

Exhibit A

**RESTATED CERTIFICATE OF INCORPORATION
OF
MERCURY INTERACTIVE CORPORATION**

FIRST. The name of the corporation is Mercury Interactive Corporation (the "Corporation").

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

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

FOURTH. The aggregate number of shares that the Corporation shall have authority to issue is 37,600,000, divided into 21,800,000 shares of Common Stock with the par value of \$.001 per share, and 15,800,000 shares of Preferred Stock with the par value of \$0.001 per share. The Preferred Stock shall be issued in three series, of which the first series shall be designated "Series A Preferred Stock" and shall consist of 10,000,000 shares, the second series shall be designated "Series B Preferred Stock" and shall consist of 1,800,000 shares and the third series shall be designated "Series C Preferred Stock" and shall consist of 4,000,000 shares.

The terms and provisions of the Preferred Stock are as follows:

A. Voting Rights.

1. Except as otherwise provided in this Restated Certificate of Incorporation or as required by law, the holders of Preferred Stock will be entitled to notice of any meeting of stockholders of the Corporation and to vote upon the election of directors and upon any matter submitted to stockholders or a class of stockholders of the Corporation on the following basis: each share of Preferred Stock will be treated as the number of shares of Common Stock into which such share could be converted on the record date fixed for the vote or consent of stockholders.

2. So long as any shares of Preferred Stock remain outstanding, the Board of Directors shall consist of five (5) directors and the holders of the Preferred Stock will be entitled, voting as a separate class, to elect three (3) of such five (5) directors (such three (3) directors are herein referred to as the "Class I Directors"); provided that following conversion into Common Stock or retirement of all of the shares of Preferred Stock, the

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Common Stock will be entitled to elect all directors. In the case of any vacancy among the Class I Directors, the remaining Class I Directors may elect a successor to hold office for the unexpired term of the director. Any Class I Director may be removed, either with or without cause, by, and only by, the affirmative vote of the holders of a majority of the shares of the Preferred Stock, either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created or otherwise resulting may be filled by, and only by, the holders of the Preferred Stock.

3. Notwithstanding the foregoing, for so long as: (a) Athena Venture Partners L.P. and persons controlling, controlled by or under common control with Athena Venture Partners L.P. (collectively "Athena") hold at least 75% of the Preferred Stock (or Common Stock issued upon conversion thereof) purchased by Athena upon original issuance by the Corporation; and (b) shares of Preferred Stock are still outstanding; Athena shall have the right to designate one (1) of the three (3) Class I Directors, and any such director may be removed, either with or without cause, by, and only by, the affirmative vote of Athena and any vacancy in such position thereby created or otherwise resulting may be filled by, and only by, Athena. Any new director designated by Athena shall be subject to the approval of the President of the Corporation, which approval shall not be unreasonably withheld.

4. Notwithstanding the foregoing, for so long as: (a) Hambrecht & Quist and persons controlling, controlled by or under common control with Hambrecht & Quist (collectively "H&Q") hold at least 75% of the Preferred Stock (or Common Stock issued upon conversion thereof) purchased by H&Q upon original issuance by the Corporation; and (b) shares of Preferred Stock are outstanding; H&Q shall have the right to designate two (2) of the three (3) Class I Directors, and any such director may be removed, either with or without cause, by, and only by, the affirmative vote of H&Q and any vacancy in such position thereby created or otherwise resulting may be filled by, and only by, H&Q.

5. Except as otherwise required by law or provided by this Certificate of Incorporation, a majority of the shares entitled to vote, represented in person or by proxy, will constitute a quorum at a meeting of shareholders; provided that for action upon any matter as to which holders of shares are entitled to vote as a class, a majority of the shares of such class, represented in person or by proxy, will constitute a quorum.

