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merger

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11 SEP -2 AM 9:41
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA
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2011 SEP -2 PM 12:33
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

*DR
9/2/11*

CORPDIRECT AGENTS, INC. (formerly CCRS)
515 EAST PARK AVENUE
TALLAHASSEE, FL 32301
222-1173

FILING COVER SHEET
ACCT. #FCA-14

CONTACT: RICKY SOTO

DATE: 09/02/2011

REF. #: 002120.153732

CORP. NAME: COMMUTATION INC. (a Florida corporation) merging into ZAVE NETWORKS, INC.
(a Florida corporation)

- | | | |
|--|---|--|
| <input type="checkbox"/> ARTICLES OF INCORPORATION | <input type="checkbox"/> ARTICLES OF AMENDMENT | <input type="checkbox"/> ARTICLES OF DISSOLUTION |
| <input type="checkbox"/> ANNUAL REPORT | <input type="checkbox"/> TRADEMARK/SERVICE MARK | <input type="checkbox"/> FICTITIOUS NAME |
| <input type="checkbox"/> FOREIGN QUALIFICATION | <input type="checkbox"/> LIMITED PARTNERSHIP | <input type="checkbox"/> LIMITED LIABILITY |
| <input type="checkbox"/> REINSTATEMENT | <input checked="" type="checkbox"/> MERGER | <input type="checkbox"/> WITHDRAWAL |
| <input type="checkbox"/> CERTIFICATE OF CANCELLATION | | |
| <input type="checkbox"/> OTHER: | | |

STATE FEES PREPAID WITH CHECK# 541336 FOR \$ 78.75

AUTHORIZATION FOR ACCOUNT IF TO BE DEBITED:

_____ **COST LIMIT: \$** _____

PLEASE RETURN:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> CERTIFIED COPY | <input type="checkbox"/> CERTIFICATE OF GOOD STANDING | <input type="checkbox"/> PLAIN STAMPED COPY |
| <input type="checkbox"/> CERTIFICATE OF STATUS | | |

Examiner's Initials

FILED

ARTICLES OF MERGER
BETWEEN
ZAVE NETWORKS, INC.
AND
COMMUTATION INC.

2011 SEP -2 PM 12: 33

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Section 607.1105 of the Florida Business Corporation Act (the "**FBCA**"), Commutation Inc., a Florida corporation ("**Merger Sub**") and Zave Networks, Inc., a Florida corporation (the "**Company**"), hereby adopt the following Articles of Merger for the purpose of effecting the merger of the Merger Sub with and into the Company (the "**Merger**"), with the Company as the surviving corporation following the Merger.

ARTICLE I

The plan of merger for the Merger of Merger Sub with and into the Company is attached hereto as Exhibit A and incorporated herein by this reference.

ARTICLE II

The Merger shall become effective upon the filing of these Articles of Merger with the Secretary of State of the State of Florida (the "**Effective Time**").

ARTICLE III

The plan of merger, which is part of an Agreement and Plan of Merger (the "**Merger Agreement**"), was adopted by the Board of Directors of the Company on September 1, 2011, and adopted by the written consent of the shareholders of the Company on September 1, 2011. The plan of merger was adopted by the Board of Directors of Merger Sub on August 29, 2011, and adopted by the written consent of the sole shareholder of Merger Sub on August 29, 2011.

ARTICLE IV

This document may be executed in counterparts (each of which shall be deemed to be an original but all of which taken together shall constitute one and the same document).

* * * * *

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IN WITNESS WHEREOF, the undersigned have caused these Articles of Merger to be executed as of this 2 day of Sept., 2011.

COMMUTATION INC.

By: _____

Name: Katherine Stephens

Title: CEO, President & Secretary

ZAVE NETWORKS, INC.

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the undersigned have caused these Articles of Merger to be executed as of this 2 day of Sept., 2011.

COMMUTATION INC.

By: _____
Name:
Title:

ZAVE NETWORKS, INC.

By: _____
Name: GEORGE E. HANSON, JR.
Title: CEO

EXHIBIT A

**PLAN OF MERGER
BY AND AMONG
GOOGLE INC.,
COMMUTATION INC.
AND
ZAVE NETWORKS, INC.**

This PLAN OF MERGER (this "**Agreement**") is made and entered into as of September 2, 2011 by and among Google Inc., a Delaware corporation ("**Parent**"), Commutation Inc., a Florida corporation and a wholly owned subsidiary of Parent ("**Merger Sub**"), and Zave Networks, Inc., a Florida corporation (the "**Company**").

