

SERENA SOFTWARE INC  
Form PREM14A  
December 01, 2005  
Table of Contents

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**SCHEDULE 14A**

**Proxy Statement Pursuant to Section 14(a) of the**  
**Securities Exchange Act of 1934, as amended**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- |                                     |   |                          |  |
|-------------------------------------|---|--------------------------|--|
| <input checked="" type="checkbox"/> | Preliminary Proxy Statement                 | <input type="checkbox"/> | <b>Confidential, for Use of the Commission Only (as permitted by Rule 14a 6(e)(2))</b> |
| <input type="checkbox"/>            | Definitive Proxy Statement                  |                          |  |
| <input type="checkbox"/>            | Definitive Additional Materials             |                          |  |
| <input type="checkbox"/>            | Soliciting Material Pursuant to §240.14a-12 |                          |  |

**SERENA SOFTWARE, INC.**

---

(Name of Registrant as Specified in its Charter)

N/A

---

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

Payment of Filing Fee (Check the appropriate box):

Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

No fee required.

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:

Common Stock, par value \$0.001 per share, of Serena Software, Inc. ( Serena common stock )

2) Aggregate number of securities to which transaction applies:

33,833,052 shares of Serena common stock and options to purchase 6,268,751 shares of Serena common stock (1)

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):

\$24.00 per share of Serena common stock

\$24.00 minus weighted average exercise price of outstanding options of \$19.24 per share subject to an option

4) Proposed maximum aggregate value of transaction:

\$841,832,503 (1)

5) Total fee paid:

\$90,076 (1)

Fee paid previously with preliminary materials.

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.:

---

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

3) Filing Party:

---

---

4) Date Filed:

---

---

- (1) Pursuant to the Agreement and Plan of Merger dated as of November 11, 2005, Spyglass Merger Corp. will merge into the Registrant and each outstanding share of common stock of the Registrant shall be converted into the right to receive \$24.00, except for shares that are owned by the Registrant as treasury stock or owned by Spyglass Merger Corp. or any wholly owned subsidiary of Spyglass Merger Corp., which will be cancelled without any payment therefor, and except for shares that are owned by any wholly owned subsidiary of the Registrant, which will remain outstanding. Pursuant to a Contribution and Voting Agreement, one of the stockholders of the Registrant will contribute 7,518,483 shares of common stock of the Registrant to Spyglass Merger Corp. immediately prior to the merger in exchange for shares of Spyglass Merger Corp. Each holder of options to acquire the Registrant's common stock shall be entitled to receive, in consideration of the cancellation of such stock options, an amount (net of applicable taxes) equal to the product of (i) the excess, if any, of \$24.00 per share of common stock over the exercise price per share of common stock subject to such stock option, multiplied by (ii) the total number of shares subject to such stock option. As of November 28, 2005, there were 41,256,535 shares of common stock of the Registrant issued and outstanding, and there were 6,268,751 shares of common stock of the Registrant subject to outstanding stock options, with a weighted-average exercise price of \$19.24 per share. In addition, the Registrant expects to issue an additional 95,000 shares of its common stock on November 30, 2005, pursuant to the terms of its employee stock purchase plan. The filing fee was determined by adding (x) the product of (i) the number of shares of Common Stock that are proposed to be acquired in the transactions (calculated by subtracting 7,518,483 from 41,351,535) and (ii) the transaction consideration of \$24.00 per share of Common Stock, plus (y) the product of (1) the total number of shares of Serena common stock subject to outstanding stock options multiplied by (2) the excess, if any, of \$24.00 over the weighted average exercise price for such stock options ((x) and (y) together, the Merger Consideration). The filing fee was calculated in accordance with Regulation 240.00-11 under the Exchange Act, by multiplying the Merger Consideration by 0.000107.

**Table of Contents**

**SERENA SOFTWARE, INC.**

2755 Campus Drive, 3<sup>rd</sup> Floor

San Mateo, CA 94403-2538

**650-522-6600**

, 200

Dear Fellow Stockholder:

You are cordially invited to attend the special meeting of stockholders (the special meeting ) of Serena Software, Inc. ( Serena, we, us, or our ) which will be held on , 2006, beginning at : Pacific Time, at .

At this meeting, you will be asked to consider and vote upon a proposal to adopt an agreement and plan of merger dated as of November 11, 2005, entered into by and between Serena and Spyglass Merger Corp., pursuant to which Spyglass Merger Corp. will be merged with and into Serena, with Serena continuing as the surviving corporation. If the merger is completed, each share of Serena common stock issued and outstanding at the effective time of the merger will be converted into the right to receive \$24.00 in cash, without interest, other than shares held by Serena as treasury stock or owned by Spyglass Merger Corp. or any wholly owned subsidiary of Spyglass Merger Corp., which will be cancelled without payment, shares held by any of our wholly owned subsidiaries, which will remain outstanding, and shares held by stockholders who are entitled to, and who properly exercise and perfect, appraisal rights in compliance with all of the required procedures under Delaware law.

If the merger is completed, Serena will continue its operations as a privately-held company owned by affiliates of Silver Lake Partners, a private equity firm, and certain of Serena's current directors and senior management, whom we refer to in the attached proxy statement as management participants. The management participants include as of the date of the proxy statement Douglas D. Troxel, the Chairman of our board of directors and Chief Technology Officer, Robert I. Pender, Jr., our Chief Financial Officer and Senior Vice President, Finance and Administration, who is also one of our directors, and me. We expect that certain other members of our current senior management will also have an ownership interest in Serena following the merger.

As a result of the merger, Serena's shares will no longer be quoted on The NASDAQ National Market.

A special committee of our board of directors unanimously approved the merger agreement and the transactions contemplated by the merger agreement and determined the merger advisable and to be fair to, and in the best interests of, our unaffiliated stockholders. The special committee consists entirely of directors who are not officers or employees of Serena and who will not have an economic interest in Serena following the merger. Our board of directors, acting upon the recommendation of the special committee, approved the merger agreement and the transactions contemplated by the merger agreement and determined the merger advisable and to be fair to, and in the best interests of, our

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

unaffiliated stockholders. **The special committee and the board of directors both recommend that you vote FOR the adoption of the merger agreement.**

In reaching their decisions, the special committee and the board of directors considered, among other things, an opinion dated November 10, 2005, of Morgan Stanley & Co. Incorporated, the financial advisor to the special committee, to the effect that, as of November 10, 2005, and based upon and subject to the assumptions, qualifications and limitations set forth in the opinion, the \$24.00 per share consideration to be received by holders of shares of Serena common stock pursuant to the merger agreement was fair from a financial point of view to holders of Serena common stock other than Mr. Troxel, who is exchanging a portion of his Serena common stock for common stock of Spyglass Merger Corp. immediately prior to the merger.

**Table of Contents**

The proxy statement accompanying this letter provides you with information about the proposed merger and the special meeting. We encourage you to read the entire proxy statement carefully, including the merger agreement and the other documents annexed to the proxy statement. You may also obtain more information about Serena from documents we have filed with the Securities and Exchange Commission.

Your vote is very important. The merger cannot be completed unless the merger agreement is adopted by the affirmative vote of the holders of a majority of the outstanding shares of Serena common stock. **If you fail to vote on the merger agreement, the effect will be the same as a vote against the adoption of the merger agreement for purposes of the vote referred to above.**

**WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, PLEASE VOTE YOUR SHARES BY INTERNET, TELEPHONE OR MAIL. IF YOU RECEIVE MORE THAN ONE PROXY CARD BECAUSE YOU OWN SHARES THAT ARE REGISTERED DIFFERENTLY, PLEASE VOTE ALL OF YOUR SHARES SHOWN ON ALL OF YOUR PROXY CARDS.**

Voting by proxy will not prevent you from voting your shares in person if you subsequently choose to attend the special meeting.

Thank you for your cooperation and continued support.

Sincerely,

Mark E. Woodward

*President and*

*Chief Executive Officer*

**Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the merger, passed upon the merits or fairness of the merger or the merger agreement or passed upon the adequacy or accuracy of the information contained in the accompanying proxy statement. Any representation to the contrary is a criminal offense.**

THE ACCOMPANYING PROXY STATEMENT IS DATED \_\_\_\_\_, 200

AND IS FIRST BEING MAILED TO STOCKHOLDERS ON OR ABOUT \_\_\_\_\_, 200 .