B. Dividends.

The holders of the then outstanding Preferred Stock will be entitled to receive, when and as declared by the Board of Directors, out of any funds legally available therefor, noncumulative dividends at the rate of \$0.04 per share for the Series A Preferred Stock, \$0.08 per share for the Series B Preferred Stock and \$0.12 per share for the Series C

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Preferred Stock (appropriately adjusted for stock splits and combinations), payable in preference and priority to any payment of any dividend on Common Stock for such year; provided that no dividend on any series of Preferred Stock shall have priority over or be subordinate to any dividend on the other series of Preferred Stock; provided further that no full or partial dividend shall be declared and/or paid on any series of Preferred Stock unless a proportional dividend is declared and/or paid on the other series of Preferred stock.

C. Liquidation Preference.

1. For purposes hereof, the Original Purchase Price of the Series A Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock is \$0.50 per share, \$1.00 per share and \$1.50 per share, respectively.

2. In the event of the liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holders of Preferred Stock will be entitled to receive out of the assets of the Corporation, for each share of the Preferred Stock then held by them as follows:

(a) First, prior and in preference to any distribution to the holders of the Common Stock, an amount equal to the Original Purchase Price of the Preferred Stock (as appropriately adjusted for stock splits and combinations) plus all declared and unpaid dividends with respect thereto. If upon any liquidation, dissolution or winding up, whether voluntary or involuntary, the assets distributed among the holders of the Preferred Stock shall be insufficient to permit payment to such holders of the full applicable liquidation preference amount pursuant to this Section C(2)(a), then the entire assets of the Corporation to be distributed shall be distributed among the holders of Preferred Stock in proportion to the full aforesaid preferential amounts to which each such holder is entitled.

(b) Then, an additional amount shall be paid to the holders of the Preferred Stock, *pro rata* with the holders of the Common Stock, on an as-converted basis, up to a maximum additional payment with respect to shares of the Preferred Stock equal to (i) two times the Original Purchase Price (as appropriately adjusted for stock splits and combinations) plus (ii) all declared and unpaid dividends with respect thereto.

(c) After payment has been made to the holders of the Preferred Stock of the full amounts to which they will be entitled as aforesaid, any remaining assets will be distributed to the holders of the Corporation's Common Stock.

3. A liquidation, dissolution or winding up for the purposes of this paragraph (C) includes a sale of all or substantially all of the assets of the Corporation and a merger or consolidation of the Corporation with or into any other corporation or corporations.

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where the stockholders of the Corporation immediately prior to such event do not own at least a fifty percent (50%) interest in the surviving entity immediately following such event.

D. Conversion Rights.

1. Right to Convert.

(a) Optional Conversion. Each share of Preferred Stock will be convertible, at the option of the holder thereof, at the office of the Corporation or any transfer agent for the Preferred Stock, into Common Stock. The number of shares of Common Stock into which each share of Preferred Stock will be converted will be equal to the Original Purchase Price of each series of Preferred Stock divided by the Conversion Price (as hereafter defined) then in effect for each series of Preferred Stock, such conversion ratio being referred to as the "Conversion Rate." The initial Conversion Price for each series of Preferred Stock will be the Original Purchase Price of such series of Preferred Stock and will be subject to adjustment as provided herein. Upon any decrease or increase of the Conversion Price or the Conversion Rate for each series of Preferred Stock as described in this paragraph (D), the Conversion Rate or Conversion Price, as the case may be, for each series of Preferred Stock will be increased or decreased appropriately.

(b) Automatic Conversion of Preferred Stock. Each share of Preferred Stock will be converted into shares of Common Stock at the then effective Conversion Rate:

(i) immediately upon the closing of the sale of stock pursuant to a registration statement under the Securities Act of 1933, as amended, for an underwritten public offering (other than a registration on Form S-8, Form S-4 or comparable forms) covering the Corporation's Common Stock that results in aggregate cash proceeds (prior to underwriters' commissions and expenses) to the Corporation of more than \$7,500,000, and that has a public offering price of not less than \$2.75 per share (as appropriately adjusted for stock splits, combinations, reclassifications and the like);

(ii) immediately upon the affirmative vote or written consent of the holders of a majority of the then outstanding shares of Preferred Stock; or

(iii) on the date that less than 20% of the highest number of shares of Preferred Stock that have been outstanding at any time (as appropriately adjusted for stock splits and combinations) remain outstanding.

