, an adverse outcome of a dispute may require us to: pay damages, potentially including treble damages and attorneys fees if the infringement were found to be willful; cease providing solutions that allegedly incorporate the intellectual property of others; expend additional development resources to redesign or reengineer our solutions and products, if feasible; and enter into potentially unfavorable royalty or license agreements in order to obtain the right to use necessary technologies. We cannot be certain of the outcome of any litigation. Any royalty or licensing agreement, if required, may not be available to us on acceptable terms or at all. Our failure to obtain the necessary licenses or other rights could prevent the sale or distribution of some of our products and services and, therefore, could have a material adverse effect on our business.

Current or future litigation could substantially harm our business.

We have been and continue to be involved in legal proceedings, claims and other litigation. For example, we are currently a defendant in litigation initiated by DocMagic Inc., which alleges, among other claims, that we had engaged in monopolization and/or attempted monopolization, intentional interference with contractual relationship, interference with prospective economic advantage, unfair competition and breach of contract. In addition, we are currently involved in defending against other lawsuits alleging, among other claims, breach of contract, tortious interference with business relationship, unfair trade practices, defamation and negligence. See Legal Proceedings above. Furthermore, we are also subject to various other legal proceedings and claims arising out of the ordinary course of business. While we do not expect the outcome of any such pending litigation to have a material adverse effect on our financial position, litigation is unpredictable and excessive verdicts, both in the form of monetary damages and injunctions, could occur. In the future, litigation could result in substantial costs and diversion of resources and we could incur judgments or enter into settlements of claims that could have a material adverse effect on our business.

If one or more U.S. states or local jurisdictions successfully assert that we should have collected or in the future should collect additional sales or use taxes on our fees, we could be subject to additional liability with respect to past or future sales, and the results of our operations could be adversely affected.

We do not collect state and local sales and use taxes in all jurisdictions in which our customers are located, based on our belief that such taxes are not applicable. Sales and use tax laws and rates vary by jurisdiction and such laws are subject to interpretation. Jurisdictions in which we do not collect sales and use taxes may assert that such taxes are applicable, which could result in the assessment of such taxes, interest and penalties, and we could be required to collect such taxes in the future. This additional sales and use tax liability could adversely affect the results of our operations.

Our business is subject to the risks of earthquakes, fires, floods and other natural catastrophic events and to interruption by man-made problems such as terrorism.

Our systems and operations are vulnerable to damage or interruption from earthquakes, fires, floods, power losses, telecommunications failures, terrorist attacks, acts of war and similar events. For example, a significant natural disaster, such as an earthquake, fire or flood, could have a material adverse impact on our business, operating results and financial condition, and our insurance coverage may be insufficient to compensate us for losses that may occur. Our corporate offices and one of the facilities we lease to house our computer and telecommunications equipment are located in the San Francisco Bay Area, a region known for seismic activity. In addition, acts of terrorism, which may be targeted at metropolitan areas which have higher population density than rural areas, could cause disruptions in our or our customers businesses or the economy as a whole. We may not have sufficient protection or recovery plans in certain circumstances, such as natural disasters affecting the San Francisco Bay Area, and our business interruption insurance may be insufficient to compensate us for losses that may occur.

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Integrating our recent acquisitions and future acquisitions could disrupt our business, harm our financial condition and operating results or dilute, or adversely affect the price of, our common stock.

Our success will depend, in part, on our ability to expand our solutions and services and grow our business in response to changing technologies, customer demands and competitive pressures. In some circumstances, we may pursue growth through the acquisition of complementary businesses, solutions or technologies rather than through internal development. For example, in September 2008 we acquired the assets of ODI to enhance our Encompass Closer document preparation services, in December 2009 we acquired Mavent to add automated regulatory compliance to our services offerings and in January 2011 we acquired MPS to introduce our Encompass Product and Pricing Service, which allows Encompass users to compare loan pricing from multiple lending sources. In August 2011, we acquired DMD, to add additional potential Encompass users and increased loan volume to monetize our Encompass service offerings and the Ellie Mae Network. The identification of suitable acquisition candidates can be difficult, time-consuming and costly, and we may not be able to complete acquisitions successfully. Moreover, if such acquisitions require us to seek additional debt or equity financing, we may not be able to obtain such financing on terms favorable to us or at all. Even if we successfully complete an acquisition, we may not be able to assimilate and integrate effectively the acquired business, technologies, solutions, assets, personnel or operations, particularly if key personnel of an acquired company decide not to work for us. In addition, we may issue equity securities to complete an acquisition, which would dilute our stockholders ownership and could adversely affect the price of our common stock.