1.1 The name of each corporation planning to merge is:

(a) The name of the surviving corporation is Zave Networks, Inc. (the "**Company**");
and

(b) The name of the merging corporation is Commutation Inc. (the "**Merger Sub**").

1.2 In accordance with the Florida Business Corporation Act ("**FBCA**"), at the Effective Time (as defined below) Merger Sub shall be merged with and into the Company, and the separate corporate existence of Merger Sub shall thereupon cease, and the Company shall be the surviving corporation in the Merger (the "**Surviving Corporation**"). The merger shall become effective upon the filing of these Articles of Merger with the Secretary of State of the State of Florida (the "**Effective Time**").

1.3 The general terms and conditions of the merger are as follows:

(a) At and after the Effective Time, the Merger shall have the effects as set forth herein and in the applicable provisions of the FBCA. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of each of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of each of the Company and Merger Sub shall attach to, and become the debts, liabilities and duties of, the Surviving Corporation.

(b) As of the Effective Time, the articles of incorporation of the Company as the Surviving Corporation shall be amended and restated to read the same as the articles of incorporation of Merger Sub as in effect immediately prior to the Effective Time, until thereafter further amended in accordance with FBCA and as provided in such amended and restated articles of incorporation, except that **Article I** of the articles of incorporation of the Surviving Corporation shall be amended and restated in its entirety to read as follows: "The name of this corporation is Zave Networks, Inc."

(c) As of the Effective Time, the bylaws of the Company as the Surviving Corporation shall be amended and restated to read the same as the bylaws of Merger Sub as in effect immediately prior to the Effective Time, until thereafter further amended in accordance with the FBCA and as provided in the articles of incorporation of the Surviving Corporation and such bylaws, except that

all references to Merger Sub in the bylaws of the Surviving Corporation shall be changed to references to Zave Networks, Inc.

(d) The directors of Merger Sub immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation immediately after the Effective Time, each to hold office in accordance with the provisions of the FBCA and the articles of incorporation and bylaws of the Surviving Corporation until their successors are duly elected and qualified.

(e) The officers of Merger Sub immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation immediately after the Effective Time, each to hold office in accordance with the bylaws of the Surviving Corporation until their successors are duly appointed and qualified.

1.4 Effect of Merger on the Securities of the Company. The manner and basis of converting the shares of each corporation shall be as follows:

(a) Effect on Company Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Merger Sub, the Company or the Company Stockholders, each share of Company Capital Stock issued and outstanding immediately prior to the Effective Time (excluding any Dissenting Shares (as defined in **Section 1.5**)) shall be canceled and extinguished and shall be converted into the right to receive (without interest and less any applicable tax withholding), upon surrender of the certificates representing such shares of Company Capital Stock in the manner provided in the Agreement and Plan of Merger (the "**Merger Agreement**") of which this Agreement is a part, the following:

(i) in the case of each issued and outstanding share of Company Preferred Stock immediately prior to the Effective Time, an amount equal to the Closing Per Preferred Share Consideration plus the Additional Per Share Consideration, subject to (and without limiting any rights or remedies of the Indemnified Parties under this Agreement or otherwise as a result of) the obligation of the Company Preferred Stockholder that owns such share of Company Preferred Stock immediately prior to the Effective Time to return to the applicable Indemnified Parties the amount so received as a result of such conversion to the extent such Company Preferred Stockholder has, at any time and from time to time, any unsatisfied payment obligations to such Indemnified Parties pursuant to, and subject to the terms and conditions of, the indemnification and escrow provisions of the Merger Agreement;

(ii) in the case of each issued and outstanding share of Company Common Stock immediately prior to the Effective Time, an amount equal to the sum of the Closing Per Diluted Common Share Consideration plus the Additional Per Share Consideration, subject to (and without limiting any rights or remedies of the Indemnified Parties under this Agreement or otherwise as a result of) the obligation of the Company Common Stockholder that owns such share of Company Common Stock immediately prior to the Effective Time to return to the applicable Indemnified Parties the amount so received as a result of such conversion to the extent such Company Common Stockholder has, at any time and from time to time, any unsatisfied payment obligations to such Indemnified Parties pursuant to, and subject to the terms and conditions of, the indemnification and escrow provisions of the Merger Agreement; and

(iii) in the case of each share of Company Capital Stock held in the treasury of the Company immediately prior to the Effective Time, such shares shall be canceled and extinguished without any conversion thereof and no payment or distribution shall be made with respect thereto.