Table of Contents

**SERENA SOFTWARE, INC.**

2755 Campus Drive, 3<sup>rd</sup> Floor

San Mateo, CA 94403-2538

**650-522-6600**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**

**To be Held on \_\_\_\_\_, 2006**

To Our Stockholders:

Notice is hereby given that a special meeting of stockholders of Serena Software, Inc., a Delaware corporation ( Serena ), will be held on \_\_\_\_\_, 2006, beginning at \_\_\_\_\_ : \_\_\_\_\_ Pacific Time, at \_\_\_\_\_, for the following purposes:

1. To consider and vote on a proposal to adopt the Agreement and Plan of Merger, dated as of November 11, 2005 (the merger agreement ), between Serena and Spyglass Merger Corp., pursuant to which, upon the merger becoming effective, each share of common stock, par value \$0.001 per share, of Serena will be converted into the right to receive \$24.00 in cash, without interest, other than shares held by Serena as treasury stock or owned by Spyglass Merger Corp. or any wholly owned subsidiary of Spyglass Merger Corp., which will be cancelled, shares that are owned by any wholly owned subsidiary of Serena, which will remain outstanding, and shares held by stockholders who are entitled to and who properly exercise and perfect appraisal rights in compliance with all of the required procedures under Delaware law;
2. To approve the adjournment of the meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the merger agreement; and
3. To act upon such other business as may properly come before the special meeting or any adjournment of the special meeting.

Only holders of Serena s common stock at the close of business on \_\_\_\_\_, 200 are entitled to notice of and to vote at the special meeting and any adjournment thereof.

You are cordially invited to attend the meeting in person.

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

Your vote is important, regardless of the number of shares of Serena's common stock that you own. The adoption of the merger agreement requires the affirmative vote of the holders of a majority of the outstanding shares of Serena's common stock entitled to vote on that proposal. The proposal to adjourn the meeting, if necessary, to solicit additional proxies requires the affirmative vote of a majority of the shares present and entitled to vote at the special meeting.

Even if you plan to attend the meeting in person, please complete, sign, date and return the enclosed proxy to ensure that your shares will be represented at the meeting if you are unable to attend. If you sign, date and mail your proxy card without indicating how you wish to vote, your vote will be counted as a vote in favor of the adoption of the merger agreement, in favor of the proposal to adjourn the meeting, if necessary, to solicit additional proxies, and in accordance with the recommendation of the board of directors on any other matters properly brought before the meeting for a vote. If you fail to return your proxy card, the effect will be that your shares will not be counted for purposes of determining whether a quorum is present at the meeting and will have the same effect as a vote against the adoption of the merger agreement, but will not affect the outcome of the vote regarding the adjournment of the meeting, if necessary, to solicit additional proxies. Alternatively, you may vote your shares over the Internet or by telephone, as indicated on the proxy card. If you are a stockholder of record and do attend the meeting and wish to vote in person, you may withdraw your proxy and vote in person.



**Table of Contents**

Stockholders of Serena who do not vote in favor of the adoption of the merger agreement will have the right to seek appraisal of the fair value of their shares if the merger is completed, but only if they submit a written demand for appraisal to Serena before the vote is taken on the merger agreement and they comply with all of the other requirements of Delaware law, which are summarized in the accompanying proxy statement.

By Order of the Board of Directors,

Vita A. Strimaitis

*Senior Vice President,*

*General Counsel and Secretary*

San Mateo, California

, 200

**Table of Contents****TABLE OF CONTENTS**

	<b>Page</b>
<u>SUMMARY TERM SHEET</u>	1
<u>The Merger and Related Matters</u>	1
<u>The Special Meeting and Related Matters</u>	4
<u>QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING</u>	6
<u>CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING INFORMATION</u>	13
<u>SPECIAL FACTORS</u>	14
<u>Background of the Merger</u>	14
<u>Recommendations of the Special Committee and the Board of Directors</u>	24
<u>Reasons for the Special Committee's Recommendation</u>	25
<u>Reasons for the Board's Recommendation</u>	28
<u>Opinion of Morgan Stanley &amp; Co. Incorporated</u>	28
<u>Position of Douglas D. Troxel as to Fairness</u>	35
<u>Position of Spyglass Merger Corp. as to Fairness</u>	36
<u>Purposes and Structure of the Merger</u>	37
<u>Certain Effects of the Merger</u>	38
<u>Effect of the Merger on the Company's Convertible Subordinated Notes</u>	40
<u>Effects on the Company if the Merger is Not Completed</u>	40
<u>Financing of the Merger</u>	41
<u>Interests of the Company's Directors and Executive Officers in the Merger</u>	47
<u>Material U.S. Federal Income Tax Consequences</u>	51
<u>Accounting Treatment</u>	52
<u>Regulatory Approvals</u>	52
<u>Fees and Expenses of the Merger</u>	53
<u>Litigation Related to the Merger</u>	53
<u>Certain Financial Projections</u>	54
<u>Provisions for Unaffiliated Stockholders</u>	56
<u>THE PARTIES TO THE MERGER</u>	57
<u>Serena Software, Inc.</u>	57
<u>Spyglass Merger Corp.</u>	57
<u>CURRENT EXECUTIVE OFFICERS AND DIRECTORS OF THE COMPANY</u>	58
<u>CURRENT EXECUTIVE OFFICERS AND DIRECTORS OF SPYGLASS MERGER CORP.</u>	61
<u>THE SPECIAL MEETING</u>	62
<u>Time, Place and Purpose of the Special Meeting</u>	62
<u>Record Date, Quorum and Voting Power</u>	62
<u>Required Vote</u>	62
<u>Voting by Directors and Executive Officers</u>	63
<u>Proxies; Revocation</u>	63
<u>Proxy Solicitation; Expenses of Proxy Solicitation</u>	63
<u>Adjournments</u>	63
<u>THE MERGER AGREEMENT (PROPOSAL NO. 1)</u>	65
<u>Effective Time</u>	65
<u>Structure</u>	65
<u>Treatment of Stock and Options</u>	65
<u>Exchange and Payment Procedures</u>	66
<u>Certificate of Incorporation and Bylaws</u>	67
<u>Directors and Officers</u>	67
<u>Representations and Warranties</u>	67
<u>Conduct of Our Business Pending the Merger</u>	70
<u>Financing</u>	72



**Table of Contents**

	<u>Page</u>
<u>No Solicitation of Transactions</u>	72
<u>Indemnification</u>	74
<u>Resignations</u>	75
<u>Employee Benefits</u>	75
<u>Agreement to Take Further Action and to Use Commercially Reasonable Efforts</u>	76
<u>Conditions to the Merger</u>	76
<u>Termination</u>	78
<u>Fees and Expenses</u>	79
<u>Amendment and Waiver</u>	80
<u>OTHER AGREEMENTS</u>	81
<u>Sponsor Guarantee</u>	81
<u>Contribution and Voting Agreement</u>	81
<u>Stockholders Agreement</u>	82
<u>Management Agreements</u>	86
<u>Silver Lake Management Agreement</u>	89
<u>Non-Disclosure Agreement</u>	90
<u>SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA</u>	91
<u>RATIO OF EARNINGS TO FIXED CHARGES</u>	92
<u>MARKET PRICES OF THE COMPANY'S COMMON STOCK</u>	93
<u>DIVIDEND POLICY</u>	93
<u>TRANSACTIONS IN THE COMPANY'S STOCK</u>	94
<u>BENEFICIAL OWNERSHIP OF THE COMPANY'S STOCK</u>	95
<u>RELATED PARTY TRANSACTIONS</u>	97
<u>DISSENTERS' RIGHTS OF APPRAISAL</u>	99
<u>ADJOURNMENT OF THE SPECIAL MEETING (PROPOSAL NO. 2)</u>	102
<u>STOCKHOLDER PROPOSALS</u>	102
<u>OTHER MATTERS</u>	103
<u>WHERE YOU CAN FIND ADDITIONAL INFORMATION</u>	103
<u>INCORPORATION BY REFERENCE</u>	104
<u>ANNEX A Agreement and Plan of Merger</u>	A-1
<u>ANNEX B Opinion of Morgan Stanley &amp; Co. Incorporated</u>	B-1
<u>ANNEX C Sponsor Guarantee</u>	C-1
<u>ANNEX D Contribution and Voting Agreement</u>	D-1
<u>ANNEX E Form of Stockholders Agreement</u>	E-1
<u>ANNEX F Section 262 of the General Corporation Law of the State of Delaware</u>	F-1

---

**Table of Contents**

**SUMMARY TERM SHEET**

The following summary term sheet highlights selected information from this proxy statement and may not contain all of the information that may be important to you. Accordingly, we encourage you to read carefully this entire proxy statement, its annexes and the documents referred to or incorporated by reference in this proxy statement. In this proxy statement, the terms Serena, Company, we, our, ours, and us refer to Serena Software, Inc. and its subsidiaries, taken together.