(c) Fractional Shares Upon Conversion. No fractional shares of Common Stock will be issued upon conversion of Preferred Stock and any fractional share

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that otherwise would result from conversion by a holder of all of the holder's shares of Preferred Stock (taken together as a group) will be redeemed by payment in an amount equal to such fraction of the then effective Conversion Price as promptly as funds legally are available therefor.

2. Mechanics of Conversion. Before any holder of Preferred Stock will be entitled to convert the same into shares of Common Stock, the holder will surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for the Preferred Stock, and the holder will give written notice to the Corporation stating the name or names in which the holder wishes the certificate or certificates for shares of Common Stock to be issued. The Corporation, as soon as practicable thereafter, will issue and deliver at such office to such holder of Preferred Stock or to the holder's nominee or nominees, a certificate or certificates for the number of shares of Common Stock to which he or she will be entitled as aforesaid. Such conversion will be deemed to have been made immediately prior to the close of business on the date of the event of conversion, and the person or persons entitled to receive the shares of Common Stock issuable upon conversion will be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

3. Adjustment for Subdivisions or Combinations of Common Stock. In the event the Corporation at any time or from time to time after the effective date of the initial sale of any series of Preferred Stock (the "Original Issue Date") effects a subdivision or combination of its outstanding Common Stock into a greater or lesser number of shares without a proportionate and corresponding subdivision or combination of such series of Preferred Stock, then the existing Conversion Price for Preferred Stock will be decreased or increased proportionately.

4. Adjustment for Dividends, Distributions and Common Stock Equivalents. In the event the Corporation at any time or from time to time after the Original Issue Date makes or issues, or fixes a record date for the determination of holders of Common Stock (but not holders of Preferred Stock) entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights (hereinafter referred to as "Common Stock Equivalents") convertible into or entitling the holder thereof to receive additional shares of Common Stock without payment of any consideration by such holder for such Common Stock Equivalents or the additional shares of Common Stock, for the purpose of protecting the holders of Preferred Stock from any dilution in connection therewith, then and in each such event the maximum number of shares (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) of Common Stock issuable in payment of such dividend or distribution or upon conversion or exercise of such Common Stock Equivalents will be deemed to be issued and outstanding as of the time of such issuance or.

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in the event such a record date has been fixed, as of the close of business on such record date. In each such event, the then existing Conversion Rate for any series of Preferred Stock will be increased as of the time of such issuance or, in the event such a record date has been fixed, as of the close of business on such record date, by multiplying the Conversion Rate for such series of Preferred Stock by a fraction,

(a) the numerator of which will be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution or upon conversion or exercise of such Common Stock Equivalents; and

(b) the denominator of which will be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date; provided, however, if such record date has been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Rate for the Preferred Stock will be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Rate for such series of Preferred Stock will be adjusted pursuant to this paragraph (D)(4) as of the time of actual payment of such dividends or distribution.

5. Adjustment for Sale of Shares. If at any time after the Original Issue Date, the Corporation issues or sells any shares of its Common Stock (other than (i) shares of Common Stock issued on conversion of Preferred Stock and (ii) up to 3,000,000 shares (net of repurchases of same) of Common Stock issued either directly or upon exercise of options or warrants to employees, officers, directors and consultants of the Corporation, 125,000 of which may only be issued to each director (the "Employee Shares")) for a consideration per share less than the Conversion Price of any series of Preferred Stock in effect on the date of and immediately prior to such issue, then and in each such case, the Conversion Price for such series of Preferred Stock will be reduced to a price (calculated to the nearest cent) determined by multiplying such applicable Conversion Price by a fraction (1) the numerator of which will be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for such issue would purchase at such applicable Conversion Price, and (2) the denominator of which will be the number of shares of Common Stock outstanding immediately after the Common Stock proposed to be issued or sold is issued or sold; provided that such fraction will in no event be greater than one (1). For purposes of this paragraph (D)(5) the shares of Common Stock issuable upon conversion of Preferred Stock and the Employee Shares (to the extent issued) will be deemed to be outstanding on the Original Issue Date.

