

Attachment 5

**CERTIFICATE OF MERGER
OF
LMC ACQUISITION, INC.
WITH AND INTO
LEXENT INC.**

Pursuant to Title 8, Section 251(c) of the Delaware General Corporation Law, the undersigned corporation submits the following Certificate of Merger for filing and certifies that:

FIRST: The names and state of incorporation of each of the constituent corporations of the merger are as follows:

<u>Name</u>	<u>State of Incorporation</u>
LMC Acquisition, Inc.	Delaware
Lexent Inc.	Delaware

SECOND: An Agreement and Plan of Merger between the parties to the merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with Title 8, Section 251(c) of the Delaware General Corporation Law.

THIRD: The name of the surviving corporation of the merger is Lexent Inc., a Delaware corporation (the "*Surviving Corporation*").

FOURTH: The Certificate of Incorporation of the Surviving Corporation shall be amended and restated as set forth on Exhibit A and shall continue to be the Certificate of Incorporation of the Surviving Corporation until amended and changed pursuant to the provisions of the Delaware General Corporation Law.

FIFTH: The executed Agreement and Plan of Merger, as amended, is on file at the office of the Surviving Corporation, the address of which is 80 Central Street, Boxborough, Massachusetts 01719.

SIXTH: A copy of the Agreement and Plan of Merger, as amended, will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: The merger shall become effective immediately upon the filing of this Certificate of Merger.

[Signature Appears on the Following Page.]

IN WITNESS WHEREOF, the Surviving Corporation has caused this Certificate of Merger to be executed by its authorized officer as of November 30, 2010.

LEXENT INC.
a Delaware corporation

By: Kevin O'Kane
Name: Kevin O'Kane
Title: President and Chief Executive Officer

EXHIBIT A

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
LEXENT INC.**

**ARTICLE I
NAME**

The name of this corporation is Lexent Inc. (the "*Corporation*").

**ARTICLE II
REGISTERED OFFICE AND AGENT**

The registered office of the Corporation in the State of Delaware shall be located at 1209 Orange Street, Wilmington, County of New Castle. The name of the Corporation's registered agent for service of process in the State of Delaware at such address is The Corporation Trust Company.

**ARTICLE III
PURPOSES AND POWERS**

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 the State of Delaware (the "*Delaware General Corporation Law*"). The Corporation shall have all powers that may now or hereafter be lawful for a corporation to exercise under the Delaware General Corporation Law.

**ARTICLE IV
CAPITAL STOCK**

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

**ARTICLE V
AMENDMENT OF BYLAWS**

Except as otherwise provided in this Amended and Restated Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by the Delaware General Corporation Law, the Board of Directors of the Corporation is expressly authorized and empowered to make, adopt, alter, amend and rescind the Bylaws of the Corporation.

**ARTICLE VI
DIRECTORS**

The number of directors of the Corporation shall be fixed from time to time by a bylaw or amendment thereof duly adopted by the Board of Directors of the Corporation or by the stockholders. Election of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

**ARTICLE VII
LIMITATION OF LIABILITY**

No director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this provision shall not eliminate or limit the liability of a director (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders; (b) for acts or omissions not in good faith or which involves intentional misconduct or a knowing violation of law; (c) under Section 174 of the Delaware General Corporation Law; or (d) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law hereafter is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Corporation, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the amended Delaware General Corporation Law.

Any repeal or modification of this Article VII shall be prospective only and shall not adversely affect any right or protection of, or any limitation on the liability of a director of the Corporation existing at, or arising out of the facts or incidents occurring prior to, the effective date of such repeal or modification.

For purposes of this Article VII, "fiduciary duty as a director" also shall include any fiduciary duty arising out of serving at the Corporation's request as a director of another corporation, partnership, limited liability company, joint venture or other enterprise, and "liable to the Corporation or its stockholders" also shall include any liability to such other corporation, partnership, limited liability company, joint venture, trust or other enterprise, and any liability to the Corporation in its capacity as a security holder, joint venturer, partner, member, beneficiary, creditor or investor of or in any such other corporation, partnership, limited liability company, joint venture, trust or other enterprise.