We incur increased costs as a result of being a public company, which may strain our resources and adversely affect our operating results and financial condition.

As a public company, we incur significant accounting, legal and other expenses that we did not incur as a private company. We incur costs associated with our public company reporting requirements, since we are subject to the requirements of the Exchange Act, the Sarbanes-Oxley Act of 2002, the NYSE Amex LLC and other rules and regulations. We expect these rules and regulations will continue to increase our legal and financial compliance costs and to make some activities more time-consuming and costly. Furthermore, these laws and regulations could make it more difficult or more costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these requirements could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees or as executive officers.

Our stock price is volatile and purchasers of our common stock could incur substantial losses.

The trading price of our common stock may be subject to wide fluctuations in response to various factors, some of which are beyond our control. In addition to the factors discussed in this Risk Factors section and elsewhere in this report, these factors include:

- our operating performance and the operating performance of similar companies;
- the overall performance of the equity markets;
- the number of shares of our common stock publicly owned and available for trading;
- threatened or actual litigation;
- changes in laws or regulations relating to our solutions;
- any major change in our board of directors or management;

- publication of research reports about us or our industry or positive or negative recommendations or withdrawal of research coverage by securities analysts;
- large volumes of sales of our shares of common stock by existing stockholders; and
- general political and economic conditions.

In addition, the stock market in general has experienced extreme price and volume fluctuations. Securities class action litigation has often been instituted against companies following periods of volatility in the overall market and in the market price of a company s securities. This litigation, if instituted against us, could result in very substantial costs, divert our management s attention and resources and harm our business.

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Our directors, executive officers and principal stockholders have substantial control over us and could delay or prevent a change in corporate control.

Our directors, executive officers and holders of more than 5% of our common stock, together with their affiliates, beneficially own approximately 33% of our outstanding common stock. As a result, these stockholders, acting together, have the ability to control the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, these stockholders, acting together, have the ability to control the management and affairs of our company. Accordingly, this concentration of ownership might harm the market price of our common stock by:

delaying, deferring or preventing a change in corporate control;

impeding a merger, consolidation, takeover or other business combination involving us; and

discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us.

Future sales of shares of our common stock by existing stockholders could depress the price of our common stock.

As of April 20, 2011, we had 20,646,717 shares of common stock outstanding. Of these shares, 12,201,553 shares were subject to contractual lock-up agreements entered into by certain of our stockholders with the underwriters in connection with the IPO that have become eligible for sale in the public market on October 12, 2011, and, for shares held by our directors, executive officers and other affiliates, subject to compliance with Rule 144 of the Securities Act.

In addition, 4,072,342 shares subject to outstanding options, as of September 30, 2011, 133,333 shares issuable upon the exercise of outstanding warrants, as of September 30, 2011, and 2,634,463 and 617,124 shares reserved for future issuance under our 2011 Equity Incentive Award Plan and Employee Stock Purchase Plan, as of September 30, 2011, will become eligible for sale in the public market, subject to certain legal and contractual limitations. If these additional shares are sold, or if it is perceived that they will be sold, in the public market, the price of our common stock could decline substantially.

Future issuances of equity or convertible debt securities to raise capital could have a dilutive effect on our existing stockholders percentage ownership of us.

If we raise additional capital through future issuances of equity or convertible debt securities, our existing stockholders could suffer significant dilution in their percentage ownership of us. Moreover, any new equity securities we issue could have rights, preferences and privileges senior to those of holders of our common stock.

If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that securities or industry analysts publish about us or our business. Securities and industry analysts do not currently, and may never, publish research on our company. If no securities or industry analysts commence coverage of our company, the trading price for our stock would likely be negatively impacted. In the event securities or industry analysts initiate coverage, if one or more of the analysts who cover us downgrade our stock or publish inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts cease coverage of our company or fail to publish reports on us regularly, demand for our stock could decrease, which might cause our stock price and trading volume to decline.