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For the purpose of making any adjustment in any Conversion Price as provided above, the consideration received by the Corporation for any issue or sale of Common Stock will be computed:

(i) to the extent it consists of cash, as the amount of cash received by the Corporation before deduction of any offering expenses payable by the Corporation and any underwriting or similar commissions, compensation, or concessions paid or allowed by the Corporation in connection with such issue or sale;

(ii) to the extent it consists of property other than cash, at the fair market value of that property as determined in good faith by the Corporation's Board of Directors, and

(iii) if Common Stock is issued or sold together with other stock or securities or other assets of the Corporation for a consideration that covers both (a) the portion of the consideration so received that may be reasonably determined in good faith by the Board of Directors to be allocable to such Common Stock.

If the Corporation (1) grants any rights or options (other than rights or options issued in connection with the Employee Shares) to subscribe for, purchase, or otherwise acquire shares of Common Stock, or (2) issues or sells any security convertible into shares of Common Stock, then, in each case, the price per share of Common Stock issuable on the exercise of the rights or options or the conversion of the securities will be determined by dividing the total amount, if any, received or receivable by the Corporation as consideration for the granting of the rights or options or the issue or sale of the convertible securities, plus the minimum aggregate amount of additional consideration payable to the Corporation on exercise or conversion of the securities, by the maximum number of shares of Common Stock issuable on the exercise or conversion. Such granting or issue or sale will be considered to be an issue or sale for cash of the maximum number of shares of Common Stock issuable on exercise or conversion at the price per share determined under this subsection, and the Conversion Price for any series of Preferred Stock will be adjusted as above provided to reflect (on the basis of that determination) the issue or sale. No further adjustment of the Conversion Price for any series of Preferred Stock will be made as a result of the actual issuance of shares of Common Stock on the exercise of any such rights or options or the conversion of any such convertible securities.

Upon the redemption or repurchase of any such securities or the expiration or termination of the right to convert into, exchange for, or exercise with respect to, Common Stock, the Conversion Price for any series of Preferred Stock will be readjusted to such price as would have been obtained had the adjustment made upon their issuance been made upon the basis of the issuance of only the number of such securities as were actually converted.

into, exchanged for, or exercised with respect to, Common Stock. If the purchase price or conversion or exchange rate provided for in any such security changes at any time, then, upon such change becoming effective, the Conversion Price for such series of Preferred Stock then in effect will be readjusted forthwith to such price as would have been obtained had the adjustment made upon the issuance of such securities been made upon the basis of (1) the issuance of only the number of shares of Common Stock theretofore actually delivered upon the conversion, exchange or exercise of such securities, and the total consideration received therefor, and (2) the granting or issuance, at the time of such change, of any such securities then still outstanding for the consideration, if any, received by the Company therefor and to be received on the basis of such changed price or rate.

6. No Impairment. The Corporation, whether by amendment of its Certificate of Incorporation or through any reorganization, transfer of assets, merger, dissolution, issue or sale of securities or any other voluntary action, will not avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but at all times in good faith will assist in the carrying out of all of such action as may be necessary or appropriate in order to protect the conversion rights pursuant to this paragraph (D) of the holders of any series of Preferred Stock against impairment.

7. Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Rate pursuant to this paragraph (D), the Corporation at its expense promptly will compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation, upon the written request at any time of any holder of Preferred Stock, will furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Rate for the Preferred Stock held by such holder at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property that at the time would be received upon the conversion of the Preferred Stock held by such holder.