**The Merger and Related Matters**

**The Merger.** You are being asked to vote to adopt an agreement and plan of merger between Serena and Spyglass Merger Corp., which provides for the merger of Spyglass Merger Corp. with and into Serena. Upon the completion of the merger, Serena will be the surviving corporation and the separate existence of Spyglass Merger Corp. will cease. We refer to the agreement and plan of merger in this proxy statement as the merger agreement. See The Merger Agreement beginning on page 65. A copy of the merger agreement is attached as Annex A to this proxy statement.

**Parties to the Merger.** Serena is a Delaware corporation that was incorporated in California in 1980 and reincorporated in Delaware in 1998. Serena is the largest company in terms of revenue solely focused on managing change in the information technology, or IT, environment. Serena's products and services automate processes and control change for teams managing development, web content and IT infrastructure. Serena's solutions take a cross-platform and cross-organizational view of enterprise applications, allowing customers to define, enforce and automate application lifecycle processes. Spyglass Merger Corp. is a Delaware corporation that was incorporated on November 7, 2005 by Silver Lake Partners II, L.P., an affiliate of a private equity firm known as Silver Lake Partners, solely for the purpose of completing the merger and the related financings and transactions. Spyglass Merger Corp. has not participated in any activities to date other than activities incident to its formation and the transactions contemplated by the merger agreement. As of the date of this proxy statement, Silver Lake Partners II, L.P. is the sole stockholder of Spyglass Merger Corp. See The Parties to the Merger beginning on page 57.

**Management Participants.** Douglas D. Troxel, the Chairman of our board of directors and Chief Technology Officer, Mark E. Woodward, our Chief Executive Officer and President and one of our directors, and Robert I. Pender, Jr., our Chief Financial Officer and Senior Vice President, Finance and Administration, and one of our directors, will contribute a portion of their current equity interests in Serena to Spyglass Merger Corp. prior to the completion of the merger. We expect that other members of our current senior management will also contribute a portion of their equity interests in Serena to Spyglass Merger Corp. prior to the completion of the merger. As a result, each of Messrs. Troxel, Woodward and Pender, and any other members of our senior management who obtain an ownership interest in Spyglass Merger Corp. prior to the merger, will have an ownership interest in Serena following the merger. In this proxy statement, we refer to Messrs. Troxel, Woodward and Pender, and any other members of our senior management who contribute equity interests to Spyglass Merger Corp. prior to the merger, as management participants. See Special Factors Interests of the Company's Directors and Executive Officers in the Merger beginning on page 47.

**Payment for Common Stock.** If the merger is completed, each share of Serena common stock issued and outstanding at the effective time of the merger will be converted into the right to receive \$24.00 in cash, without interest, other than shares held by us as treasury stock or owned by Spyglass Merger Corp. or any wholly owned subsidiary of Spyglass Merger Corp., which will be cancelled, shares held by any of our wholly owned subsidiaries, which will remain outstanding, and shares held by stockholders who are entitled to and who properly exercise and perfect appraisal rights in compliance with all of the required procedures under Delaware law. See The Merger Agreement Treatment of Stock and Options beginning on page 65.

**Table of Contents**

**Treatment of Options.** Immediately prior to the effective time of the merger, all outstanding options to acquire Serena common stock will become fully vested and immediately exercisable unless otherwise agreed between the holder of any of those options and Spyglass Merger Corp. Options will not be assumed and will be terminated or cancelled in accordance with the terms of the plans under which they were granted (other than some of the options held by the management participants, which may make up all or a portion of their contribution of equity interests to Spyglass Merger Corp. as described above) and the option holders will generally be entitled to receive cash, without interest, in an amount equal to the product of (1) the total number of shares of Serena common stock subject to the option multiplied by (2) the excess, if any, of \$24.00 over the exercise price per share of Serena common stock under such option, less any applicable withholding taxes. See *The Merger Agreement Treatment of Stock and Options* beginning on page 65.

**Purposes of the Merger.** The purpose of the merger for Serena is to enable its stockholders to immediately realize the value of their investment in Serena through their receipt of the per share merger price of \$24.00 in cash, without interest. For Spyglass Merger Corp., the purpose of the merger is to allow its stockholders to own Serena and to bear the rewards and risks of such ownership after Serena's common stock ceases to be publicly traded. See *Special Factors Purposes and Structure of the Merger* beginning on page 37.

**Effect of the Merger on Serena.** If the merger is completed, Serena will continue its operations as a privately-held company owned by (1) affiliates of Silver Lake Partners and (2) the management participants. After the merger, Serena's shares will no longer be quoted on The NASDAQ National Market. In addition, Serena expects the registration of Serena common stock under the Securities Exchange Act of 1934 will be terminated. As a result, Serena will no longer be required to file periodic or other reports with the Securities and Exchange Commission with respect to its common stock or to deliver proxy statements or information statements in connection with stockholders' meetings. See *Special Factors Certain Effects of the Merger* beginning on page 38.

**Special Committee.** Our board of directors formed a special committee, consisting entirely of directors who are not officers or employees of Serena and who will not have an economic interest in Serena following the merger. The special committee was charged with representing the interests of our unaffiliated stockholders and was actively involved in extended and numerous deliberations and negotiations regarding the merger on behalf of the unaffiliated stockholders. In this capacity, the special committee retained and received advice from Morgan Stanley and Co. Incorporated, as financial advisor, and Wilson Sonsini Goodrich & Rosati, Professional Corporation, as legal advisor. See *Special Factors Background of Merger* beginning on page 14 and *Special Factors Reasons for the Special Committee's Recommendation* beginning on page 25.

**Special Committee Recommendation.** The special committee unanimously recommends that Serena's stockholders vote **FOR** the adoption of the merger agreement. See *Special Factors Recommendations of the Special Committee and the Board of Directors* beginning on page 24.

**Board of Directors Recommendation.** Our board of directors recommends that Serena's stockholders vote **FOR** the adoption of the merger agreement. See *Special Factors Recommendation of the Special Committee and the Board of Directors* beginning on page 24.

**Opinion of Financial Advisor.** The special committee received an opinion on November 10, 2005, from Morgan Stanley & Co. Incorporated, the financial advisor to the special committee, to the effect that, as of that date and based upon and subject to the assumptions, qualifications and limitations set forth in the opinion, the \$24.00 per share consideration to be received by holders of shares of Serena common stock pursuant to the merger agreement was fair from a financial point of view to the holders of Serena common stock other than Douglas D. Troxel, who is exchanging a portion of his Serena common stock for common stock of Spyglass Merger Corp. immediately prior to the merger, which shares will convert into shares of the surviving corporation as a result of the merger. See *Special Factors Opinion of Morgan Stanley & Co. Incorporated* beginning on page 28. A copy of Morgan Stanley's opinion is attached as Annex B to this proxy statement.

---

**Table of Contents**

**Interests of Our Directors and Officers.** Some of our directors and officers, including the management participants, have interests in the merger that are different from, or in addition to, the interests that apply to our stockholders generally. See **Special Factors Interests of the Company's Directors and Executive Officers in the Merger** beginning on page 47.

**Financing of the Merger.** Spyglass Merger Corp. estimates that approximately \$1.14 billion will be the total amount of funds required to pay the merger consideration in connection with the merger, to pay either the as-converted cash amount or the principal and accrued but unpaid interest on the outstanding \$220 million in aggregate principal amount of Serena's 1 1/2% Convertible Subordinated Notes due 2023, in each case at the times and subject to the conditions set forth in the indenture governing the convertible notes, and to pay related fees and expenses. Spyglass Merger Corp. expects this amount, together with the related working capital requirements of Serena following the completion of the merger, to be provided through a combination of the proceeds of the following:

an aggregate cash equity investment by Silver Lake Partners II, L.P. and Silver Lake Technology Investors II, L.L.C., which are affiliates of Silver Lake Partners and which we refer to in this proxy statement as the Silver Lake investors, of \$349.0 million, which is subject to downward or upward adjustment;

a new \$450.0 million senior secured credit facility, consisting of a \$375.0 million term credit facility and a \$75.0 million revolving credit facility;

either:

an offering of new unsecured senior subordinated notes yielding gross proceeds of \$225.0 million; or

a new \$225.0 million senior subordinated bridge loan facility; and

cash and cash equivalents held by Serena and its subsidiaries.

