INTELLISYNC CORP
Form S-3
June 03, 2004
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As filed with the Securities and Exchange Commission on June 3, 2004

Registration No. 333-

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

INTELLISYNC CORPORATION

(Exact name of registrant as specified in its charter)

Delaware **(State or other jurisdiction of** **incorporation or organization)**	**77-0349154** **(I.R.S. Employer** **Identification No.)**

2550 North First Street, San Jose, California 95131

(408) 321-7650

(Address, including zip code, and telephone number, including area

code, of registrant s principal executive offices)

Woodson Hobbs

President and Chief Executive Officer

Intellisync Corporation

2550 North First Street, San Jose, California 95131

(408) 321-7650

(Name, address, including zip code, and telephone number,

including area code, of agent for service)

COPIES TO:

Elias J. Blawie

Thomas H. Tobiason

Heller Ehrman White & McAuliffe LLP

2775 Sand Hill Road

Menlo Park, California 94025

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

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

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

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

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

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

Calculation of Registration Fee

Title of each class of securities to be registered	**Amount to be registered (1)**	**Proposed maximum offering price per unit (2)**	**Proposed maximum aggregate offering price (2)**	**Amount of registration fee**
3% Convertible Senior Notes due March 1, 2009	$60,000,000	100%	$60,000,000	$7,602
Common Stock, par value $0.001 (3)	15,000,000 (4)	N/A	N/A	(5)

(1) This registration statement shall cover any additional shares of registrant s common stock which become issuable by reason of any stock dividend, stock split, recapitalization or any other similar transaction effected without the receipt of consideration that results in an increase in the number of shares of registrant s outstanding common stock.

(2) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(i) under the Securities Act of 1933, as amended.

(3) This registration statement also relates to rights to purchase shares of the registrant s Series A Participating Preferred Stock, or Rights, which are attached to all shares of common stock. Until the occurrence of certain prescribed events, the Rights are not exercisable, are evidenced by the certificates for common stock and will be transferable along with and only with the common stock. The value attributable to the Rights, if any, is reflected in the value of the common stock.

(4) Includes 15,000,000 shares of common stock issuable upon conversion of the notes at an initial rate of 250.0000 per $1,000 principal amount of the notes. Pursuant to Rule 416 under the Securities Act, the number of shares of common stock registered shall include an indeterminate number of shares of common stock that may be issued under the antidilution provisions of the notes.

(5) Pursuant to Rule 457(i), there is no additional filing fee with respect to the shares of common stock issuable upon conversion of the notes because no additional consideration will be received by the registrant.

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

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

Subject to Completion, dated June 3, 2004

PRELIMINARY PROSPECTUS

INTELLISYNC CORPORATION

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

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

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

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

The notes are not listed on any securities exchange or included in any automated quotation system. The notes are eligible for trading in the Private Offerings, Resale and Trading through Automated Linkages (PORTAL) Market of the National Association of Securities Dealers, Inc. Our common stock is quoted on the Nasdaq National Market under the symbol SYNC. On June 2, 2004, the last reported sales price of our common stock was $2.42 per share.

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

Investing in the notes or the common stock offered by this prospectus involves risk. Beginning on page 5, we have listed several Risk Factors which you should consider. You should read the entire prospectus carefully before you make your investment decision.

The date of this prospectus is , 2004.

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

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PROSPECTUS SUMMARY

The following is a summary of our business. You should carefully read the section entitled Risk Factors in this prospectus and our Annual Report on Form 10-K and Form 10-K/A for the year ended July 31, 2003 and our other filings, including our Current Report on Form 8-K filed February 24, 2004, for more information on our business and the risks involved in investing in our stock.

In addition to the historical information contained in this prospectus, this prospectus contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These statements may be identified by the use of words such as expects, anticipates, intends, plans and similar expressions. The outcome of the events described in these forward-looking statements is subject to risks and actual results could differ materially. The section entitled Risk Factors beginning on page 5 of this prospectus, and the sections titled Management s Discussion and Analysis of Financial Condition and Results of Operations and Business in our Annual Report and Quarterly Reports contain a discussion of some of the factors that could contribute to those differences.

