NETWORK APPLIANCE INC
Form DEF 14A
July 08, 2005

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

OMB APPROVAL
OMB Number: 3235-0059

Expires: January 31, 2008
Estimated average burden
hours per response... 14

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant **x**
Filed by a Party other than the Registrant **o**

Check the appropriate box:

o Preliminary Proxy Statement
o **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
x Definitive Proxy Statement
o Definitive Additional Materials
o Soliciting Material Pursuant to Rule §240.14a-12

NETWORK APPLIANCE, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.

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

1. Title of each class of securities to which transaction applies:

2. Aggregate number of securities to which transaction applies:

3. Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

4. Proposed maximum aggregate value of transaction:

5. Total fee paid:

SEC 1913 (04-05)
Persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

o Fee paid previously with preliminary materials.

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

1. Amount Previously Paid:

2. Form, Schedule or Registration Statement No.:

3. Filing Party:

4. Date Filed:

NETWORK APPLIANCE, INC.

495 East Java Drive
Sunnyvale, CA 94089

Dear Network Appliance Stockholder:

Network Appliance, Inc., a Delaware corporation, will be holding our Annual Meeting of Stockholders on August 31, 2005, at 3:00 p.m., local time. The meeting will be held at our company headquarters located at 495 East Java Drive, Sunnyvale, California, 94089. At the meeting, you will be asked to consider and vote upon the following proposals:

1. To elect ten directors of the Company;

2. To approve an amendment to the Company s 1999 Stock Incentive Plan (1999 Plan) to increase the share reserve by an additional 10,600,000 shares of Common Stock;

3. To approve an amendment to the Company s Employee Stock Purchase Plan (Purchase Plan) to increase the share reserve under the Purchase Plan by an additional 1,500,000 shares of Common Stock;

4. To ratify the appointment of Deloitte & Touche LLP as independent auditors of the Company for the fiscal year ending April 28, 2006.

After careful consideration, our Board of Directors has unanimously approved the proposals and recommends that you vote FOR each of the proposals. Details of the proposals and business to be conducted at the meeting can be found in the enclosed Proxy Statement.

Of particular importance this year is our request for an increase in the share reserve under the Company s 1999 Plan in Proposal #2. Network Appliance is and intends to continue to be a growth company. However, in order to continue to grow, it is crucial to hire additional qualified people to achieve our long-term strategic goals. Therefore, we are requesting that additional shares be added to the 1999 Stock Incentive Plan in order to hire, retain and motivate strong candidates from a very competitive pool. In fiscal 2005, approximately half of our stock options went to new hires. In addition, stock options remain an important incentive to retain key employees. Our growth prospects may be limited if we are unable to grant sufficient options to attract, retain and motivate high-quality employees. We strongly believe that the amendment to the 1999 Plan is essential for us to compete for talent in the very difficult labor markets in which we operate. Thank you for your consideration and support.

Your vote is extremely important. We appreciate your taking the time to vote promptly. After reading the Proxy Statement, please vote, at your earliest convenience by telephone or Internet, or date, sign and return the enclosed proxy card in the accompanying reply envelope. If you decide to attend the Annual Meeting and would prefer to vote by ballot, your proxy will be revoked automatically and only your vote at the Annual Meeting will be counted. YOUR SHARES CANNOT BE VOTED UNLESS YOU VOTE BY TELEPHONE OR INTERNET; SIGN, DATE AND RETURN THE ENCLOSED PROXY OR ATTEND THE ANNUAL MEETING IN PERSON.

A copy of the Company s 2005 Annual Report has been mailed to all stockholders entitled to notice of and to vote at the Annual Meeting.

Thank you for your participation in this important activity.

Sincerely yours,

Daniel J. Warmenhoven
Chief Executive Officer

Sunnyvale, California
July 8, 2005

YOUR VOTE IS EXTREMELY IMPORTANT

Please vote by telephone or Internet, or date and sign the enclosed proxy and return it at your earliest convenience in the enclosed postage-prepaid return envelope so that your shares may be voted.

NETWORK APPLIANCE, INC.

495 East Java Drive
Sunnyvale, CA 94089

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
To Be Held August 31, 2005

TO OUR STOCKHOLDERS:

The Annual Meeting of Stockholders (Annual Meeting) of Network Appliance, Inc., a Delaware corporation (Company), will be held on August 31, 2005, at 3:00 p.m., local time, at the Company s headquarters, 495 East Java Drive, Sunnyvale, California 94089, for the following purposes:

1. To elect the following individuals to serve as members of the Board of the Directors for the ensuing year or until their respective successors are duly elected and qualified:, Daniel J. Warmenhoven, Donald T. Valentine, Jeffry R. Allen, Carol A. Bartz, Alan L. Earhart, Mark Leslie, Nicholas G. Moore, Sachio Semmoto, George T. Shaheen, and Robert T. Wall.

2. To approve an amendment to the Company s 1999 Stock Incentive Plan to increase the share reserve by an additional 10,600,000 shares of Common Stock.

3. To approve an amendment to the Company s Employee Stock Purchase Plan to increase the share reserve by an additional 1,500,000 shares of Common Stock.

4. To ratify the appointment of Deloitte & Touche LLP as independent auditors of the Company for the fiscal year ending April 28, 2006.

The foregoing items of business are more fully described in the Proxy Statement that accompanies this Notice.

Stockholders of record at the close of business on July 5, 2005, are entitled to notice of and to vote at the Annual Meeting and at any adjournment or postponement thereof.