In addition, the management participants will contribute a portion of their current equity interests in Serena in exchange for ownership interests in Spyglass Merger Corp. prior to the merger, which will include a contribution by the Douglas D. Troxel Living Trust, which is an affiliate of Douglas D. Troxel, of an aggregate of 7,518,483 shares of Serena common stock. In this proxy statement we refer to the Douglas D. Troxel Living Trust as the Troxel Trust. The equity interests that the management participants other than the Troxel Trust agree to contribute to Spyglass Merger Corp. will reduce the amount of the cash equity investment by the Silver Lake investors. The shares of Serena common stock contributed to Spyglass Merger Corp. prior to the merger will be cancelled and cease to exist at the effective time of the merger without any payment being made or consideration delivered in respect of those shares. The shares of Spyglass Merger Corp. will convert into shares of the surviving corporation as a result of the merger. See **Special Factors Financing of the Merger** beginning on page 41.

**Sponsor Guarantee.** Silver Lake Partners II, L.P. agreed to pay us any amounts, up to a maximum of \$52,350,000, that are determined by a final court order to be due to us from Spyglass Merger Corp. by reason of its willful breach of the merger agreement. See **Other Agreements Sponsor Guarantee** beginning on page 81. A copy of the sponsor guarantee is attached as Annex C to this proxy statement.

**Other Offers.** The merger agreement restricts Serena's ability to, among other things, solicit or engage in discussions or negotiations with a third party regarding specified transactions involving Serena. However, under specified circumstances, the board of directors of Serena may terminate the merger agreement if Serena desires to accept an unsolicited superior proposal, as defined in the merger agreement, subject to the prior or concurrent payment of a \$35 million termination fee to Spyglass Merger Corp. or its designee. See

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

The Merger Agreement No Solicitation of Transactions beginning on page 72 and The Merger Agreement Termination beginning on page 78.

**Tax Consequences.** Generally, the consideration received in the merger will be taxable for U.S. federal income tax purposes. You will recognize taxable gain or loss in the amount of the difference between \$24.00 and your adjusted tax basis for each share of Serena common stock that you own. However,



---

## Table of Contents

special tax consequences may apply to management participants who acquire shares of Spyglass Merger Corp. See [Special Factors - Material U.S. Federal Income Tax Consequences](#) beginning on page 51.

**Conditions.** The completion of the merger pursuant to the merger agreement is subject to (1) adoption of the merger agreement by the holders of a majority of the outstanding shares of our common stock, (2) the receipt of debt financing by Spyglass Merger Corp., and (3) specified other conditions. See [The Merger Agreement - Conditions to the Merger](#) beginning on page 76.

## **The Special Meeting and Related Matters**

**Date, Time and Place.** The special meeting of Serena's stockholders will be held on \_\_\_\_\_, 2006 beginning at \_\_\_\_\_ : \_\_\_\_\_ Pacific Time, at \_\_\_\_\_.

**Record Date and Voting.** You are entitled to vote at the special meeting if you owned shares of Serena common stock at the close of business on \_\_\_\_\_, 2006, the record date for the special meeting. Each outstanding share of our common stock on the record date entitles the holder to one vote on each matter submitted to stockholders for approval at the special meeting. As of the close of business on the record date, there were \_\_\_\_\_ shares of common stock of Serena entitled to be voted at the special meeting. See [The Special Meeting - Record Date, Quorum and Voting Power](#) beginning on page 62.

**Stockholder Vote Required to Adopt the Merger Agreement.** For Serena to complete the merger, stockholders holding at least a majority of the shares of our common stock outstanding at the close of business on the record date must vote **FOR** the adoption of the merger agreement. See [The Special Meeting - Required Vote](#) beginning on page 62.

**Share Ownership of Directors and Executive Officers.** As of the close of business on the record date for the special meeting, the directors and executive officers of Serena held and are entitled to vote, in the aggregate, \_\_\_\_\_ shares of our common stock, representing approximately \_\_\_\_\_ % of the outstanding shares of our common stock, including shares beneficially owned by Douglas D. Troxel and the Troxel Trust. Pursuant to the terms of the contribution and voting agreement described elsewhere in this proxy statement, Douglas D. Troxel and the Troxel Trust each have agreed to vote or consent, or cause to be voted or consented, all shares of our common stock that he or it beneficially owns or controls in favor of adopting the merger agreement. As of the record date for the special meeting, Mr. Troxel and the Troxel Trust collectively may be deemed to beneficially own \_\_\_\_\_ shares of our common stock, representing approximately \_\_\_\_\_ % of the outstanding shares of our common stock. In addition, the other directors and executive officers have informed Serena that they intend to vote all of their shares of our common stock **FOR** the adoption of the merger agreement. See [The Special Meeting - Voting by Directors and Executive Officers](#) beginning on page 63. A copy of the contribution and voting agreement is attached as Annex D to this proxy statement.

**Appraisal Rights of Stockholders.** Under Delaware law, you are entitled to appraisal rights in connection with the merger. As a result, you will have the right under Delaware law to have the fair value of your shares of Serena common stock determined by the Delaware Chancery Court. This right to appraisal is subject to a number of restrictions and procedural requirements. Generally, in order to exercise your appraisal rights, you must:

send a written demand to Serena for appraisal in compliance with the Delaware General Corporation Law before the vote on the adoption of the merger agreement;

not vote in favor of the adoption of the merger agreement; and

continuously hold your Serena common stock from the date you make the demand for appraisal through the effective date of the merger.

Merely voting against the adoption of the merger agreement will not protect your rights to an appraisal, which requires you to take all the steps provided under the Delaware law. Delaware law requirements

**Table of Contents**

for exercising appraisal rights are described in further detail in this proxy statement. See **Dissenters' Rights of Appraisal** beginning on page 99. In addition, Section 262 of the General Corporation Law of the State of Delaware, which is the section of Delaware law regarding appraisal rights, is reproduced and attached as Annex F to this proxy statement.

**If you vote for the adoption of the merger agreement, you will waive your rights to seek appraisal of your shares of Serena common stock under Delaware law.**

**Litigation Related to the Merger.** As of the date of this proxy statement, three complaints have been filed naming Serena and the members of our board of directors as defendants. Among other things, the complaints allege that our directors, in approving the proposed merger, breached fiduciary duties owed to our stockholders because the directors failed to take steps to maximize the value to our public stockholders. The complaints seek class certification and forms of equitable relief, including enjoining the consummation of the merger, and some of the complaints seek damages as well. We believe that the allegations are without merit and intend to vigorously contest the actions. There can be no assurance, however, that we will be successful in our defense of these actions. See **Special Factors - Litigation Related to the Merger** beginning on page 53.

**Table of Contents**

**QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING**

*The following questions and answers briefly address some commonly asked questions about the merger and the special meeting. They may not include all of the information that may be important to you. We urge you to read carefully this entire proxy statement, including the annexed documents and the other documents we refer to and incorporate by reference in this proxy statement.*

**Q: What matters will I be asked to vote on at the special meeting?**

A: You will be asked to vote on the following proposals:

the adoption of the merger agreement, which provides for the merger of Spyglass Merger Corp. with and into Serena;

the approval of the adjournment of the special meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement; and

action on other matters and transaction of other business as may properly come before the special meeting.

If the merger is completed, you will no longer own shares of Serena common stock.

**Q: What will happen to Serena as a result of the merger?**

A: Serena will continue its operations as a privately-held company owned by the Silver Lake investors and the management participants. Serena's shares will no longer be publicly traded, and Serena does not expect to be required to file periodic and other reports with the Securities and Exchange Commission with respect to its common stock or proxy or information statements with respect to stockholders meetings.

**Q: What will I receive for my Serena common stock if the merger is completed?**

A: If the merger is completed, each share of your Serena common stock will be converted into the right to receive \$24.00 in cash, without interest, unless you validly exercise and perfect appraisal rights in compliance with all of the required procedures under Delaware law, in which case your shares will be subject to appraisal in accordance with Delaware law.

**Q: What will happen to my stock options in the merger?**

A: All outstanding stock options will become fully vested and immediately exercisable prior to the merger unless otherwise agreed between the holder of any of those options and Spyglass Merger Corp. Options will not be assumed and will be terminated or cancelled, other than some of the options held by the management participants, and the option holders will generally be entitled to receive cash, without interest, in an amount equal to the product of (1) the total number of shares of Serena common stock subject to the option multiplied by (2) the excess of \$24.00 over the exercise price per share of Serena common stock under such option, less any applicable withholding taxes.