**ARTICLE VIII
RESERVATION OF RIGHT TO AMEND
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION**

The Corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by law; and all rights, preferences, and privileges of any nature conferred upon stockholders, directors, or any other persons by and pursuant to this Amended and Restated Certificate of Incorporation in its present form or as hereafter amended are granted subject to the rights reserved in this Article VIII.

**ARTICLE IX
SEVERABILITY**

In the event that any provision of this Amended and Restated Certificate of Incorporation (including any provision within a single Article, paragraph or sentence) is held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions are severable and shall remain enforceable to the full extent permitted by law.

* * * * *



OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

AUGUST 29, 2012

6857-804-3

C T CORPORATION SYSTEM
600 S SECOND ST
SPRINGFIELD, IL 62704

RE LEXENT INC.

DEAR SIR OR MADAM:

IT IS OUR PLEASURE TO APPROVE YOUR REQUEST TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS. FEES IN THIS CONNECTION HAVE BEEN RECEIVED AND CREDITED.

THE CORPORATION MUST FILE AN ANNUAL REPORT AND PAY FRANCHISE TAXES PRIOR TO THE FIRST DAY OF ITS ANNIVERSARY MONTH (MONTH OF QUALIFICATION) NEXT YEAR. A PRE-PRINTED ANNUAL REPORT FORM WILL BE SENT TO THE REGISTERED AGENT AT THE ADDRESS SHOWN ON THE RECORDS OF THIS OFFICE APPROXIMATELY 60 DAYS PRIOR TO ITS ANNIVERSARY MONTH.

SECURITIES CANNOT BE ISSUED OR SOLD EXCEPT IN COMPLIANCE WITH THE ILLINOIS SECURITIES LAW OF 1953, 815 ILLINOIS COMPILED STATUTES, 5/1 ET SEQ. FOR FURTHER INFORMATION, CONTACT THE OFFICE OF THE SECRETARY OF STATE, SECURITIES DEPARTMENT AT (217) 782-2256 OR (312) 793-3384.

SINCERELY,

JESSE WHITE
SECRETARY OF STATE
DEPARTMENT OF BUSINESS SERVICES
CORPORATION DIVISION
TELEPHONE (217) 782-6961

FORM **BCA 13.15** (rev. Dec. 2003)
**APPLICATION FOR AUTHORITY TO
 TRANSACT BUSINESS IN ILLINOIS**
 Business Corporation Act

FILED

AUG 29 2012

**JESSE WHITE
 SECRETARY OF STATE**

Jesse White, Secretary of State
 Department of Business Services
 Springfield, IL 62756
 Telephone (217) 782-1834
 www.cyberdriveillinois.com

Remit payment in the form of a cashier's
 check, certified check, money order
 or an Illinois attorney's or CPA's check
 payable to the Secretary of State.
SEE NOTE 1 CONCERNING PAYMENT!

60857.8043
 File #

Filing Fee \$ 150. Franchise Tax \$ 6219 Penalty/Interest \$ - Total \$ 21219 Approved: [Signature]
 _____ Submit in duplicate _____ Type or Print clearly in black ink _____ Do not write above this line _____

1. (a) CORPORATE NAME: Lexent Inc.

(Complete item 1 (b) only if the corporate name is not available in this state.)

(b) ASSUMED CORPORATE NAME: _____
 (By electing this assumed name, the corporation hereby agrees NOT to use its corporate name in the
 transaction of business in Illinois. Form BCA 4.15 is attached.)

2. State or Country of Incorporation DE; Date of Incorporation 1/26/98; Period of Duration Perpetual

3. (a) Address of the principal office, wherever located: 80 Central Street
Boxborough, MA 01719
 (b) Address of principal office in Illinois: None
 (If none, so state)

4. Name and address of the registered agent and registered office in Illinois.

Registered Agent: CT Corporation System
 Registered Office: 208 South LaSalle St. 814

Number	Street	Suite #	City	ZIP Code	County
<u>Chicago</u>	<u>60604-1101</u>	<u>Cook</u>			

(A.P.O. Box alone is not acceptable.)