(b) Treatment of Options. No outstanding Company Options shall be assumed by Parent or the Surviving Corporation. At the Effective Time, each then outstanding and unexercised Company Option shall be immediately canceled and the holder thereof shall be entitled to receive, in consideration of such cancellation, an amount equal to the Closing Per Option Consideration for each share of Company Capital Stock subject to such Company Option, plus the Additional Per Share Consideration, subject to (and without limiting any rights or remedies of the Indemnified Parties under this Agreement or otherwise as a result of) the obligation of the Company Securityholder that holds such Company Option immediately prior to the Effective Time to return to the applicable Indemnified Parties the amount so received in connection with the foregoing to the extent such Company Securityholder has, at any time and from time to time, any unsatisfied payment obligations to such Indemnified Parties pursuant to, and subject to the terms and conditions of, the indemnification and escrow provisions of the Merger Agreement. The payment of the Closing Per Option Consideration and Additional Per Share Consideration shall be reduced by any applicable income or employment tax withholding required under the Code or any provision of applicable state, local or foreign tax law. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of such Company Options. Notwithstanding anything in this Agreement to the contrary, any Company Option with an applicable per share exercise price that exceeds the Per Diluted Common Share Consideration (or, in the case of the Series C Options, the applicable Per Preferred Share Consideration) shall be immediately canceled at the Effective Time without any consideration therefor.

(c) Treatment of Restricted Stock. No outstanding shares of Company Restricted Stock shall be assumed by Parent or the Surviving Corporation. Immediately prior to the Effective Time, each then outstanding and unvested share of Company Restricted Stock shall vest and shall be treated in accordance with **Section 1.4(a)** above.

(d) Treatment of Warrants. No outstanding Warrants shall be assumed by Parent or the Surviving Corporation. At the Effective Time, each then outstanding and unexercised Warrant shall be immediately canceled and the holder thereof shall be entitled to receive, in consideration of such cancellation, an amount equal to the Closing Per Warrant Consideration for each share of Company Capital Stock subject to such Warrant, plus the Additional Per Share Consideration, subject to (and without limiting any rights or remedies of the Indemnified Parties under this Agreement or otherwise as a result of) the obligation of the Company Securityholder that owns such Warrant immediately prior to the Effective Time to return to the applicable Indemnified Parties the amount so received as a result of such conversion to the extent such Company Securityholder has, at any time and from time to time, any unsatisfied payment obligations to such Indemnified Parties pursuant to, and subject to the terms and conditions of, the indemnification and escrow provisions of the Merger Agreement. The payment of the Closing Per Warrant Consideration and the Additional Per Share Consideration shall be reduced by any applicable income or employment tax withholding required under the Code or any provision of applicable state, local or foreign tax law. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of such Warrants. Notwithstanding anything in this Agreement to the contrary, any Warrant with an applicable per share exercise price that exceeds the Per Diluted Common Share Consideration (or, in the case of the Series A-1 Warrants, the applicable Per Preferred Share Consideration) shall be immediately canceled at the Effective Time without any consideration therefor.

(e) Effect on Capital Stock of Merger Sub. Each share of common stock of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for one validly issued, fully paid and non-assessable share of common stock of the Surviving Corporation. Each stock certificate of Merger Sub evidencing ownership of any shares of common stock shall continue to evidence ownership of such share of common stock of the Surviving Corporation.

1.5 Dissenting Shares.

(a) Notwithstanding any provision of this Agreement to the contrary, shares of Company Capital Stock that are outstanding immediately prior to the Effective Time and which are held by Company Stockholders who have exercised and perfected appraisal rights for such shares of Company Capital Stock in accordance with the FBCA (collectively, the “**Dissenting Shares**”) shall not be converted into or represent the right to receive the Closing Per Share Consideration and the Additional Per Share Consideration. Such Company Stockholders shall be entitled only to such rights as are granted by the FBCA to a holder of Dissenting Shares, unless and until such Company Stockholders fail to perfect or effectively withdraw or otherwise lose their appraisal rights under the FBCA. All Dissenting Shares held by Company Stockholders who shall have failed to perfect or who effectively shall have withdrawn or lost their right to appraisal of such shares of Company Capital Stock under the FBCA shall thereupon be deemed to have been converted into and to have become exchangeable for, as of the Effective Time, the right to receive the Closing Per Diluted Common Share Consideration or the Closing Per Preferred Share Consideration, as the case may be, and the Additional Per Share Consideration, if any, without any interest thereon and less any applicable tax withholding, upon the surrender of the certificate representing such shares of Company Capital Stock.