To ensure your representation at the meeting, please carefully read the accompanying Proxy Statement, which describes the matters to be voted on at the Annual Meeting. Please vote at your earliest convenience by telephone or Internet, or sign, date and return the enclosed proxy card in the reply envelope provided. Should you receive more than one proxy because your shares are registered in different names and addresses, each proxy should be returned to ensure that all your shares will be voted. You may revoke your proxy at any time prior to the Annual Meeting. If you attend the Annual Meeting and vote by ballot, your proxy will be revoked automatically and only your vote at the Annual Meeting will be counted. The prompt return of your proxy card will assist us in preparing for the Annual Meeting. **Please vote by telephone or Internet, or date and sign the enclosed proxy and return it at your earliest convenience in the enclosed postage-prepaid return envelope so that your shares may be voted.**

Thank you for your participation.

BY ORDER OF THE BOARD OF DIRECTORS,

Daniel J. Warmenhoven
Chief Executive Officer

Sunnyvale, California
July 8, 2005

YOUR VOTE IS EXTREMELY IMPORTANT. TO ENSURE YOUR REPRESENTATION AT THE ANNUAL MEETING, YOU ARE URGED TO VOTE BY TELEPHONE OR INTERNET, OR SIGN, DATE AND RETURN THE ENCLOSED PROXY AS PROMPTLY AS POSSIBLE IN THE POSTAGE-PREPAID ENVELOPE ENCLOSED FOR THAT PURPOSE.

For Proposal 1, the ten director nominees receiving the highest number of affirmative votes will be elected. Approval of each of Proposals 2, 3 and 4 requires the affirmative vote of a majority of the number of Votes Cast. All votes will be tabulated by the inspector of the election appointed for the Annual Meeting, who will separately tabulate affirmative and negative votes, abstentions and broker non-votes.

Revocability of Proxies

Any stockholder giving a proxy has the power to revoke it at any time before its exercise. You may revoke or change your proxy by filing with the Secretary of the Company an instrument of revocation or a duly executed proxy bearing a later date, or by attending the Annual Meeting and voting in person.

Solicitation of Proxies

The Company will bear the cost of soliciting proxies. Copies of solicitation material will be furnished to brokerage houses, fiduciaries, and custodians holding shares in their names that are beneficially owned by others to forward to such beneficial owners. The Company may reimburse such persons for their costs of forwarding the solicitation material to such beneficial owners. The original solicitation of proxies by mail may be supplemented by solicitation by telephone, electronic communication, or other means by directors, officers, employees, or agents of the Company. No additional compensation will be paid to these individuals for any such services. The Company may retain a proxy solicitor to assist in the solicitations of proxies, for which the Company will pay an estimated fee of $10,000 plus reimbursement of expenses.

Annual Report

The Annual Report of the Company for the fiscal year ended April 29, 2005, has been mailed concurrently with the mailing of the Notice of Annual Meeting and Proxy Statement to all stockholders entitled to notice of and to vote at the Annual Meeting. The Annual Report is not incorporated into this Proxy Statement and is not considered proxy-soliciting material.

PROPOSAL NO. 1:
ELECTION OF DIRECTORS

At the Annual Meeting, ten directors constituting the entire board are to be elected to serve until the next Annual Meeting of Stockholders or until a successor for such director is elected and qualified, or until the death, resignation or removal of such director. It is intended that the proxies will be voted for the ten nominees named below for election to the Company s Board of Directors unless authority to vote for any such nominee is withheld. There are ten nominees, each of whom is currently a director of the Company. All of the current directors were elected to the Board by the stockholders at the last Annual Meeting, with the exception of Mr. Allen and Mr. Earhart. Each person nominated for election has agreed to serve if elected, and the Board of Directors has no reason to believe that any nominee will be unavailable or will decline to serve. In the event, however, that any nominee is unable or declines to serve as a director at the time of the Annual Meeting, the proxies will be voted for any nominee who is designated by the current Board of Directors to fill the vacancy. Unless otherwise instructed, the proxy holders will vote the proxies received by them for the nominees named below. The ten candidates receiving the highest number of affirmative votes of the shares entitled to vote at the Annual Meeting will be elected directors of the Company. The proxies solicited by this Proxy Statement may not be voted for more than ten nominees. The Nominating Committee recommended the new nominees and each was duly elected at a meeting of the Board.

Nominees

The nominees for directors of the Company, and their ages as of May 27, 2005, are as follows:

Name	Age	Position
Daniel J. Warmenhoven	54	Chief Executive Officer and Director
Donald T. Valentine	72	Chairman of the Board, Director
Jeffry R. Allen	53	Director
Carol A. Bartz	56	Director
Alan L. Earhart	61	Director
Mark Leslie	59	Director
Nicholas G. Moore	63	Director
Sachio Semmoto	62	Director
George T. Shaheen	60	Director
Robert T. Wall	59	Director

The members of the committees are identified in the following table:

Director	Audit	Acquisition	Compensation	Nominating/Corporate Governance
Daniel J. Warmenhoven		X		
Donald T. Valentine				Chair
Jeffry R. Allen		Chair		
Carol A. Bartz			Chair	X
Alan L. Earhart	X	X		
Mark Leslie		X	X	
Nicholas G. Moore	Chair			X
Sachio Semmoto				
George T. Shaheen	X			
Robert T. Wall		X	X	

DANIEL J. WARMENHOVEN joined the Company in October 1994 as President and Chief Executive Officer, and has been a member of the Board of Directors since October 1994. In May 2000, he resigned the role of President, and currently serves as Chief Executive Officer and Director of Network Appliance, Inc. Prior to joining the Company, Mr. Warmenhoven served in various capacities, including President, Chief Executive Officer and Chairman of the Board of Directors of Network Equipment Technologies, Inc., a telecommunications company, from November 1989 to January 1994. Mr. Warmenhoven is a Director of Stoke, Inc., a privately held company. Mr. Warmenhoven holds a B.S. degree in electrical engineering from Princeton University.