INTELLISYNC CORPORATION

Intellisync Corporation, formerly known as Pumatech, Inc., provides organizations with a suite of software products and services that synchronizes and distributes information that is critical to employees, customers and partners. Our Intellisync® software synchronizes information stored on a wide variety of mobile devices, through either a wired or wireless connection, such as the PalmOne Treo, RIM, Sony Clié and currently available smartphones, as well as enterprise groupware and vertical applications, such as Microsoft Outlook, Lotus Notes and PeopleSoft CRM. Our products effectively address the growing number of devices, access points, and data sources utilized by mobile workers in today s enterprise, allowing organizations to improve productivity while reducing complexity. As a result, enterprises are able to leverage their existing investments without having to add costly mobile infrastructure, As of January 31, 2004, our customer base has grown to include more than 200 original equipment manufacturers (OEMs), such as AOL, IBM, PeopleSoft and RIM, and approximately 1000 large enterprise accounts, including Domino s Pizza, Merck, Pfizer and Procter & Gamble.

Since 1993, we have designed and developed mobile solutions for businesses and individuals worldwide. Our Intellisync software platform provides fast and accurate synchronization for today s leading device and application platforms, including Palm OS, Pocket PC, Windows CE, Symbian, Pocket PC for Phones, Microsoft Exchange/Outlook, Lotus Domino/Notes, Novell GroupWise and ACT!. Our Intellisync Mobile Suite provides enterprises with a single resource for securely synchronizing personal information management, or PIM applications, email and custom database information, both locally and remotely, between desktop PCs, servers and mobile devices, and for managing handheld software and devices from one centralized location. Through our Intellisync products, we enable businesses, mobile professionals and consumers to leverage the increasing capabilities of new devices and applications while maintaining a secure and consistent record of information that is critical to their productivity. At the core of our synchronization and mobile infrastructure capabilities is our proprietary technology, for which we maintain a portfolio of 64 issued patents with more than 50 additional applications pending. In order to extend our technology leadership, we maintain 72 research and development professionals in the United States and 70 professionals in Eastern Europe.

Company

Intellisync Corporation was incorporated in the state of California in August 1993 as Puma Technology, Inc. and we reincorporated in the state of Delaware in November 1996. We changed our corporate name from Pumatech, Inc. to Intellisync Corporation, effective February 17, 2004.

Our principal executive offices are located at 2550 North First Street, Suite 500, San Jose, California 95131, and our website is www.intellisync.com. Our telephone number is (408) 321-7650. As of June 1, 2004, we had approximately 255 full-time employees. The information posted on our website is not incorporated into this prospectus.

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TERMS OF THE NOTES

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

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

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

The following is a brief summary of the terms of the notes. For a more complete description of the notes, you should read the section entitled Description of the Notes beginning on page 17 of this prospectus.

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

effective until either of the following has occurred:

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

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	the expiration of the applicable holding period with respect to the notes and the underlying common stock under Rule 144(k) under the Securities Act of 1933, as amended, or any successor provision.
DTC Eligibility	The notes were issued in book-entry form and are represented by one or more permanent certificates deposited with a custodian for and registered in the name of a nominee of The Depository Trust Company, or DTC, in New York, New York. Beneficial interests in any such securities are shown on, and transfers are effected only through records maintained by DTC and its direct and indirect participants, and any such interest may not be exchanged for certificated securities. See Description of Notes-Form, Denomination and Registration-Global Note, Book-Entry Form.
Trading	The notes are not currently listed and we do not intend to list the notes on any national securities exchange. Although the notes are currently eligible for trading in the PORTAL Market, notes resold pursuant to the registration statement of which this prospectus is a part will no longer be eligible for trading in the PORTAL Market.
Nasdaq National Market Symbol of our Common Stock	SYNC
Risk Factors	Investment in the notes and the common stock issuable upon conversion of the notes involves risk. You should carefully consider the information under Risk Factors and all other information included or incorporated by reference in this prospectus before investing in the notes or our common stock.

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RECENT DEVELOPMENTS

Issuance of Convertible Notes

On March 3, 2004, we completed the private placement of the notes more fully described in this prospectus. In connection with the private placement of the notes, we entered into a registration rights agreement more fully described in this prospectus.