**Q. How do Serena's board of directors and the special committee recommend that I vote on the merger?**

A: The special committee of our board of directors unanimously approved the merger agreement and the transactions contemplated by the merger agreement and determined the merger, on the terms and conditions set forth in the merger agreement, advisable and to be fair to and in the best interests of our unaffiliated stockholders. Our board of directors, acting upon the recommendation of the special committee, has

## **Table of Contents**

approved the merger agreement and the transactions contemplated by the merger agreement and determined the merger, on the terms and conditions set forth in the merger agreement, advisable and to be fair to, and in the best interests of, our unaffiliated stockholders. **The special committee and the board of directors both recommend that you vote FOR the adoption of the merger agreement.**

**Q: Why did the board of directors form a special committee?**

A: Because certain members of our board of directors and management will have interests in Serena following the merger, our board of directors formed a special committee to represent the interests of our unaffiliated stockholders. The special committee consists entirely of directors who are not officers or employees of Serena and who will not have an economic interest in Serena following the merger.

**Q: Do any members of the board of directors or management of Serena have interests in the merger that may be different from my interests as a stockholder?**

A: Yes, some of our directors and officers, including the management participants, have interests in the merger that are different from, or in addition to, the interests that apply to our stockholders generally. For more information about these interests, see Special Factors Interests of the Company's Directors and Executive Officers in the Merger beginning on page 47.

**Q: Who are the management participants ?**

A: Douglas D. Troxel, the Chairman of our board of directors and Chief Technology Officer, Mark E. Woodward, our Chief Executive Officer and President and one of our directors, and Robert I. Pender, Jr., our Chief Financial Officer and Senior Vice President, Finance and Administration, and one of our directors, will contribute a portion of their current equity interests in Serena to Spyglass Merger Corp. in exchange for an ownership interest in Spyglass Merger Corp. prior to the completion of the merger. We expect that other members of our current senior management will also contribute a portion of their equity interests in Serena to Spyglass Merger Corp. in exchange for an ownership interest in Spyglass Merger Corp. prior to the completion of the merger. We refer to Messrs. Troxel, Woodward and Pender and these other individuals as the management participants.

**Q: What will happen to the Serena shares and options held by the management participants?**

A: The management participants will contribute a portion of their current shares of Serena common stock and/or Serena stock options to Spyglass Merger Corp. in exchange for an ownership interest in Spyglass Merger Corp. prior to the merger. At the effective time of the merger, these shares of Spyglass Merger Corp. will convert into shares of common stock in the surviving corporation in the merger. In addition, a portion of the options for common stock of Serena held by management participants will be exchanged for options for shares of common stock in the surviving corporation with equivalent value.

The Serena shares and stock options currently held by the management participants that are not contributed to Spyglass Merger Corp. prior to the merger or which are not exchanged for options with equivalent value in the surviving corporation in the merger will be treated the same as the shares and stock options held by our unaffiliated stockholders.

**Q: What is Spyglass Merger Corp.?**

A: Spyglass Merger Corp. is a Delaware corporation that was incorporated on November 7, 2005 by Silver Lake Partners II., L.P., an affiliate of a private equity firm known as Silver Lake Partners, solely for the purpose of completing the merger and the related financings and transactions. As of the date of this proxy statement, Silver Lake Partners II, L.P. is the sole stockholder of Spyglass Merger Corp.



**Table of Contents**

**Q: How will Spyglass Merger Corp. pay the merger consideration?**

A: Spyglass Merger Corp. will pay the merger consideration from the proceeds of equity investments and debt financing arrangements to be entered into in connection with the merger. In addition, it is anticipated that cash and cash equivalents held by Serena and its subsidiaries will be used to fund payment of a portion of the merger consideration. For more information about the financing of the merger, see Special Factors Financing of the Merger beginning on page 41.

**Q: When do you expect the merger to be completed?**

A: We are working to complete the merger as quickly as possible, and we anticipate that it will be completed in the first quarter of calendar year 2006. In order to complete the merger, we must obtain stockholder approval and the other closing conditions under the merger agreement must be satisfied or waived. See The Merger Agreement Conditions to the Merger beginning on page 76 and The Merger Agreement Effective Time beginning on page 65.

**Q: What are the conditions to the completion of the merger?**

A: The completion of the merger is subject to a number of conditions, including:

adoption of the merger agreement by the holders of a majority of the outstanding shares of our common stock;

the expiration or termination of the waiting periods under applicable antitrust laws, and the receipt of any required approvals from anti-trust authorities;

receipt of all material consents, approvals and authorizations legally required to be obtained from governmental authorities to consummate the merger;

the accuracy of the representations and warranties made by us and Spyglass Merger Corp. in the merger agreement, subject to specified materiality thresholds;

the performance, in all material respects, by Serena and Spyglass Merger Corp. of the covenants and agreements in the merger agreement;

the absence of any governmental injunctions, orders, decrees or rulings that have the effect of making the consummation of the merger illegal or that would require, prohibit or limit Serena or Spyglass Merger Corp. from taking specified actions;

the absence of any fact, change, development, event, effect, condition or occurrence that, individually or in the aggregate, has had or is reasonably likely to result in a material adverse effect on Serena;

the receipt by Spyglass Merger Corp. of a specified amount of debt financing proceeds;

the delivery of specified certifications; and



## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

the delivery of a solvency opinion to Serena and its board of directors if a solvency opinion is delivered to any of the senior lenders under the debt commitment letter or other lenders pursuant to an alternate debt financing arrangement.

If all of these conditions are not either satisfied or waived, the merger will not be completed even if our stockholders vote to adopt the merger agreement. See The Merger Agreement Conditions to the Merger beginning on page 76.

**Q: Will I owe any U.S. federal income tax as a result of the merger?**

A: Generally, the consideration received in the merger will be taxable for U.S. federal income tax purposes. You will recognize taxable gain or loss in the amount of the difference between \$24.00 and your adjusted

**Table of Contents**

tax basis for each share of Serena common stock that you own. However, special tax consequences may apply to management participants who acquire shares of Spyglass Merger Corp. For further information about the U.S. federal income tax consequences of the merger, see Special Factors Material U.S. Federal Income Tax Consequences beginning on page 51.

**Q: When and where is the special meeting?**

A: The special meeting will be held on \_\_\_\_\_, \_\_\_\_\_, 2006 beginning at \_\_\_\_\_: \_\_\_\_\_ Pacific Time, at \_\_\_\_\_.

**Q: Who can vote on the merger agreement?**

A: Holders of our common stock at the close of business on \_\_\_\_\_, 2006, the record date for the special meeting, may vote in person or by proxy on the merger agreement at the special meeting.

**Q: What vote of stockholders is required to adopt the merger agreement?**

A: For Serena to complete the merger, stockholders holding at least a majority of the shares of our common stock outstanding at the close of business on the record date must vote FOR the adoption of the merger agreement.

**Q: What vote of stockholders is required for the proposal to adjourn the meeting?**

A: The proposal to adjourn the meeting, if necessary, to solicit additional proxies requires the affirmative vote of a majority of the shares present and entitled to vote at the special meeting.

**Q: Are any stockholders required to vote in favor of adopting the merger agreement ?**

A: Yes. Under the terms of a contribution and voting agreement entered into in connection with the merger, Douglas D. Troxel and the Troxel Trust each have agreed to vote all shares he and it beneficially own in favor of adopting the merger agreement. As of the record date for the special meeting, Mr. Troxel and the Troxel Trust collectively may be deemed to beneficially own \_\_\_\_\_ shares of our common stock, which represent approximately \_\_\_\_\_ % of the outstanding shares of our common stock.

**Q: What does it mean if I receive more than one proxy card?**

A: If you have shares of our common stock that are registered differently and are in more than one account, you will receive more than one proxy card. Please follow the directions for voting on each of the proxy cards you receive to ensure that all of your shares are voted.

**Q: How do I vote without attending the special meeting?**

A: If you hold shares in your name as the stockholder of record, then you received this proxy statement and a proxy card from us. If you hold shares in street name through a broker, bank or other nominee, then you received this proxy statement from the nominee, along with the nominee's form of proxy card which includes voting instructions. In either case, you may vote your shares by Internet, telephone or mail without attending the special meeting. To vote by Internet or telephone 24 hours a day, seven days a week, follow the instructions on the proxy card. To vote by mail, mark, sign and date the proxy card and return it in the postage-paid envelope provided. Internet and telephone voting provide the same authority to vote your shares as if you returned your proxy card by mail.



## **Table of Contents**

### **Q: How do I vote in person at the special meeting?**

A: If you hold shares in your name as the stockholder of record, you may vote those shares in person at the special meeting by giving us a signed proxy card or ballot before voting is closed. If you want to do that, please bring proof of identification with you. Even if you plan to attend the special meeting, we recommend that you vote your shares in advance as described above, so your vote will be counted even if you later decide not to attend.