DONALD T. VALENTINE has been a member of the Board of Directors of the Company and Chairman of the Board since September 1994. Mr. Valentine has been a general partner of Sequoia Capital, a venture capital firm, since 1972. He is also Chairman of the Board of diCarta Inc., Vice Chairman of the Board of Directors of Cisco Systems, Inc., and serves on the Board of Directors of Traiana, Inc. Mr. Valentine holds a B.A. degree from Fordham University.

JEFFRY R. ALLEN has been a member of the Board of Directors since May 2005. Prior to his role on the Board, Mr. Allen was the Executive Vice President of Business Operations at NetApp. Mr. Allen joined the company in 1996 as CFO and Vice President of Finance and Operations. Before coming to NetApp, Mr. Allen served as Senior Vice President of operations for Bay Networks, where he was responsible for manufacturing and distribution functions. From 1990 to 1995, he held the position of Controller for SynOptics Communications and became Vice President and Controller for Bay Networks, the new company created via the merger of SynOptics and Wellfleet Communications. Previously, Mr. Allen had a 17-year career at Hewlett-Packard Company, where he served in a variety of financial, information systems, and financial management positions, including Controller for the Information Networks Group. Mr. Allen holds a B.S. degree from San Diego State University.

CAROL A. BARTZ has been a member of the Board of Directors since September 1995. From April 1992 to the present, Ms. Bartz has served as Chairman of the Board of Directors and Chief Executive Officer of Autodesk, Inc., a design software company. Prior to that, Ms. Bartz was with Sun Microsystems, Inc. from September 1983 to April 1992, most recently as Vice President of Worldwide Field Operations. In addition, Ms. Bartz currently serves on the Board of Directors of Cisco Systems, Inc. and BEA Systems, Inc. Ms. Bartz received a B.A. degree in computer science from the University of Wisconsin.

ALAN L. EARHART has been a member of the Board of Directors since December 2004. Mr. Earhart has more than three decades of financial and accounting expertise that includes close involvement with many technology companies, including Cisco Systems, Legato, Varian and Polycom. A former PricewaterhouseCoopers office managing partner, Mr. Earhart began his career as a certified public accountant in 1970 with Coopers & Lybrand s San Francisco office. There he rose through the company to become regional managing partner before its merger with Price Waterhouse. After the merger, Mr. Earhart was named managing partner for PricewaterhouseCoopers Silicon Valley offices. In addition, he previously served as chair of Coopers & Lybrand s National Venture Capital Industry Group. Mr. Earhart, who retired from PricewaterhouseCoopers in 2001, also serves on the board of directors and is chairman of the audit committee of Foundry Networks, Quantum Corporation and Monolithic Power System. Mr. Earhart is currently an independent consultant.

MARK LESLIE has been a member of the Board of Directors since July 2004. Mr. Leslie was the founding CEO of Veritas Software. He joined the board of Directors of Veritas Software in May of 1988; became the Chairman, President and CEO when Veritas was restarted as a software company in 1990; and continued in service until he retired from the CEO position in 2000, from the Chairman position in 2001 and from the board in 2004. Mr. Leslie currently serves on the boards of Avaya Corporation and a number of privately held high-technology corporations, including db4 objects, Model N Software, Outerbay Technologies, Panta Systems, and PostX. Mr. Leslie is also a Lecturer at Stanford Graduate School of Business and Stanford University Graduate Engineering. Mr. Leslie received a Bachelor of Arts degree in physics and mathematics from New York University in 1966 and completed Harvard Business School s program for management development in 1980. Mr. Leslie is currently the managing director of Leslie Ventures.

NICHOLAS G. MOORE has been a member of the Board of Directors since April 2002. Mr. Moore served as Global Chairman, Chief Executive Officer-U.S. of PricewaterhouseCoopers LLP from July 1998 until June 2001. Prior to that, he served as Chairman and Chief Executive Officer of Coopers & Lybrand LLP from October 1994 until June 1998, when it was merged into PricewaterhouseCoopers LLP. Mr. Moore retired in 2001. Mr. Moore presently serves on the Board of Directors of Bechtel Group, Inc., Brocade Communications, Gilead Sciences and Hudson Highland. Mr. Moore received a B.S. degree in Accounting from St. Mary s College and a J.D. from Hastings College of Law, University of California.

DR. SACHIO SEMMOTO has been a member of the Board of Directors since December 1999. Dr. Semmoto is Founder and CEO of eAccess, Ltd., an IP/telecom company that provides high-speed broadband telecommunication services using xDSL technology. Prior to that, he spent 30 years in senior management positions, including Nippon Telephone & Telegraph (NTT), Kyocera and DDI Corp. (KDDI) which he co-founded as Executive Vice President in 1984. Dr. Semmoto is recognized as a leading Japanese executive and academic in the areas of entrepreneurship and information technology. He was a Professor at the Graduate School of Business Administration, Keio University in Tokyo and a Visiting Professor at Haas School of Business, University of California, Berkeley. He is a frequent lecturer at Harvard, Stanford and University of Tokyo. He is also a Fellow of the IEEE. He is a trustee of the Tokyo Foundation and he co-founded the Japan Academic Society for Ventures and Entrepreneurs, JASVE. He is a graduate of Kyoto University, Japan and received his MS and Ph.D. (Electrical Engineering) from University of Florida.

GEORGE T. SHAHEEN has been a member of the Board of Directors since June 2004. He is currently the CEO of Siebel Systems. He was the Chief Executive Officer and Global Managing Partner of Andersen Consulting, which later became Accenture, from 1989 to 1999. He then became the CEO and Chairman of the Board of Webvan Group, Inc. in 1999. Mr. Shaheen serves on the boards of Siebel Systems, think3, and 24/7 Customer and he is a member of the Advisory Board of the Marcus & Millichap Company. He has served as an IT Governor of the

World Economic Forum and he is a member of the Board of Advisors for the Northwestern University Kellogg Graduate School of Management. He has also served on the Board of Trustees of Bradley University. Mr. Shaheen is a graduate of Bradley University (BS 1966 and MBA 1968).