Litigation Settlement

On March 4, 2004, we announced our mutual agreement with Extended Systems, Inc. to settle our patent infringement lawsuit we initiated in April 2002. In the agreement, we agreed with Extended Systems to settle all claims and terminate litigation proceedings immediately.

In accordance with the settlement agreement, Extended Systems made a one-time payment to us of $2,000,000 and received a license to certain Intellisync patents, which Extended Systems acknowledges are valid. The payment covers estimated past and future royalties on revenue related to Extended Systems products shipped and covered under Intellisync s licensed patents. We have agreed there will be no further patent litigation actions for a period of five years and that we will release all Extended Systems customers from any claims of infringement relating to their purchase and future use of Extended Systems products.

Acquisition of Search Software America

On March 16, 2004, we completed the acquisition of Search Software America, or SSA, for $20 million in cash. SSA is an Australian-based company that was formerly a privately held division of SPL Worldgroup. SSA s products enhance the ability to search, find, match and group identity data within computer systems and network databases.

Results for the Third Fiscal Quarter of 2004

On May 20, 2004, we reported net revenue of $11,007,000 for the third fiscal quarter of 2004 that ended April 30, 2004, compared to revenue of $10,003,000 reported in the second fiscal quarter of 2004 that ended January 31, 2004 and $6,725,000 reported in the third fiscal quarter of 2003.

Reported loss in the third fiscal quarter of 2004 was $2,184,000 ($.03 per share), compared to a loss of $3,252,000 ($.06 per share) reported in the second fiscal quarter of 2004 that ended January 31, 2004 and a loss of $3,813,000 ($.08 per share) reported in the third fiscal quarter of 2003. The reported loss in the third fiscal quarter of 2004 included an in-process research and development expense of $775,000 related to our acquisition of SSA; amortization of purchased technology and other intangible assets of $1,669,000; severance costs of $253,000; and net proceeds of $1,576,000 attributed to the settlement of our patent infringement lawsuit against Extended Systems, Inc.

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RISK FACTORS

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

Risks Related to Our Business

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

We have not been profitable since fiscal 1998. Although we have reported sequential revenue growth since the fiscal quarter ended October 31, 2002, we cannot be certain that this growth will continue at the same rate, or that our revenues will not decline in the future. We experienced losses of $3.3 million and $5.5 million for the three and six months ended January 31, 2004, respectively, and $7.7 million and $34.5 million for fiscal 2003 and 2002, respectively. At January 31, 2004, we had an accumulated deficit of $127.2 million. To become profitable and sustain profitability, we will need to generate additional revenues to offset our expenses. We may not achieve or sustain revenue growth and our losses may continue or increase in the future. The synchronization market is new and evolving, and as a result we cannot accurately predict either the future growth rate, if any, or the ultimate size of the market for our products and services. Because our operating expenses are relatively fixed in the short term, any shortfalls in revenues would materially affect our results of operations.

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

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

- the recent decline in the market for traditional personal data assistants;
- our ability to realize our goals with respect to recent and potential future acquisitions;
- our need and ability to generate and manage growth;
- market acceptance of products in which our software is integrated by original equipment manufacturers (OEMs);

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

rapid evolution of technology;

our evolving business model;

litigation-related expenses;

our reliance on international sales and growth;

our ability to penetrate the European market;

fluctuations in gross margins;

the seasonal nature of the market for our products;

changes in the market for synchronization;

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

changes in our mix of sources of revenues;

entrenched and substantial competition; and

continued difficult political and economic conditions.

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

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

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

- distribute our products to purchasers of mobile devices;
- increase the use of our technology licensing components;
- build brand awareness through product marketing; and
- market our products and services cooperatively.

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

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

We have recently made substantial investments to develop and offer an expanded range of enterprise synchronization applications, including our acquisition of Synchrologic. Enterprise application revenues represented 29% and 24% of our total revenue in the three and six months ended January 31, 2004, and our operating plans assume revenue growth from this market. Enterprise sales present a variety of challenges that are different from those inherent in our historical licensing and consumer business model, and we have limited experience addressing these challenges. For example, enterprise sales typically involve large up-front license fees, which can result in lengthy sales cycles and uncertainties as to the timing of sales driven by customers budgetary processes. As a result, we generally have less visibility into future enterprise sales than is typically the case in our royalty-based technology licensing business. In addition, while enterprise sales generally result in ongoing maintenance revenues and may lead to follow-on purchases or upgrades, we are typically dependent on sales to new customers for the majority of our enterprise revenues in a given quarter. If our product and service offerings fail to achieve market acceptance, or if enterprise sales fail to meet our expectations in a particular quarter, our revenues and operating results may be materially and adversely affected.

