

TRADEMARKS ONLY

To the Honorable Director of Patents and Trademarks. Please record the attached original documents or copy thereof.

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

Individual(s)                       Association  
 General Partnership               Limited Partnership  
 Corporation-State Delaware  
 Other \_\_\_\_\_

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

9-1-00

2. Name and address of receiving party(ies):

Name: NetIQ Corporation  
Internal Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Street Address: 5410 Betsy Ross Drive  
\_\_\_\_\_  
\_\_\_\_\_  
City Santa Clara State CA ZIP 95054

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


If assignee is not domiciled in the United States, a domestic representative designation is attached:  
 Yes  No  
(Designation must be a separate document from Assignment)  
Additional name(s) & address(es) attached?  Yes  No

3. Nature of Conveyance:

Assignment                       Merger  
 Security Agreement               Change of Name  
 Other \_\_\_\_\_

Execution Date: May 12, 2000

10-30-2000



101498889

4. Application number(s) or registration number(s):

A. Trademark Application No.(s) 75/719,516; 75/382,263

Additional numbers attached?  Yes  No

B. Trademark Registration No.(s) 2,125,364; 1,995,601; 2,053,321

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

Name: John A. Livingstone II  
Internal Address: SKJERVEN MORRILL MacPHERSON LLP  
Street Address: 25 METRO DRIVE, SUITE 700  
City SAN JOSE State CA ZIP 95110

6. Total number of applications and registrations involved: 5

7. Total fee (37 CFR 3.41): .....\$ 140

Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number: 19-2386  
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*

John A. Livingstone II                      [Signature]                      September 1, 2000  
Name of Person Signing                      Signature                      Date

Total number of pages comprising cover sheet: 6

Office of the Secretary of State

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"PLANET ACQUISITION CORPORATION", A DELAWARE CORPORATION, WITH AND INTO "MISSION CRITICAL SOFTWARE, INC." UNDER THE NAME OF "MISSION CRITICAL SOFTWARE, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWELFTH DAY OF MAY, A.D. 2000, AT 4:30 O'CLOCK P.M.



*Edward J. Freel*

Edward J. Freel, Secretary of State

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AUTHENTICATION: 0550986

DATE: 07-11-00

TRADEMARK  
REEL: 002163 FRAME: 0377

5-12-00

**CERTIFICATE OF MERGER**

**MERGING**

**PLANET ACQUISITION CORPORATION,  
A DELAWARE CORPORATION**

**WITH AND INTO**

**MISSION CRITICAL SOFTWARE, INC.,  
A DELAWARE CORPORATION**

Pursuant to Section 251 of the General Corporation Law of the State of Delaware, Mission Critical Software, Inc., a Delaware corporation ("**Mission Critical**"), does hereby certify as follows:

**FIRST:** Each of the constituent corporations, Mission Critical and Planet Acquisition Corporation ("**Sub**"), is a corporation duly organized and existing under the laws of the State of Delaware.

**SECOND:** An Agreement and Plan of Reorganization (the "**Reorganization Agreement**") dated February 26, 2000, among NetIQ Corporation, a Delaware corporation, Sub and Mission Critical, setting forth the terms and conditions of the merger of Sub with and into Mission Critical (the "**Merger**"), has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with Section 251 of the Delaware General Corporation Law.

**THIRD:** The name of the surviving corporation in the Merger (the "**Surviving Corporation**") shall be Mission Critical Software, Inc.

**FOURTH:** The Certificate of Incorporation of the Surviving Corporation is amended to read in its entirety as set forth in Exhibit A hereto.

**FIFTH:** An executed copy of the Reorganization Agreement is on file at the principal place of business of the Surviving Corporation at the following address:

Mission Critical Software, Inc.  
13939 Northwest Freeway  
Houston, Texas 77040

**SIXTH:** An executed copy of the Reorganization Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of either constituent corporation.

SEVENTH: The Merger shall become effective upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, MISSION CRITICAL has caused this Certificate of Merger to be executed in its corporate name as of the 12th day of May, 2000.

**MISSION CRITICAL SOFTWARE, INC.**

By: /s/ Michael S. Bennett

Michael S. Bennett  
President and Chief Executive  
Officer

**EXHIBIT A**

**RESTATED CERTIFICATE OF INCORPORATION**

**OF**

**MISSION CRITICAL SOFTWARE, INC.**

**ARTICLE 1**

The name of the corporation is Mission Critical Software, Inc. (the "Corporation").

**ARTICLE 2**

The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

**ARTICLE 3**

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

**ARTICLE 4**

The Corporation is authorized to issue one class of shares to be designated Common Stock. The total number of shares of Common Stock this Corporation shall have authority to issue is 1,000 with the par value of \$0.001 per share.

**ARTICLE 5**

The Corporation is to have perpetual existence.

**ARTICLE 6**

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter, amend or repeal the Bylaws of the Corporation.

## **ARTICLE 7**

The number of directors which constitute the whole Board of Directors of the Corporation shall be as specified in the Bylaws of the Corporation.

## **ARTICLE 8**

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the Corporation.

## **ARTICLE 9**

To the fullest extent permitted by the Delaware General Corporation Law as the same exists or may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exception from liability or limitation thereof is not permitted under the Delaware Corporation Law as the same exists or may hereafter be amended. Neither any amendment nor repeal of this Article, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article, shall eliminate or reduce the effect of this Article in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

## **ARTICLE 10**

Advance notice of new business and stockholder nominations for the election of directors shall be given in the manner and to the extent provided in the Bylaws of the Corporation.

## **ARTICLE 11**

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

## **ARTICLE 12**

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.