ROBERT T. WALL has been a member of the Board of Directors since January 1993. Since August 1984, Mr. Wall has been the Founder and President of On Point Developments, LLC, a venture management and investment company. Mr. Wall was also a founder, and since November 2000, the Chairman of the Board of Directors of Airgo Networks, Inc., a Wi-Fi wireless networking systems company. From June 1997 to November 1998, he was Chief Executive Officer and a member of the Board of Directors of Clarity Wireless, Inc., a broadband wireless data communications company that was acquired by Cisco Systems, Inc. in November 1998. Mr. Wall was Chairman of the Board, President and

Chief Executive Officer of Theatrix Interactive, Inc., a consumer educational software publisher, from April 1994 to August 1997. He received an A.B. in economics from De Pauw University and an M.B.A. from Harvard Business School.

Board Meetings and Committees

The Board of Directors held nine (9) meetings during fiscal 2005, six (6) regular meetings and three (3) telephonic special meetings. Each member of the Board of Directors during fiscal 2005 attended more than seventy-five percent (75%) of the aggregate of (i) the total number of meetings of the Board of Directors held during such period and (ii) the total number of meetings held during such period by all Committees of the Board on which he or she served. There are no family relationships among executive officers or directors of the Company. The Board of Directors has an Audit Committee, a Nominating/Corporate Governance Committee, an Acquisition Committee and a Compensation Committee.

During fiscal 2005, the Audit Committee was comprised of Directors Shaheen, Earhart, and Moore, all of whom are independent in accordance with the requirements of applicable SEC and Nasdaq rules and regulations. Mr. Wall participated on the Audit Committee from September 2004 until December 7, 2004 and was then replaced by Mr. Earhart. The Audit Committee reviews, acts on and reports to the Board of Directors with respect to various auditing and accounting matters, including the selection of the Company s auditors, the scope of the annual audits, fees to be paid to the auditors, the performance of the Company s auditors, the accounting practices of the Company and other such functions as detailed in the Audit Committee Charter. The Audit Committee of the Board of Directors held ten (10) meetings during fiscal 2005.

During fiscal 2005, the Nominating/Corporate Governance Committee was comprised of Directors Moore, Bartz and Valentine, all of whom are independent in accordance with applicable Nasdaq rules. The committee evaluates and recommends to the Board of Directors candidates for Board membership and considers nominees recommended by stockholders. The committee also develops and recommends corporate governance policies and other governance guidelines and procedures to the Board of Directors. The Nominating/Corporate Governance Committee held one (1) meeting during fiscal 2005.

During fiscal 2005, the Acquisition Committee was formed for the purpose of reviewing, evaluating and approving acquisitions for the Company. In fiscal 2005, the Acquisition Committee was comprised of Directors Allen, Warmenhoven, Earhart, Leslie and Wall. The Acquisition Committee held two (2) meetings during fiscal 2005.

The Compensation Committee, which is comprised of Directors Bartz, Leslie and Wall, establishes salaries, incentive bonus programs and other forms of compensation for officers and other employees of the Company and administers the incentive compensation and benefit plans of the Company. Directors Bartz, Leslie and Wall are independent in accordance with applicable Nasdaq rules. The Compensation Committee of the Board of Directors held three (3) meetings during fiscal 2005. In addition the Committee approved stock option grants on a monthly basis by means of Unanimous Written Consents.

Director Compensation

In fiscal 2005, the members of the Board of Directors received an annual cash retainer for their service as directors in the amount of $30,000. Audit Committee members received an additional $10,000, and Compensation Committee and Nominating/Governance committee members received an additional $5,000 per committee. Directors are eligible to receive stock options under the Automatic Option Grant Program in effect under the 1999 Plan, under which option grants are automatically made at periodic intervals to eligible non-employee Board members to purchase shares of Common Stock at an exercise price equal to 100% of the fair market value of the option shares on the grant date.

For fiscal 2006, members of the Board of Directors will receive an annual cash retainer for their service as directors, in the amount of $30,000. Audit Committee members shall receive an additional $10,000 in cash and Compensation and Nominating/Governance committee members shall receive an additional $5,000 in cash per committee. The Chair of the Audit Committee shall receive an additional $5,000 in cash. Directors who serve as the Chair of the Board or the Chair of one of the committees of the Board will receive an additional stock option grant of 5,000 shares of stock per Chair, under the 1995 Plan, with a per share exercise price equal to the fair market value on the date of the grant. Each option grant has a term of 10 years measured from the grant date, subject to earlier termination following the Director s cessation of committee service, and is immediately exercisable for all the option shares. However, any shares purchased upon exercise of the option are subject to repurchase by the Company, at the option exercise price paid per share, should the Director cease service on the committee prior to vesting in those shares. The shares subject to each such 5,000 share grant will vest (and the Company s repurchase right as to those shares will terminate) upon the Director s completion of one term of committee service measured from the grant date and continuing through the day immediately preceding the next Annual Stockholders Meeting.

At the 2004 Annual Stockholders Meeting held on September 2, 2004, each of the following individuals re-elected as a non-employee Board member at that meeting received an option grant for 15,000 shares of Common Stock under the Automatic Option Grant Program of the 1999 Plan with a per share exercise price of $20.61, the fair market value per share of Common Stock on the grant date: Messrs. Valentine, Moore and Wall, Ms. Bartz and Dr. Semmoto. Each such option grant has a term of 10 years measured from the grant date, subject to earlier termination following the Director s cessation of Board service, and is immediately exercisable for all the option shares. However, any shares purchased upon exercise of the option are subject to repurchase by the Company, at the option exercise price paid per share, should the Director cease service on the Board prior to vesting in those shares. The shares subject to each such 15,000-share grant will vest (and the Company s repurchase right as to those shares will terminate) upon the Director s completion of one term of Board service measured from the grant date and continuing through the day immediately preceding the next Annual Stockholders Meeting (i.e., approximately August 30, 2006).