Our revenues from consumer sales are subject to risks associated with the declining PDA market and reliance on sales distribution channels.

While the market for smartphones and other wireless mobile devices has experienced growth recently, the market for traditional PDAs (personal digital assistants) has declined. This decline in traditional PDA sales had a direct impact on sales of our Intellisync products through the consumer and online channels, where sales of our synchronization software typically occur at the same time a PDA is purchased, or shortly thereafter. The increase in demand for smartphones and other such devices may not offset the decline in traditional PDA sales. Our consumer sales are also dependent upon distribution and marketing channels outside our control. Ingram Micro US is our largest distributor and accounted for 5% of our total revenue during the three and six months ended January 31, 2004, and 10% and 17% of our total revenue during fiscal 2003 and 2002, respectively. There are also a significant number of our customers that purchase our products and services through other resellers, and we anticipate they will continue to do so as we expand our product offerings. Our sales, therefore, could also be negatively affected by disruptions in our relationships with resellers or disruptions in the relationships between our resellers and customers. Resellers may also choose not to emphasize our products to their customers. If we are unable to offset declining revenues from PDA-related software, or if we experience disruption in, or reduced selling efforts from, our distribution channels, our revenues derived from consumer sales would be adversely affected.

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We are exposed to the risk of product returns and rotations from our distributors and value-added resellers, which are estimated and recorded by us as a reduction in sales.

Although we attempt to monitor and manage the volume of our sales to distributors and resellers, overstocking by our distributors and resellers or changes in their inventory level policies or practices may require us to accept returns above historical levels. In addition, the risk of product returns may increase if the demand for new products we introduce is lower than what we anticipate at the time of introduction. Although we believe that we provide an adequate allowance for sales returns, actual sales returns could exceed our estimated recorded allowance. Any product returns in excess of recorded allowances could result in a material adverse effect on net revenues and operating results. As we introduce more products, timing of sales to end users and returns to us of unsold products by distributors and resellers become more difficult to predict and could result in material fluctuations in quarterly operating results.

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

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

- our technology or products may become obsolete upon the introduction of alternative technologies;
- we may not have sufficient resources to develop or acquire new technologies or to introduce new products or services capable of competing with future technologies or service offerings of other companies; and
- we may not be able to respond effectively to the technological requirements of the changing market.

To the extent we determine that new technologies and equipment are required to remain competitive, the development, acquisition and implementation of these technologies and equipment are likely to continue to require significant capital investment by us. Moreover, there can be no assurances that we can develop, market and deliver new products and technology on a timely basis. Sufficient capital may not be available for this purpose in the future, and even if it is available, investments in new technologies may not result in commercially viable technological processes and there may not be commercial applications for such technologies. If we do not develop, acquire and introduce new products and services and achieve market acceptance in a timely manner, our business and prospects will suffer.

Our recent and any potential acquisitions could require significant management attention and prove difficult to integrate with our business, which could distract our management, disrupt our business, dilute stockholder value and adversely affect our operating results.

As part of our strategy, we intend to continue to make investments in complementary companies, products or technologies. We acquired Starfish Software, Inc. in March 2003 and Synchrologic, Inc. in December 2003. We also acquired substantially all of the assets of Loudfire, Inc. in July 2003, Spontaneous Technology, Inc. in September 2003 and Search Software America in March 2004. We may not realize benefits from any of these acquisitions, or from any acquisition we may make in the future. If we fail to integrate successfully our past and future acquisitions, or the technologies associated with such acquisitions, into our company, the revenue and operating results of the combined company could be adversely affected. Any integration process will require significant time and resources, and we may not be able to manage the process successfully. If our customers are uncertain about our ability to operate on a combined basis, they could delay or cancel orders for our products. We may not successfully evaluate or utilize the acquired technology and accurately forecast the financial impact of an acquisition transaction, including accounting charges.