5. States and countries in which it is admitted or qualified to transact business: (Include state of incorporation)
Delaware, District of Columbia, Connecticut, New Jersey, Georgia, Rhode Island and New York

6. Name and addresses of officers and directors: (If more than 3 directors and/or additional officers, attach list.)

Name	No. & Street	City	State	ZIP
President <u>Robert Shanahan</u>	<u>80 Central St.</u>	<u>Boxborough</u>	<u>MA</u>	<u>01719</u>
Secretary <u>David Mayer</u>	<u>80 Central St.</u>	<u>Boxborough</u>	<u>MA</u>	<u>01719</u>
Director <u>Scott R. Stevens</u>	<u>301 College St.</u>	<u>Charlotte</u>	<u>NC</u>	<u>28288</u>
Director <u>Walker C. Simmons</u>	<u>301 College St.</u>	<u>Charlotte</u>	<u>NC</u>	<u>28288</u>
Director <u>James F. Wade</u>	<u>75 State St.</u>	<u>Boston</u>	<u>MA</u>	<u>02109</u>

7. The purpose or purposes for which it was organized which it proposes to pursue in the transaction of business in this state: (If not sufficient space to cover this point, add one or more sheets of this size)

Lexent Inc. owns fiber networks and provides telecommunications services to wireless carriers, governmental entities and private businesses.

8. Authorized and issued shares:

Class	Series	Par Value	Number of Shares Authorized	Number of Shares Issued
Common		\$0.007	1,000	100

(If more, attach list)

9. Paid-in Capital: \$ 109.4Million
 ("Paid-in Capital" replaces the terms Stated Capital & Paid-in Surplus and is equal to the total of these accounts.)

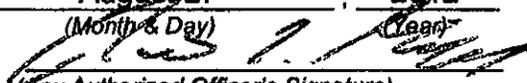
10. (a) Give an estimate of the total value of all the property* of the corporation for the following year: \$ 73.8Million
- (b) Give an estimate of the total value of all the property* of the corporation for the following year that will be located in Illinois: \$ 0
- (c) State the estimated total business of the corporation to be transacted by it everywhere for the following year: \$ 71.3Million
- (d) State the estimated annual business of the corporation to be transacted by it at or from places of business in the State of Illinois: \$ 55,000.00

11. Interrogatories: (important - this section must be completed.)

- (a) Is the corporation transacting business in this state at this time? **No**
- (b) If the answer to item 11(a) is yes, state the exact date on which it commenced to transact business in Illinois:

12. This application is accompanied by a certified copy of the articles of incorporation, as amended, duly authenticated, within the last ninety (90) days, by the proper officer of the state or country wherein the corporation is incorporated.

13. The undersigned corporation has caused this application to be signed by a duly authorized officer, who affirms, under penalties of perjury, that the facts stated herein are true. (All signatures must be in **BLACK INK.**)

Dated August 27, 2012
 (Month & Day) (Year)

 (Any Authorized Officer's Signature)
David Mayer, EVP
 (Print Name and Title)

Lexent Inc.
 (Exact Name of Corporation)

* PROPERTY as used in this application shall apply to all property of the corporation, real, personal, tangible, intangible, or mixed without qualifications.

Note 1: Payment in connection with this application must be in the form of a certified check, cashier's check, Illinois attorney or CPA's check or money order made payable to the "Secretary of State". The minimum fee due upon qualification is \$175. Any additional fees will be billed and must be paid before this application can be filed.

ATTACHMENT TO APPLICATION FOR AUTHORITY TO TRANSACT BUSINESS IN ILLINOIS

6. (continued)

OFFICERS:

<u>Name</u>	<u>Title</u>	<u>Address</u>
Eric Sandman	Executive Vice President and CFO	80 Central Street Boxborough, MA 01719
Doug Dalissandro	Executive Vice President	80 Central Street Boxborough, MA 01719
Eric Swanholm	Executive Vice President of Finance	80 Central Street Boxborough, MA 01719
Jason Campbell	Executive Vice President, Operations & Engineering	80 Central Street Boxborough, MA 01719

DIRECTORS:

<u>Name</u>	<u>Title</u>	<u>Address</u>
Robert Shanahan	Director	80 Central Street Boxborough, MA 01719
George Morgan III	Director	5207 McKinney Ave., Suite 21 Dallas, TX 75025
Brian M. Clark	Director	75 State St., Suite 2500 Boston, MA 02019