At the 2004 Annual Stockholders Meeting held on September 2, 2004, the following individuals received option grants of Common Stock for service as Chair of the Board or Chair of one of the committees of the Board: Mr. Valentine, 5,000 shares for serving as Chair of the Board and 5,000 shares for serving as Chair of the Nominating/Corporate Governance Committee; Ms. Bartz, 5,000 shares for serving as Chair of the Compensation Committee; and Mr. Moore, 5,000 shares for serving as Chair of the Audit Committee. Each option grant has a per share exercise price of $20.61, the fair market value per share of Common Stock on the grant date and a term of 10 years measured from the grant date, subject to earlier termination following the Director s cessation of Board service, and is immediately exercisable for all the option shares. However, any shares purchased upon exercise of the option are subject to repurchase by the Company, at the option exercise price paid per share, should the Director cease service on the Board prior to vesting in those shares. The shares subject to each grant will vest (and the Company s repurchase right as to those shares will terminate) upon the Director s completion of one term of Board service measured from the grant date and continuing through the day immediately preceding the next Annual Stockholders Meeting (i.e., approximately August 30, 2006).

The Board of Directors unanimously recommends that the stockholders vote FOR the election of all of the above nominees as directors.

6

PROPOSAL NO. 2
AMENDMENT TO THE COMPANY S 1999 STOCK INCENTIVE PLAN

We are asking our stockholders to approve an amendment to the Company s 1999 Stock Incentive Plan (1999 Plan) to increase by 10,600,000 the number of shares of the Company s common stock (Shares) that may be issued thereunder. The Board of Directors (the Board) has approved the increase in the number of Shares reserved for issuance under the 1999 Plan, subject to approval from stockholders at the Annual Meeting. Approval of this amendment to the 1999 Plan requires the affirmative vote of a majority of the votes cast. Our named executive officers and directors have an interest in this proposal.

We are proposing to amend the 1999 Plan to increase by 10,600,000 the number of Shares that may be issued thereunder. To limit the 1999 Plan s dilutive effect and as part of our desire to follow what we believe to constitute best practices, we will limit the number of Shares that may be issued pursuant to full value awards that may be granted under the Stock Issuance Program (e.g., restricted stock) or the proposed Performance Share and Performance Unit Program (e.g., restricted stock units) to 10% of the sum of (A) the number of Shares to be added to the 1999 Plan pursuant to this Proposal No. 2, (B) the number of Shares available to be granted pursuant to awards under the 1999 Plan (i.e., reserved but unissued) as of May 27, 2005, and (C) the number of Shares subject to outstanding awards as of May 27, 2005 that actually return to the 1999 Plan (e.g., through the termination or expiration of such awards or the repurchase or reacquisition of unvested Shares).

We believe strongly that the approval of the amendment to the 1999 Plan is essential to our continued success. Our employees are our most valuable assets. Offering a broad-based equity compensation program is vital to attracting and retaining the most highly skilled people in our industry. We believe that employees who have a stake in the future success of our business become highly motivated to achieve our long-term business goals and increase stockholder value. At this important time in our history, our employees innovation and productivity are even more critical to our success in a highly competitive and fast-paced industry. The 1999 Plan is designed to assist us in recruiting, motivating and retaining talented employees who help us achieve our business goals, including creating long-term value for stockholders.

Description of the 1999 Stock Incentive Plan

The following paragraphs provide a summary of the principal features of the 1999 Plan and its operation. The 1999 Plan is set forth in its entirety and has been filed as an Appendix to this Proxy Statement with the Securities and Exchange Commission. The following summary is qualified in its entirety by reference to the complete text of the 1999 Plan. Any stockholder who wishes to obtain a copy of the actual plan document may do so by written request to the Corporate Secretary at the Company s principal offices in Sunnyvale, California.

Background and Purpose of the 1999 Plan

The 1999 Plan is divided into five separate components: (a) the Discretionary Option Grant Program, (b) the Stock Issuance Program, and (c) the Automatic Option Grant Program, (d) the Stock Appreciation Rights Program and (e) the Performance Share and Performance Unit Program. Under the Discretionary Option Grant Program, participants may be granted options to purchase Shares at an exercise price not less than the fair market value of those Shares on the grant date. Under the Stock Issuance Program, the Plan Administrator is able to make direct issuances of Shares either through the issuance or immediate purchase of such Shares or as a bonus for services rendered by participants on such terms as the Plan Administrator deems appropriate. Under the Automatic Option Grant Program, option grants are automatically made at periodic intervals to non-employee members of the Board. Under the Stock Appreciation Rights Program, the Plan Administrator is able to grant stock appreciation rights that will allow individuals to receive the appreciation in fair market value of the Shares subject to the award between the exercise date and the date of grant. Under the Performance Share and Performance Unit Program, the Plan Administrator is able to grant performance shares and performance units, which are awards that will result in a payment to a participant only if the performance goals or other vesting criteria established by the Plan Administrator are achieved or the awards otherwise vest. The 1999 Plan is intended to increase incentives and to encourage share ownership on the part of eligible employees, non-employee directors and consultants who provide

significant services to us. In addition, we are unable (without the approval of stockholders) to reprice any outstanding awards of options granted under the 1999 Plan or cancel any outstanding stock option and immediately replace it with a new stock option with a lower exercise price.