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Acquisitions involve a number of additional difficulties and risks to our business, including, but not limited to:

- failure to integrate management information systems, personnel, research and development and marketing, sales and support operations;
- potential loss of key employees from Intellisync or the acquired company;
- disruption of our ongoing business;
- potential loss of the acquired company s customers;
- failure to develop further the acquired company s technology successfully, resulting in the potential impairment of amounts capitalized as intangible assets;
- unanticipated costs and liabilities;
- amortization expenses related to intangible assets (other than goodwill); and
- impairment charges under Statement of Financial Accounting Standards (SFAS) No. 142, Goodwill and Other Intangible Assets and SFAS No. 144, Accounting for the Impairment or Disposal of Long-Lived Assets.

Further, we have issued common stock and paid cash for recent acquisitions and may have to pay cash, incur debt or issue equity securities to pay for any future acquisition, each of which could affect our financial condition or the market price of our common stock. The sale of additional equity or debt to finance such future acquisitions could result in dilution to our stockholders. The incurrence of indebtedness would result in increased fixed obligations and could also include covenants or other restrictions that would impede our ability to manage our operations.

If we are unable to make future acquisitions of mobile computing-related technology companies, we may be unable to compete successfully in the enterprise synchronization market.

Our business strategy is dependent upon making additional acquisitions of mobile computing-related technology companies. Future acquisition candidates may be few in number and may attract offers from companies with greater financial resources than us. We can provide no assurance that we will be able to locate suitable acquisition targets or that we will be able to complete future acquisitions. If we are unable to make additional future acquisitions of mobile computing-related technology companies or build similar technologies in-house, we may be unable to implement our business plan and our ability to compete in the enterprise synchronization market may be adversely affected.

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

Our market contains few substantial barriers to entry. We believe we will face additional competition from existing competitors and new market entrants in the future. We currently face direct competition with respect to our Intellisync Handheld Edition, Intellisync Handheld Edition for Enterprise (formerly Enterprise Intellisync), Intellisync Mobile Suite (formerly Synchrologic Mobile Suite), Intellisync Mobile Suite, Intellisync goAnywhere, Intellisync MobileApp Designer (formerly Satellite Forms), Intellisync Phone Edition, Intellisync SyncML Server (formerly TrueSync) and Intellisync VPN products. Intellisync consumer and enterprise products face competition from Sybase Inc. s iAnywhere, Chapura, Inc. s Pocket Mirror, CommonTime s Cadenza mNotes, Extended Systems, Inc. s OneBridge Mobile Groupware, IBM Corporation s Lotus Software EasySync Pro, Microsoft, Inc s ActiveSync, Palm Desktop from Palm and others. Intellisync Mobile App Designer faces competition from Adobe Systems, Inc., Aligo, Inc., AppForge, Inc., Covigo, Inc., iConverse, Inc., Metrowerks Code Warrior, mPortal, Inc., Pencel Corporation, Pendragon Software Corporation, Penright Corporation s MobileBuilder and others. Our serverbased Intellisync Mobile Suite software faces competition from Aether Systems, CommonTime, Extended Systems, FusionOne, Inc., InfoSpace, Inc., Infowave Software, JP Mobile, Inc., Microsoft, Openwave, Inc., Sybase, Inc., Wireless Knowledge, Inc., XcelleNet, Inc. and others. Intellisync goAnywhere technology competes with offerings from Symantec Corporation (pcAnywhere) and Expertcity, Inc. (GoToMyPC) and others. Intellisync SyncML Server and Intellisync VPN face competition from Visto Corporation, Seven Networks, Inc. and others. Our Intellisync Phone Edition software faces competition from FutureDial, Inc. s SnapSync, Susteen, Inc. s DataPilot and others.

In addition to the direct competition noted above, we face indirect competition from existing and potential customers that may provide internally developed solutions for each of our technology licensing components. As a result, we must educate prospective customers as to the advantage of our products compared to internally developed solutions. We currently face limited direct competition from major applications and operating systems software vendors who may in the future choose to incorporate data synchronization functionality into their operating systems software, thereby potentially reducing the need for OEMs to include our products in their notebook and desktop personal computers. For example, Microsoft s inclusion of certain features permitting data synchronization and access between computers utilizing the Windows 98, Windows 2000, Windows Me, Windows NT or Windows XP operating systems, or the Exchange 2003 or Outlook Web Access platform, may have the effect of reducing revenue from our software if users of these operating systems perceive that their data synchronization and access needs are adequately met by Microsoft.