(b) The Company shall give Parent (i) prompt notice of any demands for appraisal received by the Company, withdrawals of such demands, and any other related instruments served pursuant to the FBCA and received by the Company and (ii) the opportunity to direct all negotiations and proceedings with respect to demands for appraisal under the FBCA. The Company shall not, except with the prior written consent of Parent, make any payment with respect to any demands for appraisal or offer to settle or settle any such demands.

1.6 Definitions. For all purposes of this Agreement, the following terms shall have the following respective meanings:

“**Additional Per Share Consideration**” shall mean, with respect to each share of Company Capital Stock that a Company Securityholder owned at the Effective Time or that was subject to an unexercised Company Option or Warrant that a Company Securityholder held as of immediately prior to the Effective Time, a non-transferable contingent right to the cash amounts from the Escrow Fund owing to such Company Securityholder pursuant to the escrow and indemnity provisions of the Merger Agreement from and after the Effective Time.

“**Closing Per Diluted Common Share Consideration**” shall mean an amount in cash equal to (i) the Per Diluted Common Share Consideration, less (ii) the Per Common Share Escrow Amount.

“**Closing Per Preferred Share Consideration**” shall mean, with respect to a share of a series of Company Preferred Stock, the amount, if any, by which (a) the Per Preferred Share Consideration for a share of such series of Company Preferred Stock exceeds (b) the Per Preferred Share Escrow Amount for a share of such series of Company Preferred Stock.

“**Closing Per Option Consideration**” shall mean, with respect to each Company Option, the amount by which (a) the applicable Per Option Consideration exceeds (b) the applicable Per Option Escrow Amount.

“**Closing Per Warrant Consideration**” shall mean, with respect to each Warrant, the amount by which (a) the applicable Per Warrant Consideration exceeds (b) the applicable Per Warrant Escrow Amount.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Common Options" shall mean all issued and outstanding options, rights and warrants (including commitments to grant options) to purchase or otherwise acquire shares of Company Common Stock (whether or not vested) held by any Person.

"Company Capital Stock" shall mean the Company Common Stock, Company Preferred Stock and all other shares of all series and classes of capital stock of the Company, taken together.

"Company Common Stock" shall mean shares of common stock, par value \$0.01 per share, of the Company.

"Company Options" shall mean, other than the Warrants, all issued and outstanding options, rights and warrants (including commitments to grant options) to purchase or otherwise acquire Company Capital Stock (whether or not vested) held by any Person.

"Company Preferred Stock" shall mean the Company Senior Preferred Stock and the Series A Preferred Stock.

"Company Restricted Stock" shall mean shares of Company Common Stock issued as restricted stock pursuant to the terms of the Company's Zave Networks, Inc. Amended and Restated 2006 Incentive Compensation Plan.

"Company Securityholder" shall mean any holder of Company Capital Stock or any holder of Company Options or Warrants, in each case, as of immediately prior to the Effective Time or, with respect to any time before the Effective Time, any Person that would be a Company Securityholder if the Effective Time were to occur at such time.

"Company Senior Preferred Stock" shall mean the Series A-1 Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock.

"Company Stockholder" shall mean any holder of Company Common Stock (including Company Restricted Stock) or Company Preferred Stock as of the Effective Time or, with respect to any time before the Effective Time, any Person that would hold Company Common Stock or Company Preferred Stock if the Effective Time were to occur at such time.

"Conversion Ratio" shall mean (i) with respect to the Series A Preferred Stock, one and one-third (1 1/3), and (ii) with respect to the Company Senior Preferred Stock, one (1).

"Dollars" or **"\$"** shall mean United States Dollars.

"Escrow Amount" shall mean the aggregate Per Common Share Escrow Amounts, Per Preferred Share Escrow Amounts, Per Option Escrow Amounts and Per Warrant Escrow Amounts with respect to each Company Securityholder, to be held in escrow following the Effective Time to secure the indemnification obligations of the Company Securityholders in accordance with the indemnification and escrow provisions of the Merger Agreement.

"Escrow Fund" shall mean the Escrow Amount (plus any interest paid on such Escrow Amount in accordance with the Merger Agreement).

"Escrow Ratio" shall mean 0.16075.

"Indemnified Parties" shall mean Parent, the Surviving Corporation, their respective affiliates and the respective officers, directors, employees, agents and representatives of Parent, the Surviving Corporation and their respective affiliates

"Per Common Share Escrow Amount" shall mean the Per Diluted Common Share Consideration multiplied by the Escrow Ratio.

"Per Diluted Common Share Consideration" shall mean an amount of cash equal to \$0.58781.