Administration of the 1999 Plan

The Compensation Committee of our Board of Directors (Plan Administrator) administers the 1999 Plan. The members of the Compensation Committee must qualify as non-employee directors under Rule 16b-3 of the Securities Exchange Act of 1934, and as outside directors under Section 162(m) of the Internal Revenue Code (so that the Company can receive a federal tax deduction for certain compensation paid under the 1999 Plan).

Subject to the terms of the 1999 Plan, the Plan Administrator has the sole discretion to select the employees and consultants who will receive awards, determine the terms and conditions of awards (for example, the exercise price and vesting schedule), and interpret the provisions of the 1999 Plan and outstanding awards. The Compensation Committee may delegate any part of its authority and powers under the 1999 Plan to one or more directors and/or officers of the Company, but only the Compensation Committee itself can make awards to participants who are executive officers of the Company.

Shares Subject to the 1999 Plan

If stockholders approve Proposal 2, a total of 76,400,000 Shares will be reserved for issuance under the 1999 Plan. As of May 27, 2005, 44,207,512 Shares were subject to outstanding awards granted under the 1999 Plan, 13,493,391 Shares remained available for any new awards to be granted in the future and 8,099,097 Shares have been issued pursuant to awards thereunder.

If an award expires or is cancelled without having been fully exercised or vested, the unvested or cancelled Shares generally will be returned to the available pool of Shares reserved for issuance under the 1999 Plan. Also, in the event any change is made to our common stock issuable under the 1999 Plan by reason of any stock split, stock dividend, combination of shares, merger, reorganization, consolidation, recapitalization, exchange of shares, or other change in capitalization of the Company affecting our common stock as a class without the Company s receipt of consideration, appropriate adjustments will be made to (a) the maximum number and/or class of securities issuable under the 1999 Plan, (b) the maximum number and/or class of securities for which any one individual may be granted stock options, stock appreciation rights, stock issuances, or performance shares and performance units under the 1999 Plan per calendar year, (c) the class and/or number of securities and the purchase price per share in effect under each outstanding award, and (d) the class and/or number of securities for which automatic option grants are to be subsequently made to both new and continuing non-employee Board members under the Automatic Option Grant Program. The adjustments to the outstanding awards will prevent the dilution or enlargement of benefits thereunder.

Other Stock Plans

The Company maintains two other equity incentive plans under which individuals in the Company s service may acquire shares of Common Stock:

1995 Stock Incentive Plan

101,700,192 Shares have been reserved for issuance over the term of the 1995 Plan. The 1995 Plan has been approved by the stockholders and is divided into three separate equity incentive programs: (a) the Discretionary Option Grant Program under which individuals in the Company s service, including officers, employees and non-employee Board members, may be granted options to purchase shares of Common Stock at an exercise price per share not less than the fair market value per share of Common Stock on the grant date, (b) the Salary Investment Option Grant Program under which the Company s executive officers and certain other highly-compensated employees may elect to forego a portion of their base salary in exchange for grants of stock options on terms and conditions specified in the 1995 Plan, including that the options be scheduled to vest in monthly installments over the first year after grant, and (c) the Stock Issuance Program under which individuals may be issued shares of

Common Stock directly, through the purchase of such shares at a price per share to be determined by the Plan Administrator at the time of the award or as a fully paid bonus for services rendered the Company or the attainment of designated performance goals. No more than ten percent (10%) of the Shares reserved but unissued under the 1995 Plan as of May 28, 2004 plus ten percent (10%) of the Shares subject to outstanding awards as of such date that return to the 1995 Plan as the result of the termination or expiration of such awards prior to exercise or the repurchase or reacquisition of unvested Shares would be able to be granted under the stock issuance program thereunder. In addition, we are unable (without the approval of stockholders) to reprice any outstanding awards of options granted under the 1995 Plan or cancel any outstanding stock option and immediately replace it with a new stock option with a lower exercise price.

As of May 27, 2005, options covering 22,909,756 Shares were outstanding under the 1995 Plan, 7,098,300 Shares remained available for future option grants and direct stock issuances, and 71,692,136 Shares had been issued pursuant to awards thereunder.

Special Non-Officer Stock Option Plan

The Special Non-Officer Stock Option Plan (Non-Officer Plan) was implemented by the Board on April 30, 1997. The Non-Officer Plan is a non-shareholder approved plan. Options may be granted under the Non-Officer Plan to employees of the Company (or any parent or subsidiary corporation) who are neither officers nor Board members at the time of grant. 6,400,000 Shares have been authorized by the Board for issuance under the Non-Officer Plan. All option grants will have an exercise price per share equal to the fair market value per share of Common Stock on the grant date. Each option has a maximum ten-year term and will vest in installments over the participant s period of service with the Company. The options will vest on an accelerated basis in the event the Company is acquired and those options are not assumed or replaced by the acquiring entity. All options are non-statutory options under the federal tax law. As of May 27, 2005, options covering 988,193 Shares were outstanding under the Non-Officer Plan, 294,048 Shares remained available for future option grants, and 5,117,759 Shares had been issued pursuant to awards thereunder.

Share issuances under the 1999 Plan will not reduce or otherwise affect the number of Shares available for issuance under the 1995 Plan or the Non-Officer Plan, and Share issuances under those two plans will not reduce or otherwise affect the number of Shares available for issuance under the 1999 Plan.

Spinnaker Networks, Inc. 2000 Stock Plan

We assumed the Spinnaker Networks, Inc. 2000 Stock Plan (Spinnaker Plan) in connection with our acquisition of Spinnaker in 2004. The Spinnaker Plan allows for the grant of stock options, stock purchase rights and restricted stock units. We are not able to grant awards to service providers other than individuals who were not employed by us or any of our subsidiaries (other than Spinnaker) at the time of our acquisition of Spinnaker. The Plan Administrator determines the terms of awards granted under the Spinnaker Plan. 2,942,000 Shares were reserved for issuance in the Spinnaker Plan. As of May 27, 2005, there were outstanding under the Spinnaker Plan options covering 765,957 Shares and restricted stock units covering 227,619 Shares, 1,526,170 Shares remained available for issuance, and 422,254 Shares have been issued pursuant to awards thereunder. 20,913 Shares of restricted stock remain unvested pursuant to option exercises prior to the acquisition.