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

Goodwill and other intangibles resulting from our acquisitions could become impaired.

As of January 31, 2004, our goodwill, developed technology and other intangibles amounted to $75,457,000, net of accumulated amortization. We ceased to amortize our existing goodwill upon our adoption of SFAS No. 142 in the beginning of fiscal 2003. We will amortize approximately $2,480,000, $4,959,000, $4,884,000, $4,766,000 and $1,643,000 of developed technology and other intangibles in the remainder of fiscal 2004, fiscal 2005, 2006, 2007 and 2008, respectively (including amortization resulting from our acquisition of Synchrologic). We expect, however, that amortization expense may increase significantly as a result of any future acquisitions. To the extent we do not generate sufficient cash flows to recover the net amount of any investment in goodwill and other intangibles recorded, the investment could be considered impaired and subject to write-off. We expect to record further goodwill and other intangible assets as a result of our acquisition of Search Software America and any future acquisitions we may complete. Future amortization of such other intangible assets or impairments, if any, of goodwill would adversely affect our results of operations in any given period.

Our business was harmed by the slowdown in the information technology sector from 2000 to 2002, and we undertook a number of restructurings as a result. Continued or worsened conditions may directly harm our business and could result in additional actions to reduce operating expenses, which could harm our business and future prospects further.

Our revenue declined sequentially in the six quarters before the first quarter of fiscal 2003, largely as a result of unfavorable economic conditions that caused our customers to delay, decrease or cancel corporate information technology spending. In response, we undertook restructurings of our operations in 2001 and 2002 to bring our expenses into alignment with expected revenues. These restructurings resulted in an aggregate of $7,012,000 in restructuring and other charges and substantive disruption of our operations, which adversely affected our operating results. If our revenues decline or do not grow as we expect, we may be required to undertake additional restructurings, which could again result in charges to operations and operational disruption. Such reductions could result in customers or prospective customers deciding to delay or cancel their purchases of our products and services due to perceived uncertainty caused by the restructurings. In addition, employees directly affected by the reductions may seek future employment with our business partners, customers, or even our competitors. Although all employees are required to sign a confidentiality agreement with us at the time of hire, there can be no assurances that the confidential nature of our proprietary information will be maintained in the course of such future employment.

Our success and ability to compete depends upon our ability to secure and protect patents, trademarks and other proprietary rights.

Our success depends on our ability to protect our proprietary rights to the technologies used in our products and services. In the event that a third party breaches the confidentiality provisions or other obligations in one or more of our agreements or misappropriates or infringes on our intellectual property or the intellectual property licensed to us by third parties, our business would be seriously harmed. To protect our proprietary rights, we rely on a combination of trade secrets, confidentiality and other contractual provisions and agreements, and patent, copyright and trademark laws, which afford us only limited protection. Third parties may independently discover or invent competing technologies or reverse engineer our trade secrets, software or other technology. Furthermore, laws in some countries may not protect our proprietary rights to the same extent as the laws of the United States. Therefore, the measures we take to protect our proprietary rights may not be adequate.

Despite our efforts to protect our proprietary rights and technologies, unauthorized parties may attempt to copy aspects of our products or to obtain and use trade secrets or other information that we regard as proprietary. Policing unauthorized use of our products is difficult, and while we are unable to determine the extent to which piracy of our software products exists, software piracy can be expected to be a persistent problem. Embedded software products, like those we offer, can be especially susceptible to software piracy.

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

In order to protect our proprietary rights, we may decide to sue other companies. For example, in 2002, we filed a patent infringement suit against Extended Systems, alleging that Extended Systems server and desktop products infringe on eight of our synchronization-related patents. In our suit against Extended Systems, we sought an injunction against future sales of infringing server and desktop products, as well as monetary damages for past sales of the infringing products. Extended Systems initially denied our charges, raised a number of affirmative defenses to our claims, and requested a declaration from the Court that our eight patents are invalid and not infringed. Litigation proceedings are inherently uncertain, and we may not prevail in our defenses or claims. In addition, such litigation is expensive and time-consuming, and management has in the past and may in the future be required to spend significant time in the prosecution of such suits. Recently, we agreed on a settlement agreement with Extended Systems where Extended Systems made a one-time payment of $2,000,000 to us.