If you hold shares in street name through a broker, bank or other nominee, you may vote those shares in person at the special meeting only if you obtain and bring with you a signed proxy from the necessary nominee giving you the right to vote the shares. To do this, you should contact your nominee.

### **Q: Can I change my vote?**

A: After you vote your shares, whether by Internet, telephone or mail, you may change your vote at any time before voting is closed at the special meeting. If you hold shares in your name as the stockholder of record, you should write to our Corporate Secretary at our principal offices, 2755 Campus Drive, 3rd Floor, San Mateo, California 94403, stating that you want to revoke your proxy and that you need another proxy card. If you hold your shares in street name through a broker, bank or other nominee, you should contact the nominee and ask for a new proxy card. Alternatively, you may vote again by Internet or telephone. If you attend the special meeting, you may vote by ballot as described above, which will cancel your previous vote. Your last vote before voting is closed at the special meeting is the vote that will be counted.

### **Q: What happens if I do not respond?**

A: For purposes of the proposal to adopt the merger agreement, the failure to respond by returning your proxy card will have the same effect as voting against the merger agreement unless you vote for the merger agreement in person at the special meeting. For purposes of any proposal to adjourn the meeting, if necessary, to solicit proxies, the failure to respond by returning your proxy card will not count as a vote cast on the proposal but will count for determining whether a quorum is present.

### **Q: What is a quorum?**

A: A quorum of the holders of the outstanding shares of our common stock must be present for the special meeting to be held. A quorum is present if the holders of a majority of the outstanding shares of our common stock entitled to vote are present at the special meeting, either in person or represented by proxy. Withheld votes, abstentions and broker non-votes are counted as present for the purpose of determining whether a quorum is present.

### **Q: If my shares are held in street name by my broker, will my broker vote my shares for me?**

A: Yes, but only if you provide instructions to your broker on how to vote. You should follow the directions provided by your broker regarding how to instruct your broker to vote your shares. Without those instructions, your shares will not be voted.

### **Q: How are votes counted?**

A: For the proposal relating to the adoption of the merger agreement, you may vote FOR, AGAINST or ABSTAIN. Abstentions will not count as votes cast on the proposal relating to adoption of the merger agreement, but will count for the purpose of determining whether a

Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

quorum is present. If you ABSTAIN, it has the same effect as if you vote AGAINST the adoption of the merger agreement.

## **Table of Contents**

For the proposal to adjourn the meeting, if necessary, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement, you may vote FOR, AGAINST or ABSTAIN. Abstentions will not count as votes cast on the proposal to adjourn the meeting, if necessary, to solicit additional proxies, but will count for the purpose of determining whether a quorum is present.

If you sign your proxy card without indicating your vote, your shares will be voted FOR the adoption of the merger agreement, FOR adjournment of the meeting, if necessary, to solicit additional proxies, and in accordance with the recommendations of our board of directors on any other matters properly brought before the meeting for a vote.

A broker non-vote generally occurs when a broker, bank or other nominee holding shares on your behalf does not vote on a proposal because the nominee has not received your voting instructions and lacks discretionary power to vote the shares. Broker non-votes will not count as votes cast on a proposal, but will count for the purpose of determining whether a quorum is present. Broker non-votes will have the same effect as a vote against the adoption of the merger agreement.

### **Q: Who will bear the cost of this solicitation?**

A: We will pay the cost of this solicitation, which will be made primarily by mail. Proxies also may be solicited in person, or by telephone, facsimile, Internet or similar means, by our directors, officers or employees without additional compensation. In addition, D.F. King & Co., Inc. will provide solicitation services to us for a fee of approximately \$50,000 plus out-of-pocket expenses. We will, on request, reimburse stockholders who are brokers, banks or other nominees for their reasonable expenses in sending proxy materials to the beneficial owners of the shares they hold of record.

### **Q: Should I send in my stock certificates now?**

A: No. If the merger is completed, you will receive a letter of transmittal with instructions informing you how to send your stock certificates to the paying agent in order to receive the merger consideration. You should use the letter of transmittal to exchange Serena stock certificates for the merger consideration to which you are entitled as a result of the merger. If your shares are held in street name by your broker, you will receive instructions from your broker as to how to effect the surrender of your street name shares and receive cash for those shares. DO NOT SEND ANY STOCK CERTIFICATES WITH YOUR PROXY.

### **Q: What rights do I have to seek appraisal for my shares?**

A: If you wish, you may seek an appraisal of the fair value of your shares, but only if you comply with all requirements of Delaware law as described in the section of the proxy statement entitled Dissenters Rights of Appraisal beginning on page 99 and in Annex F of this proxy statement. Depending upon the determination of the Delaware Court of Chancery, the appraised fair value of your shares of Serena common stock, which will be paid to you if you seek an appraisal and comply with all requirements of Delaware law, may be more than, less than or equal to the per share consideration to be paid in the merger.

Merely voting against the adoption of merger agreement will not preserve your appraisal rights under Delaware law. In order to validly exercise and perfect appraisal rights under Section 262 of the Delaware General Corporation Law, among other things, you must not vote for the adoption of the merger agreement and you must deliver to Serena written demand for appraisal in compliance with Delaware law prior to the vote on the merger agreement at the special meeting. Failure to take all of the steps required under Delaware law may result in the loss of your appraisal rights.



**Table of Contents**

**Q: Who can help answer my other questions?**

A: The information provided above in the summary term sheet and in the question and answer format is for your convenience only and is merely a summary of the information contained in this proxy statement. You should carefully read this entire proxy statement, including the documents annexed to this proxy statement and the documents we refer to or incorporate by reference in this proxy statement. If you have more questions about the special meeting or the merger, you should contact Investor Relations at [ir@serena.com](mailto:ir@serena.com) or by telephone at (650) 522-6501. You may also contact our proxy solicitor, D.F. King & Co., Inc., at:

D.F. King & Co., Inc.

48 Wall Street

New York, NY 10005

(212) 269-5550 (collect)

(800) 549-6746 (toll-free)



---

**Table of Contents**

**CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING INFORMATION**

This proxy statement, the annexes attached to this proxy statement, the documents incorporated by reference in this proxy statement and the documents to which we refer you in this proxy statement may contain forward-looking statements. These forward-looking statements include, but are not limited to, statements about our plans, objectives, expectations and intentions and other statements that are not historical facts. The words expects, anticipates, intends, plans, believes, seeks, estimates and similar expressions are generally intended to identify forward-looking statements. Because these forward-looking statements involve risks and uncertainties, there are important factors that could cause actual results to differ materially from those expressed or implied by these forward-looking statements, including our plans, objectives, expectations and intentions and other factors discussed under Factors That May Affect Future Results under Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K and our Quarterly Reports on Form 10-Q incorporated by reference in this proxy statement. Factors that could cause or contribute to such differences include but are not limited to: the percentage of license revenue typically closed at the end of each quarter, making estimation of operating results prior to the end of the quarter extremely uncertain; our ability to successfully integrate our acquisition of Merant plc; economic conditions worldwide which may continue to affect the overall demand for software and services, which has resulted in and could continue to result in decreased revenues or lower revenue growth rates in the future; changes in revenue mix and seasonality; dependence on revenues from our installed base; continued demand for additional mainframe MIPS capacity; our ability to complete the assessment of internal controls over financial reporting as of January 31, 2006, as required by Section 404 of the Sarbanes-Oxley Act, which may impact market perception of the reliability of our internal controls over financial reporting and thus adversely affect the market price of our common stock; expansion of our international organizations; and our ability to manage our growth.

Statements about the expected timing, completion and effects of the proposed merger, the possibility of satisfying the conditions of the debt financing for the merger, and the litigation related to the merger also constitute forward-looking statements. We may not be able to complete the proposed merger on the terms described in this proxy statement or other acceptable terms or at all because of a number of factors, including the failure to obtain stockholder approval, the failure to obtain the necessary financing for the merger or the failure to satisfy the other closing conditions. In addition to other factors and matters contained in this document, we believe the following factors could cause actual results to differ materially from those discussed in the forward-looking statements:

the satisfaction of the conditions to consummate the merger, including the receipt of the required stockholder and regulatory approvals;

the actual terms of the financing arrangements obtained in connection with the merger;

the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement;

the outcome of the legal proceedings that have been instituted against us and others following announcement of the merger agreement;

the failure of the merger to close for any other reason;

the amount of the costs, fees, expenses and charges related to the merger; and

our substantial indebtedness following the consummation of the merger.