Certain provisions in our charter documents and Delaware law could discourage takeover attempts and lead to management entrenchment.

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that could have the effect of delaying or preventing changes in control or changes in our board of directors. These provisions include:

a classified board of directors with three-year staggered terms, which may delay the ability of stockholders to change the membership of a majority of our board of directors;

no cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;

the exclusive right of our board of directors to elect a director to fill a vacancy created by the expansion of the board of directors or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors;

the ability of our board of directors to determine to issue shares of preferred stock and to determine the price and other terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquirer;

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a prohibition on stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;

the requirement that a special meeting of stockholders may be called only by the chairman of the board of directors, the chief executive officer, the president or the board of directors, which may delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors; and

advance notice procedures that stockholders must comply with in order to nominate candidates to our board of directors or to propose matters to be acted upon at a stockholders meeting, which may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer s own slate of directors or otherwise attempting to obtain control of us.

We are also subject to certain anti-takeover provisions under Delaware law. Under Delaware law, a corporation may not, in general, engage in a business combination with any holder of 15% or more of its capital stock unless the holder has held the stock for three years or, among other things, the board of directors has approved the transaction.

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ITEM 2 UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Unregistered Sales of Equity Securities

During the three months ended September 30, 2011, we made no sales of unregistered securities.

Use of Proceeds from the Sale of Registered Securities

On April 14, 2011, the SEC declared effective our registration statement on Form S-1 (File No. 333-166438), as amended, filed in connection with the IPO. After deducting underwriting discounts, commissions and offering expenses paid or payable by us, the net proceeds to us from the IPO were approximately $21.3 million.

We used approximately $17.2 million of the net proceeds from the IPO to fund a portion of the purchase price in connection with the acquisition of Del Mar DataTrac, Inc., which closed on August 15, 2011. The remainder of the net proceeds have been invested in short-term, investment-grade interest-bearing securities such as money market accounts, certificates of deposit, commercial paper and guaranteed obligations of the U.S. government.

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ITEM 3 DEFAULTS UPON SENIOR SECURITIES

None

ITEM 4 REMOVED AND RESERVED

None

ITEM 5 OTHER INFORMATION

None

ITEM 6 EXHIBITS

Exhibit Number	Description of Document
2.1	Stock Purchase Agreement, dated as of August 15, 2011, by and among Ellie Mae, Inc., Northgate Private Equity Partners III, L.P., NPEP III-Q, L.L.C., TVC Capital L.P., TVC Capital 12-4-0 Fund L.P., TVC Capital Partners L.P., TVC Capital, LLC , as Sellers Representative, and certain listed management employees of Del Mar Datatrac, Inc., filed as Exhibit 2.1 to the Company s Current Report on Form 8-K filed with the SEC on August 15, 2011 and incorporated herein by reference.
31.1	Certification of Chief Executive Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934 as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934 as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of Chief Executive Officer 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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101.INS**	XBRL Instance Document
101.SCH**	XBRL Taxonomy Extension Schema Document
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB**	XBRL Taxonomy Extension Label Linkbase Document
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document

* Exhibits 32.1 and 32.2 are being furnished and shall not be deemed to be filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the Exchange Act), or otherwise subject to the liability of that section, nor shall such exhibits be deemed to be incorporated by reference in any registration statement or other document filed under the Securities Act of 1933, as amended, or the Exchange Act, except as otherwise specifically stated in such filing.

** XBRL information is furnished and not filed for purposes of Sections 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities Exchange Act of 1934, and is not subject to liability under those sections, is not part of any registration statement or prospectus to which it relates and is not incorporated or deemed to be incorporated by reference into any registration statement, prospectus or other document.

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SIGNATURES

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

ELLIE MAE, INC.

Date: November 10, 2011

By: /s/ Edgar Luce
Edgar Luce
Executive Vice President, Finance and Administration and

Chief Financial Officer
(Principal Financial and Accounting Officer and duly

authorized signatory)

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