If we are forced to defend against third-party infringement claims, whether they are with or without merit or are determined in our favor, we could face expensive and time-consuming litigation, which could distract technical and management personnel, or result in product shipment delays. If an infringement claim is determined against us, we may be required to pay monetary damages or ongoing royalties. Further, as a result of infringement claims either against us or against those who license technology to or from us, we may be required to develop non-infringing intellectual property or enter into costly royalty or licensing agreements. Such royalty or licensing agreements, if required, may be unavailable on terms that are acceptable to us, or at all. If a third party successfully asserts an infringement claim against us and we are required to pay monetary damages or royalties or we are unable to develop suitable non-infringing alternatives or license the infringed or similar intellectual property on reasonable terms on a timely basis, it could significantly harm our business. Any litigation, whether brought by or against us, could cause us to incur significant expenses and could divert a large amount of management time and effort. A claim by us against a third party could, in turn, cause a counterclaim by the third party against us, which could impair our intellectual property rights and harm our business.

If our intellectual property were to be found to be infringing or otherwise invalid, our business would be harmed.

Our business is heavily dependent on our intellectual property. Our patents are an especially important part of our intellectual property and our business. Third parties may assert infringement or unfair competition claims against us. From time to time, we receive notices from third parties alleging that our product offerings infringe proprietary rights held by them. We have also received a notice from a customer to which we may have indemnification obligations under some circumstances, informing us that it had received a notice from a third party alleging that the customer s product infringes the third party s proprietary rights. We or our customers may receive other similar notices from third parties in the future. We cannot predict whether third parties will assert claims of infringement against us, or whether any past, present or future claims will prevent us from offering products or operating our business as planned.

Due to the inherently uncertain nature of intellectual property protection and the extremely competitive area in which we operate our business, it is possible that some or all of our intellectual property could be found to be infringing on the intellectual property of others or that our patents could be determined to be invalid in the future, despite our efforts to ensure otherwise. Should some or all of our intellectual property be found to be infringing on the intellectual property of others, our business would be severely harmed because we would not be able to sell our products and we may incur fees, expenses or be forced to pay damage awards. In addition, our business would be harmed if our patents were determined to be invalid.

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

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

- the growth in access to, and market acceptance of, new interactive technologies;
- growth in sales of handheld devices, smart phones and other mobile computing devices supported by our software and growth in wireless network capabilities to match end-user demand and requirements;
- emergence of a viable and sustainable market for wireless and mobile computing services;

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- our product and service differentiation and quality;
- the development of technologies that facilitate interactive communication between organizations;
- increases in bandwidth for data transmission;
- our distribution and pricing strategies as compared with those of our competitors;
- the effectiveness of our marketing strategy and efforts;
- our industry reputation; and
- general industry and economic conditions such as slowdowns in the computer or software markets or the economy in general.

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

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

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

International revenue, primarily from customers based in Japan and Europe, accounted for 30% and 35% of our revenue for the three and six months ended January 31, 2004, respectively, and 36% and 31% of our revenue in fiscal 2003 and 2002, respectively. The increase in our international revenues from the first half of fiscal 2003 to the same period in fiscal 2004 accounted for 37% of our total revenue increase for the first half of fiscal 2004. In the future, we may further expand our international presence. As we continue to expand internationally, we are increasingly subject to risks of doing business internationally, including:

- longer payment cycles and problems in collecting accounts receivable;
- seasonal reductions in business activity during the summer months in Europe and certain other parts of the world;
- unexpected changes in regulatory requirements and tariffs;
- export controls relating to encryption technology and other export restrictions;

- reduced protection for intellectual property rights in some countries;
- fluctuations in currency exchange rates, which we do not hedge against;
- difficulties in staffing and managing international operations;
- potentially adverse tax consequences; and
- an adverse effect on our provision for income taxes based on the amount and mix of income from international customers.