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

All forward-looking statements contained or incorporated by reference in the proxy statement speak only as of the date of this proxy statement or as of such earlier date that those statements were made and are based on current expectations or expectations as of such earlier date and involve a number of assumptions, risks and uncertainties that could cause the actual results to differ materially from such forward-looking statements. Except as required by law, we undertake no obligation to update or publicly release any revisions to these forward-looking statements or reflect events or circumstances after the date of this proxy statement.

**Table of Contents**

**SPECIAL FACTORS**

**Background of the Merger**

The board of directors and management of Serena regularly evaluate Serena's business and operations as well as the company's strategic direction and prospects. Over the course of the last several years, management has from time to time discussed potential transactions with strategic parties, including possible business combinations with other companies. Other than Serena's acquisition of Merant plc in 2004, none of these discussions progressed beyond the preliminary stage or resulted in any specific proposals.

On May 20, 2005, Mark Woodward, the President and Chief Executive Officer and a director of Serena, and Robert Pender, the Chief Financial Officer and a director of Serena, met with a representative of Merrill Lynch & Co., or Merrill Lynch, to discuss potential strategic alternatives for Serena. As part of this meeting, the Merrill Lynch representative discussed a wide variety of strategic alternatives, including a going-private transaction, and offered to coordinate meetings between management and private equity firms to explore these and other alternatives. At the request of Messrs. Woodward and Pender, following the meeting Merrill Lynch contacted five private equity firms in an effort to arrange these meetings.

On June 2, 2005, Kenneth Hao, a managing director of Silver Lake Partners, had an initial meeting with Mark Woodward and Robert Pender. The meeting was arranged by representatives of Merrill Lynch, and the purpose of the meeting was to introduce Serena's management to Silver Lake Partners, for Serena's management to learn more about Silver Lake Partners, including Silver Lake Partners' investment philosophy and focus, and for Silver Lake Partners to learn more about Serena.

On June 14, 2005, Mark Woodward, Robert Pender and a representative of Merrill Lynch met with a representative of a second private equity firm.

On June 15, 2005, Mark Woodward and Robert Pender met with a representative of Merrill Lynch to discuss the meetings with Silver Lake Partners and the second private equity firm. The Merrill Lynch representative updated the management team on his efforts to arrange meetings with other private equity sponsors.

On June 16, 2005, Mark Woodward and Robert Pender met with representatives of a third private equity firm. On June 22, 2005, Mr. Woodward had a lunch meeting with a representative of the third private equity firm to continue their earlier discussions.

On June 24, 2005, Serena and an affiliate of Silver Lake Partners entered into a non-disclosure agreement which included, among other things, a requirement that Silver Lake Partners and its representatives keep confidential any non-public information provided by Serena and a standstill restriction applicable to Silver Lake Partners.

On June 28, 2005, David Roux and Kenneth Hao, managing directors of Silver Lake Partners, met with Mark Woodward and Robert Pender. The participants at the meeting continued their discussions regarding Serena and Silver Lake Partners, including Silver Lake Partners' potential

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

interest in pursuing an investment in, or acquisition of, Serena.

On June 29, 2005, Mark Woodward and Robert Pender met with representatives of a fourth private equity firm. The fifth private equity firm that Merrill Lynch contacted decided not to meet with Serena's management. In connection with the meetings with the four other private equity firms, Serena entered into non-disclosure agreements with those firms that requested receipt of confidential information.

On June 29, 2005, David Roux, Kenneth Hao and Hollie Moore, a director of Silver Lake Partners, met with Mark Woodward and Robert Pender to continue discussions regarding Silver Lake Partners' potential interest in pursuing a transaction involving Serena.

## **Table of Contents**

Silver Lake Partners began a preliminary financial and business due diligence review of Serena on July 1, 2005. From this date through August 25, 2005, Silver Lake Partners reviewed financial and other business information provided by Serena and held discussions with Serena's senior management regarding Serena's business, operations, financial results, financial condition and prospects.

The board of directors of Serena met on July 5, 2005. At the meeting, members of senior management updated the board on Serena's business and financial condition, financial and operating results and recent stock price performance, which was lower than management expected in light of Serena's acquisition of Merant and the expansion of Serena's business. Management discussed with the board the merits of evaluating various alternatives for Serena to seek to increase stockholder value.

On July 7, 2005, Mark Woodward had a telephone conference with David Roux of Silver Lake Partners during which Mr. Roux expressed Silver Lake Partners' interest in continuing to learn more about Serena.

On July 14, 2005, Mark Woodward and Robert Pender met again with representatives of one of the private equity firms other than Silver Lake Partners. The purpose of the meeting was to allow the private equity firm to conduct more detailed financial and business due diligence on Serena, including a discussion of product strategies and future direction of Serena.

On August 3, 2005, David Roux met with David G. DeWalt, an independent member of the board of directors. During this meeting, Mr. Roux provided background information regarding Silver Lake Partners and various alternatives Mr. Roux believed Serena potentially could consider, including a potential transaction with Silver Lake Partners.

On August 8, 2005, David Roux and Hollie Moore of Silver Lake Partners had a telephone conference with Mark Woodward and Robert Pender to discuss how Silver Lake Partners could determine the receptivity of Douglas Troxel, who is the Chairman of the Board and Chief Technology Officer of Serena and the holder of approximately 28% of Serena's outstanding shares, to a potential transaction involving Silver Lake Partners. At the end of the call, Messrs. Woodward and Pender agreed to try to set up a meeting between Silver Lake Partners and Mr. Troxel.

On August 9, 2005, David Roux, Mark Woodward, Robert Pender and Douglas Troxel had a telephone conference in which Mr. Roux provided Mr. Troxel with background information regarding Silver Lake Partners. Mr. Roux also discussed various alternatives Mr. Roux believed Serena potentially could consider, and indicated that based on its work to date Silver Lake Partners was interested in further pursuing a potential transaction involving Serena, although no specific proposals were made.

On August 17, 2005, at a meeting of Serena's audit committee, Mark Woodward and Robert Pender informed the members of the audit committee that Serena's management was evaluating going private as a strategic alternative for Serena, and requested that Silver Lake Partners be permitted to make a presentation to the independent directors regarding going private transactions. The members of the audit committee agreed, subject to an opportunity for a board discussion on the matter prior to the presentation by Silver Lake Partners.

On August 24, 2005, Mark Woodward, Robert Pender and a representative of Merrill Lynch met with David Roux at Silver Lake Partners to discuss the private equity market.

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

The board of directors met on August 25, 2005. At the meeting, Mark Woodward and Robert Pender made a general presentation to the board of directors regarding strategic alternatives for Serena with a focus on going private. Following management's presentation, David Roux joined the meeting and made a presentation to the board of directors with respect to Silver Lake Partners' preliminary analysis of Serena based on Silver Lake Partners' initial due diligence, which included a preliminary valuation of Serena of \$22.00 per share. The Silver Lake Partners' presentation indicated that a going-private transaction potentially would include investments by

## Table of Contents

current management of Serena in the privately-held company that would result from the transaction. Following the presentation by Silver Lake Partners, Messrs. Woodward and Pender reviewed for the board of directors Silver Lake Partners' discussions to date with senior management and Douglas Troxel. The independent members of the board, Carl Bass, J. Hallam Hal Dawson, David DeWalt and Gregory J. Owens, then met in executive session. During the executive session, in light of the potential interests of Messrs. Troxel, Woodward and Pender in any transaction with Silver Lake Partners, the independent directors decided that the board should form a special committee composed of all of the independent directors to represent the interests of the unaffiliated stockholders of Serena, and that the special committee should retain its own legal and financial advisors. The independent directors discussed the retention of outside counsel to advise the special committee and determined that their preference would be Wilson Sonsini Goodrich & Rosati, Professional Corporation, or WSGR. The full board then reconvened, at which time the board adopted the recommendations of the independent directors and formed a special committee consisting of Messrs. Bass, Dawson, DeWalt and Owens, to be co-chaired by Messrs. Dawson and Owens, to determine whether Serena should pursue a transaction with Silver Lake Partners or any other party, to evaluate alternatives for Serena and to negotiate on behalf of Serena the terms of any such transaction. The special committee expressed its desire to retain WSGR as its legal advisor. Management recommended a list of investment banks for the special committee to consider retaining as its financial advisor.

On August 30, 2005, the special committee met. The special committee indicated that it had communicated to WSGR the desire to retain the firm to act as its legal advisor. The special committee then discussed the investment banks recommended by management, but decided to reject those investment banks because of potential conflicts of interest arising out of management's involvement in the potential transaction. Instead, the special committee decided to consider other investment banking firms of its choosing as potential financial advisors.