8. Notices of Record Date. In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any Common Stock Equivalents or any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation will mail to each holder of Preferred Stock at least ten (10) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or rights, and the amount and character of such dividend, distribution or right.

9. Reservation of Stock Issuable Upon Conversion. The Corporation at all times will reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of Preferred Stock such number of its shares of Common Stock as from time to time will be sufficient to effect the conversion of all then outstanding shares of Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock is not sufficient to effect the conversion of all then outstanding shares of Preferred Stock, in addition to such other remedies as may be available to the holders of Preferred Stock for such failure, the Corporation will take such corporate action as, in the opinion of its counsel, may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as will be sufficient for such purpose.

10. Notices. Any notices required by the provisions of this paragraph (D) to be given to the holders of shares of Preferred Stock must be in writing and will be deemed given upon personal delivery, or five days after deposited in the United States mail, by registered or certified mail postage prepaid, or upon actual receipt if given by any other method, addressed to each holder of such record at his address appearing on the books of the Corporation.

11. Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or a sale of assets transaction provided for elsewhere in this paragraph (D)), provision shall be made so that the holders of each series of Preferred Stock will thereafter be entitled to receive upon conversion of such Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this paragraph (D) with respect to the rights of the holders of such Preferred Stock after the recapitalization to the end that the provisions of this paragraph (D) (including adjustment of the applicable Conversion Price then in effect and the number of shares issuable upon conversion of the Preferred Stock) shall be applicable after that event in as nearly an equivalent manner as may be practicable.

E. Covenants.

1. In addition to any other rights provided by law, so long as any Preferred Stock is outstanding, the Corporation, without first obtaining the affirmative vote or written consent of the holders of not less than a majority of such outstanding shares of Preferred Stock, will not:

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(a) take any action or permit to be taken any action that would alter or change the preferences, rights, privileges or powers of, or the restrictions provided for the benefit of, any series of Preferred Stock; or

(b) authorize or issue shares of any class or series of stock not expressly authorized herein having any preference or priority as to dividends, assets or other right superior to or on a parity with any such preference or priority of any series of Preferred Stock, or authorize or issue shares of stock of any class or any bonds, debentures, notes or other obligations convertible into or exchangeable for, or having option rights to purchase any shares of stock of this Corporation having any preference or priority as to dividends, assets, or other rights, superior to or on a parity with any such preference or priority of any series of Preferred Stock;

(c) increase or decrease the number of shares of Preferred Stock authorized hereby, or issue additional shares of Preferred Stock;

(d) effect any sale, lease, assignment, transfer or other conveyance of all or substantially all of the assets of the Corporation, or any consolidation, merger or liquidation of the Corporation;

(e) amend this Corporation's Certificate of Incorporation or Bylaws;

(f) materially change the principal business of the Corporation;

(g) apply any of its assets to the redemption, repurchase or acquisition directly or indirectly, through subsidiaries or otherwise, of any shares of any class or series of Common Stock, except from current or former employees, officers, directors and consultants of, and persons performing services for, the Corporation at the original issue price thereof; or

(h) change the authorized number of directors of the Corporation from five (5).

FIFTH. The Board of Directors of the Corporation is expressly authorized to make, alter or repeal Bylaws of the Corporation, but the stockholders may make additional Bylaws and may alter or repeal any Bylaw whether adopted by them or otherwise.

SIXTH. Elections of directors need not be by written ballot except and to the extent provided in the Bylaws of the Corporation.

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SEVENTH (a) To the fullest extent permitted by the Delaware General Corporation Law as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

(b) The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director, officer or employee of the Corporation or any predecessor of the Corporation or serves or served at any other enterprise as a director, officer or employee at the request of the Corporation or any predecessor to the Corporation.

(c) Neither any amendment nor repeal of this Article SEVENTH, nor the adoption of any provision of this Corporation's Certificate of Incorporation inconsistent with this Article SEVENTH, shall eliminate or reduce the effect of this Article SEVENTH in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article SEVENTH, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.