Eligibility to Receive Awards

The Plan Administrator selects the employees and consultants who will be granted awards under the Discretionary Option Grant Program, the Stock Appreciation Right Program, the Stock Issuance Program and the Performance Share and Performance Unit Program. The actual number of individuals who will receive an award under the 1999 Plan cannot be determined in advance because the Plan Administrator has the discretion to select the participants. Our non-employee directors are not eligible to receive discretionary awards under the 1999 Plan. Instead, our non-employee directors are automatically granted awards of a predetermined number of nonqualified stock options under the Automatic Option Grant Program.

9

Discretionary Option Grant Program

A stock option is the right to acquire Shares at a fixed exercise price for a fixed period of time. Under the Discretionary Option Grant Program, the Plan Administrator may grant non-statutory stock options and/or incentive stock options (which entitle employees, but not the Company, to more favorable tax treatment). The Plan Administrator will determine the number of Shares covered by each option, but during any calendar year of the Company, no participant may be granted options and/or stock appreciation rights covering more than 3,000,000 Shares.

The exercise price of the Shares subject to each option is set by the Plan Administrator but cannot be less than 100% of the fair market value (on the date of grant) of the Shares covered by the option. The exercise price of an incentive stock option must be at least 110% of fair market value if (on the grant date) the participant owns stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or any of its subsidiaries.

An option granted under the Discretionary Option Grant Program of the 1999 Plan cannot be exercised until it becomes vested. An option granted under the Automatic Option Grant Program is immediately exercisable. However, any shares purchased under the option are subject to repurchase by the Company if the Optionee ceases Board service prior to vesting. The Plan Administrator establishes the vesting schedule of each option at the time of grant. Options become exercisable at the times and on the terms established by the Plan Administrator. To the extent the aggregate fair market value of the Shares (determined on the grant date) covered by incentive stock options first becomes exercisable by any participant during any calendar year is greater than $100,000, the excess above $100,000 will be treated as a non-statutory stock option. Options granted under the 1999 Plan expire at the times established by the Plan Administrator, but not later than 10 years after the grant date.

Stock Appreciation Right Program

The Plan Administrator is able to grant stock appreciation rights. A stock appreciation right is the right to receive the appreciation in fair market value of the Shares subject to the award between the exercise date and the date of grant. We can pay the appreciation in either cash or Shares. Stock appreciation rights will become exercisable at the times and on the terms established by the Plan Administrator, subject to the terms of the 1999 Plan. No participant will be granted stock appreciation rights and/or options covering more than 3,000,000 Shares during any calendar year. The exercise price of the Shares subject to each stock appreciation right is set by the Plan Administrator but cannot be less than 100% of the fair market value (on the date of grant) of the Shares covered by the award. A stock appreciation right granted under the 1999 Plan cannot be exercised until it becomes vested. The Plan Administrator establishes the vesting schedule of each stock appreciation right at the time of grant.

Stock Issuance Program

Stock issuances are Shares that vest in accordance with the terms and conditions established by the Plan Administrator. The number of Shares granted to any employee or consultant pursuant to a stock issuance will be determined by the Plan Administrator, but during any calendar year no participant may be granted more than 200,000 Shares pursuant to such an award. Also, we will limit the number of Shares that may be issued pursuant to full value awards under the Stock Issuance Program (e.g., restricted stock) or the Performance Share and Performance Unit Program to 10% of the sum of (A) the number of Shares to be added to the 1999 Plan pursuant to this Proposal No. 2, (B) the number of Shares available to be granted pursuant to awards under the 1999 Plan (i.e., reserved but unissued) as of May 27, 2005, and (C) the number of Shares subject to outstanding awards as of May 27, 2005 that actually return to the 1999 Plan (e.g., through the termination or expiration of such awards or the repurchase or reacquisition of unvested Shares).

In determining whether a stock issuance should be made, and/or the vesting schedule for any such award, the Plan Administrator may impose whatever conditions to vesting as it determines to be appropriate. For example, the Plan Administrator may determine to make a stock issuance only if the participant satisfies performance goals established by the Plan Administrator.

10

Performance Share and Performance Unit Program

The Plan Administrator is able to grant performance shares and performance units, which are awards that will result in a payment to a participant only if the performance goals or other vesting criteria established by the Plan Administrator are achieved or the awards otherwise vest. The Plan Administrator will establish organizational, individual performance goals or other vesting criteria in its discretion, which, depending on the extent to which they are met, will determine the number and/or the value of performance units and performance shares to be paid out to participants. No participant will receive performance units with an initial value greater than $1,000,000 and no participant will receive more than 200,000 performance Shares during any calendar year. Performance units will have an initial dollar value established by the Plan Administrator prior to the grant date. Performance shares will have an initial value equal to the fair market value of a Share on the grant date. Also, we will limit the number of Shares that may be issued pursuant to full value awards under the Stock Issuance Program (e.g., restricted stock) or the Performance Share and Performance Unit Program to 10% of the sum of (A) the number of Shares to be added to the 1999 Plan pursuant to this Proposal No. 2, (B) the number of Shares available to be granted pursuant to awards under the 1999 Plan (i.e., reserved but unissued) as of May 27, 2005, and (C) the number of Shares subject to outstanding awards as of May 27, 2005 that actually return to the 1999 Plan (e.g., through the termination or expiration of such awards or the repurchase or reacquisition of unvested Shares).