"Per Option Consideration" shall mean (i) in respect of each share of Company Common Stock subject to an unexercised Common Option, an amount equal to the excess, if any, of the Per Diluted Common Share Consideration over the applicable per share exercise price, and (ii) in respect of each share of Series C Preferred Stock subject to an unexercised Series C Option, an amount equal to the excess, if any, of the Per Preferred Share Consideration over the applicable per share exercise price.

"Per Option Escrow Amount" shall mean, in respect of each share of Company Capital Stock subject to an unexercised Company Option, the applicable Per Option Consideration multiplied by the Escrow Ratio.

"Per Preferred Share Consideration" shall mean, with respect to a share of Company Preferred Stock, the amount equal to the sum of (i) the applicable Per Share Preference plus (ii) the Per Diluted Common Share Consideration multiplied by the applicable Conversion Ratio;

"Per Preferred Share Escrow Amount" shall mean, with respect to a share of Company Preferred Stock, an amount equal to the applicable Per Preferred Share Consideration multiplied by the Escrow Ratio.

"Per Share Preference" shall mean:

(a) with respect to a share of Series A Preferred Stock, \$1.00 plus all accrued but unpaid dividends for such share of Series A Preferred Stock as of immediately prior to the Effective Time;

(b) with respect to a share of Series A-1 Preferred Stock, \$0.75 plus all accrued but unpaid dividends for such share of Series A-1 Preferred Stock as of immediately prior to the Effective Time;

(c) with respect to a share of Series B Preferred Stock, \$0.75 plus all accrued but unpaid dividends for such share of Series B Preferred Stock as of immediately prior to the Effective Time; and

(d) with respect to a share of Series C Preferred Stock, \$0.375 plus all accrued but unpaid dividends for such share of Series C Preferred Stock as of immediately prior to the Effective Time.

"Per Warrant Consideration" shall mean, in respect of each share of Company Capital Stock subject to an unexercised Company Warrant, an amount equal to the excess, if any, of the Per Diluted Common Share Consideration (in the case of the Common Warrants) or the Per Preferred Share

Consideration (in the case of the Series A-1 Warrants), as applicable, over the applicable per share exercise price.

“Per Warrant Escrow Amount” shall mean, in respect of each share of Company Capital Stock subject to an unexercised Company Warrant, the applicable Per Warrant Consideration multiplied by the Escrow Ratio.

“Person” shall mean an individual or entity, including a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof).

“Series A Preferred Stock” shall mean the Series A Participating Convertible Preferred Stock, par value \$0.01 per share, of the Company.

“Series A-1 Preferred Stock” shall mean the Series A-1 Participating Convertible Preferred Stock, par value \$0.01 per share, of the Company.

“Series B Preferred Stock” shall mean the Series B Participating Convertible Preferred Stock, par value \$0.01 per share, of the Company.

“Series C Options” shall mean, other than the Warrants, all issued and outstanding options, rights and warrants (including commitments to grant options) to purchase or otherwise acquire Series C Preferred Stock (whether or not vested) held by any Person.

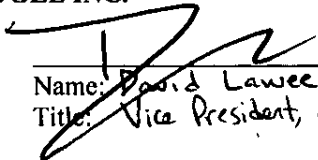
“Series C Preferred Stock” shall mean the Series C Senior Preferred Stock, par value \$0.01 per share, of the Company.

“Warrants” shall mean (i) each of the issued and outstanding warrants to purchase Series A-1 Preferred Stock as of immediately prior to the Effective Time (the **“Series A-1 Warrants”**) and (ii) each of the issued and outstanding warrants to purchase Company Common Stock as of immediately prior to the Effective Time (the **“Common Warrants”**).

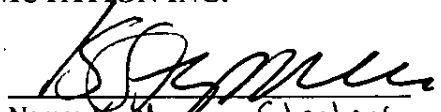
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IN WITNESS WHEREOF, Parent, Merger Sub, and the Company have caused this Agreement to be signed, all as of the date first written above.

GOOGLE INC.

By: 
Name: David Lawee
Title: Vice President, Corporate Development

COMMUTATION INC.

By: 
Name: Katherine Stephens
Title: CEO, President & Secretary

ZAVE NETWORKS, INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, Parent, Merger Sub, and the Company have caused this Agreement to be signed, all as of the date first written above.

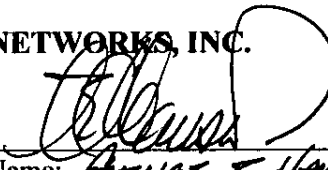
GOOGLE INC.

By: _____
Name:
Title:

COMMUTATION INC.

By: _____
Name:
Title:

ZAVE NETWORKS, INC.

By:  _____
Name: *BRENGE E. HANSEN, III*
Title: *CEO*