Our international sales growth will be limited if we, in the future, are unable to expand international sales channel management and support, customize products for local markets, and develop relationships with international service providers, distributors and device manufacturers. For example, in recent quarters we have invested substantially in expanding sales operations in Europe, and these investments may not generate offsetting increases in revenues. Even if we are able to expand international operations successfully, we cannot be certain that we will succeed in maintaining or expanding international market demand for our products.

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Geographic expansion and growth, including the establishment of new sales or engineering operations, may negatively affect our engineering operations and cause us to incur significant additional costs and expenses.

We recently established engineering facilities in Sofia, Bulgaria and in the future we may further expand our engineering or sales operations to other geographic areas within the United States and internationally. Our expansion may cause us to incur various costs and expenses, and may place a significant strain upon our operating and financial systems and resources that could materially adversely affect our financial results following such an expansion. We also face significant business risks related to the difficulty in assimilating new operations and the diversion of management s attention from other business. Additionally, if we fail to align employee skills and populations with revenue and market requirements, it may have a material adverse impact on our business and operating results. Moreover, these newly established operations may not contribute significantly to our sales or earnings.

Foreign exchange fluctuations could decrease our revenues or cause us to lose money, especially since we do not hedge against currency fluctuations.

To date, the majority of our customers have paid for our products and services in United States dollars. For the first half of fiscal 2004 and for fiscal years 2003 and 2002, costs denominated in foreign currencies were nominal and we had minimal foreign currency losses during those periods. However, we believe that in the future an increasing portion of our costs will be denominated in foreign currencies as we increase operations in Europe and open offices in other countries. We currently do not engage in foreign exchange hedging activities and, although we have not yet experienced any material losses due to foreign currency fluctuation, a small portion of our international revenues are currently subject to the risks of foreign currency fluctuations, and these risks will increase as our international revenues increase.

We may become dependent upon engineers and other development partners located in other countries.

We established a global software development program to assist us in the implementation of custom software and other technology applications. Our future engineering development efforts may depend on our ability to maintain strategic relationships with these international partners. Our business relationships often consist of cooperative engineering programs, joint business seminars and cooperation in product development. Many of these relationships may not be contractual and may depend on continued voluntary cooperation. Divergence in strategy or change in focus by any of our partners may interfere with our ability to develop and support our products, which in turn could harm our business. Further, if our partners enter into strategic alliances with other companies, they could reduce their support of our products. We may jeopardize our existing relationships if we enter into alliances with competitors of our strategic partners. One or more of our partners may use the information they gain from their relationship with us to develop competing products. In addition, our operations could be adversely affected if any of these international partners is affected by volatile economic, political or military conditions in its country or by various restrictions imposed by its country regarding the transfer of technology, the mobile computing industry and business in general.

If we are unable to provide satisfactory and high quality services through our professional services group, customer satisfaction and demand for our products will suffer.

Many of our customers have been successful in implementing our various technology initiatives without further provision of technical service. However, we believe that building strong relationships with our customers, as well as future growth in our product sales, depends on our ability to provide our customers with professional services, including customer support, training, consulting and initial implementation and deployment of our products when necessary. We have an in-house professional services group and use international software development partners with a workforce that can perform these tasks and that also educates third-party systems integrators in the use of our products so that these systems integrators can provide these services to our customers. If we are unable to develop sufficient relationships with third-party systems integrators and other customers, unable to complete product implementations in a timely manner, or unable to provide customers with satisfactory and quality support, consulting, maintenance and other services, we could face customer dissatisfaction, damage to our reputation, decreased overall demand for our products and loss of revenue.

We are dependent on non-exclusive licenses for certain technology included in our products.

We depend on development tools provided by a limited number of third-party vendors. We rely primarily upon software development tools provided by companies in the personal computer and mobile computing device industries. If any of these companies fails to support or maintain these development tools, we will have to support the tools ourselves or transition to another vendor. Such maintenance or support of the tools or transition could be time consuming, could delay the product release and upgrade schedule and could delay the development and availability of third-party applications used in our products. If we fail to procure the needed software development tools or there is any delay in availability of third-party applications our ability to release, support and promote adoption of our products would be harmed.