Performance Goals

The Plan Administrator (in its discretion) may make performance goals applicable to a participant with respect to an award. At the Plan Administrator s discretion, one or more of the following performance goals may apply: annual revenue, cash position, earnings per share, individual objectives, net income, operating cash flow, operating income, return on assets, return on equity, return on sales and total stockholder return.

Automatic Option Grant Program

Under the 1999 Plan, our non-employee directors will receive annual, automatic, non-discretionary grants of non-statutory stock options.

Each new non-employee director will receive an option to purchase 55,000 Shares as of the date he or she first becomes a non-employee director. Each non-employee director also will receive an option to purchase 15,000 Shares on the date of each annual stockholder meeting, provided that he or she has been a non-employee director for at least six months and remains an eligible non-employee director through each such meeting.

The exercise price of each option granted to a non-employee director is equal to 100% of the fair market value (on the date of grant) of the Shares covered by the option. The option granted to a non-employee director when he or she first becomes a non-employee director vests as to 25,000 Shares on the first anniversary of the date of grant and as to 10,000 Shares each anniversary thereafter (assuming that he or she remains a non-employee director on each scheduled vesting date). All options granted thereafter to the non-employee director become 100% vested on the day preceding the annual stockholders meeting following the grant date. However, if a non-employee director terminates his or her service on the Board due to death or disability his or her options would immediately vest.

Options granted to non-employee directors generally expire no later than 10 years after the date of grant. If a non-employee director terminates his or her service on the Board prior to an option s normal expiration date, the option will remain exercisable for 12 months to the extent it has vested. However, the option may not be exercised later than the original expiration date.

Awards to Be Granted to Certain Individuals and Groups

The number of awards that an employee or consultant may receive under the 1999 Plan is in the discretion of the Plan Administrator and therefore cannot be determined in advance. To date, stock options and performance units have been granted under the 1999 Plan. The following table sets forth (a) the aggregate number of Shares subject to options granted under the 1999 Plan during the last fiscal year, (b) the average per Share exercise price of such options, (c) the aggregate number of Shares of restricted stock granted under the 1999 Plan during the last fiscal year, and (d) the dollar value of such Shares of restricted stock based on $28.94 per Share, the fair market value on May 27, 2005.

Name of Individual or Group	Number of Options Granted	Average Per Share Exercise Price	Number of Shares of Restricted Stock Granted	Dollar Value of Shares of Restricted Stock Granted
Daniel J. Warmenhoven Chief Executive Officer	300,000	$19.22		$
Jeffry R. Allen Executive Vice President, Business Operations	90,000	$19.17		$
	140,000	$19.68		$

Name of Individual or Group	Number of Options Granted	Average Per Share Exercise Price	Number of Shares of Restricted Stock Granted	Dollar Value of Shares of Restricted Stock Granted
Steven J. Gomo Executive Vice President and Chief Financial Officer				
David Hitz Executive Vice President and Founder	90,000	$19.17		$
Thomas F. Mendoza President		$		$
All executive officers, as a group	710,000	$19.29		$
All directors who are not executive officers, as a group	240,000	$22.47		$
All employees who are not executive officers, as a group	10,999,527 (1)	$25.27		$

(1) Includes 50,000 shares awarded as restricted stock units.

Limited Transferability of Awards

Awards granted under the 1999 Plan generally may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the applicable laws of descent and distribution. However, participants may, in a manner specified by the Plan Administrator, transfer non-statutory stock options (1) to a member of the participant s family, (2) to a trust or other entity for the sole benefit of the member(s) of the participant s and/or his or her family, (3) to a former spouse pursuant to a domestic relations order.

Federal Tax Aspects

The following paragraphs are a summary of the general federal income tax consequences to U.S. taxpayers and the Company of awards granted under the Plan. Tax consequences for any particular individual may be different.

Non-qualified Stock Options

No taxable income is reportable when a nonqualified stock option with an exercise price equal to the fair market value of the underlying Shares on the date of grant is granted to a participant. Upon exercise, the participant will recognize ordinary income in an amount equal to the excess of the fair market value (on the exercise date) of the Shares purchased over the exercise price of the option. However, as a result of the American Jobs Creation Act of 2004, stock options granted with an exercise price below the fair market value of the underlying stock may be taxable at the time of vesting in an amount equal to the difference between the then fair market value of the

underlying stock and the exercise price of the award. It is currently unclear exactly how such an award will be taxed. Any additional gain or loss recognized upon any later disposition of the Shares would be capital gain or loss.

Incentive Stock Options

No taxable income is reportable when an incentive stock option is granted or exercised (except for purposes of the alternative minimum tax, in which case taxation is the same as for nonqualified stock options). If the participant exercises the option and then later sells or otherwise disposes of the Shares more than two years after the grant date and more than one year after the exercise date, the difference between the sale price and the exercise price will be taxed as capital gain or loss. If the participant exercises the option and then later sells or otherwise disposes of the Shares before the end of the two- or one-year holding periods described above, he or she generally will have ordinary income at the time of the sale equal to the fair market value of the Shares on the exercise date (or the sale price, if less) minus the exercise price of the option.

Stock Appreciation Rights

No taxable income is reportable when a stock appreciation right with an exercise price equal to the fair market value of the underlying shares on the date of grant and payable in Shares is granted to a participant. Upon exercise of such a stock appreciation right, the participant will recognize ordinary income in an amount equal to the fair market value of any shares received. Any additional gain or loss recognized upon any later disposition of the shares would be capital gain or loss. As a result of the American Jobs Creation Act of 2004, a stock appreciation right granted with an exercise price less than the fair market value of the underlying Shares on the date of the grant (and that will be settled in cash) may be taxable at the time of vesting in an amount equal to the difference between the fair market value of the underlying Shares and the exercise price of the award. It is still uncle