Beginning on September 1, 2005 and continuing through the announcement of the signing of a merger agreement, Silver Lake Partners conducted additional financial and business due diligence on Serena, including participating in meetings with various members of Serena's senior management. During this same period, the legal, tax and accounting advisors of Silver Lake Partners conducted a due diligence review of Serena.

On September 1, 2005 and September 2, 2005, the members of the special committee met with representatives of two different investment banks to discuss their possible role as financial advisor to the special committee, including Morgan Stanley & Co. Incorporated, or Morgan Stanley.

On September 2, 2005, the members of the special committee also met with representatives of WSGR to discuss the potential transaction, including the selection of a financial advisor.

On September 8, 2005, the board of directors, including the members of the special committee, met at the offices of WSGR. Vita Strimaitis, the senior vice president, general counsel and corporate secretary of Serena, was present, along with representatives of WSGR. The representatives of WSGR disclosed to the board certain prior and current business relationships involving WSGR and its partners and Silver Lake Partners as well as prior and current business relationships between Morgan Stanley and Silver Lake Partners. The board questioned the representatives of WSGR on these matters, after which time the special committee decided to retain WSGR as its legal advisor. WSGR then reviewed the fiduciary obligations of the board and the special committee in general and in the specific context of the exploration of a transaction with Silver Lake Partners or another third party. Management reported on the prior history of discussions with Silver Lake Partners and other private equity firms and potential strategic acquirors. Following this discussion, Messrs. Troxel, Woodward and Pender left the meeting, at which time the special committee met. The special committee discussed with the WSGR representatives its prior meetings with representatives of investment banking firms and its process for selecting a financial advisor. After discussion, the members of the special committee determined to retain Morgan Stanley to advise the special committee. Morgan Stanley subsequently confirmed to WSGR that WSGR's disclosure to the special committee about Morgan Stanley's relationships with Silver Lake Partners was accurate.

**Table of Contents**

On September 9, 2005, Messrs. Dawson, Woodward and Pender met with representatives of Morgan Stanley and WSGR at the offices of Morgan Stanley. Messrs. Woodward and Pender discussed the background of the potential transaction with Silver Lake Partners, discussed other potential financial and strategic parties that previously had been contacted by management and made a presentation regarding Serena's business. At the conclusion of the meeting, it was agreed that the Morgan Stanley representatives would initially contact Silver Lake Partners and the four other private equity firms with which Serena's management or its advisors had had previous discussions for the purpose of confirming what information they previously had received as well as their level of continued interest regarding pursuing a transaction with Serena.

Between September 9, 2005 and September 16, 2005, representatives of Morgan Stanley contacted each of the four private equity firms other than Silver Lake Partners with which Serena's management or Merrill Lynch had had previous discussions. During the course of these discussions, the representatives of Morgan Stanley offered to provide each of these parties with updated financial information and to arrange additional face-to-face meetings between each of these parties and members of Serena's management in order to allow each of these parties to conduct further due diligence on Serena. During those discussions, none of these other four private equity firms indicated an interest in pursuing a transaction with Serena on terms as favorable as those proposed by Silver Lake Partners, if at all.

On September 15, 2005, Mr. Dawson had a telephone conference with a representative of Morgan Stanley to discuss the status of Morgan Stanley's efforts in contacting other potential financial partners with which Serena's management or its advisors had had previous discussions. The Morgan Stanley representative reported on the results of Morgan Stanley's discussions with three of the four private equity firms other than Silver Lake Partners with which Serena's management had had previous discussions. The Morgan Stanley representative advised Mr. Dawson that Morgan Stanley recommended that the special committee contact other potential financial and strategic parties in addition to those that management and, subsequently, representatives of Morgan Stanley, had previously contacted. The Morgan Stanley representative also indicated that representatives of Morgan Stanley would attend due diligence meetings with potential financing sources for the Silver Lake transaction. Representatives of Morgan Stanley subsequently contacted the fourth private equity firm other than Silver Lake Partners with which Serena's advisors had had previous discussions.

On September 15, 2005, Mark Woodward, Robert Pender and other members of Serena's management attended a due diligence meeting with representatives of Silver Lake Partners and Silver Lake Partners' potential debt financing sources. Representatives of Morgan Stanley also attended this meeting. Subsequent to this meeting, the potential lenders conducted further financial and legal due diligence of Serena through the date on which the signing of a merger agreement was announced, including participation in further meetings with Serena's senior management and advisors.

On September 16, 2005, David Roux and Douglas Troxel discussed the results of Silver Lake Partners' due diligence to date, as well as the potential transaction involving Serena and Silver Lake Partners. Messrs. Roux and Troxel also discussed the potential participation of Mr. Troxel in the transaction through the rollover of a significant portion of Mr. Troxel's equity interest into the new privately-held company that would result from a going-private transaction. While Mr. Troxel indicated that he would potentially be interested in participating in such a transaction under the right terms and conditions, no agreement was reached regarding Mr. Troxel's participation in such a transaction.

On September 16, 2005, the special committee held a meeting at the offices of Morgan Stanley. Present at the meeting were representatives of Morgan Stanley and WSGR and, for a portion of the meeting, Messrs. Woodward and Pender. The representatives of WSGR began the meeting with a discussion of the fiduciary duties owed by the special committee to Serena and its stockholders, both in general and in view of the preliminary proposal received by Silver Lake Partners. Messrs. Woodward and Pender then joined the meeting, at which time the representatives of Morgan Stanley made a presentation to the special committee that included certain preliminary financial analyses of Serena and certain preliminary analyses of comparable companies and



## Table of Contents

comparable transactions. The participants then discussed the relative merits of exploring discussions with other private equity firms and potential strategic parties. The representatives of Morgan Stanley reviewed the four private equity firms, in addition to Silver Lake Partners, with which Serena's management or Merrill Lynch had already had preliminary discussions and the status of those discussions. The representatives of Morgan Stanley then discussed other private equity firms and other potential financial and strategic parties that Serena could approach, and the meeting participants discussed the rationale that each potential party might have for exploring a transaction with Serena. Messrs. Woodward and Pender then left the meeting. The special committee then directed the representatives of Morgan Stanley to contact certain additional private equity firms and other potential financial and strategic parties about the possibility of entering into a transaction with Serena.

Following the September 16, 2005 meeting of the special committee and throughout the remainder of September 2005, representatives of Morgan Stanley contacted representatives from five additional potential financial parties and four potential strategic parties to explore their respective interests in pursuing a transaction with Serena. During this timeframe, representatives of Morgan Stanley also continued to solicit any indications of interest from each of the four private equity firms other than Silver Lake Partners with which representatives of Morgan Stanley had previously been in contact. The representatives from Morgan Stanley asked each of the new parties that expressed interest in exploring a potential transaction with Serena to sign a confidentiality agreement and offered those parties financial information about Serena. During the course of these discussions, the representatives of Morgan Stanley also offered to arrange face-to-face meetings between each of these parties and members of Serena's management in order to allow each of these parties to conduct due diligence on Serena.

Representatives of Silver Lake Partners periodically contacted representatives of Morgan Stanley during early and mid-September to inquire about the expected timing of the special committee's consideration of Silver Lake Partners' preliminary proposal. Silver Lake Partners also indicated in these conversations that if the special committee were prepared to proceed expeditiously with Silver Lake Partners, Silver Lake Partners would be willing to negotiate a transaction with Serena that would provide Serena with significant flexibility to consider, and potentially accept, alternative transactions after a definitive agreement had been signed.

On September 18, 2005 and September 19, 2005, Mr. Dawson spoke with the other members of the special committee regarding soliciting a more favorable proposal from Silver Lake Partners. On September 19, 2005, Mr. Dawson instructed a representative of Morgan Stanley to propose to Silver Lake Partners that it acquire Serena at a purchase price of \$26.00 per share. On September 20, 2005, representatives of Morgan Stanley presented this proposal to David Roux of Silver Lake Partners, who did not accept the proposal. The Morgan Stanley representatives reported the outcome of this discussion to Messrs. Dawson and Owens of the special committee, at which time Messrs. Dawson and Owens instructed Morgan Stanley to continue to explore the interest of other potential financial and strategic parties in engaging in a transaction with Serena.

After David Roux's conversation with representatives of Morgan Stanley on September 20, 2005, representatives of Silver Lake Partners indicated to Mark Woodward and Robert Pender that Silver Lake Partners wanted the opportunity to present a revised proposal to the special committee.

On September 26, 2005, a representative of Morgan Stanley updated Hal Dawson regarding the potential transaction with Silver Lake Partners and Morgan Stanley's efforts to contact other parties that might be interested in a transaction with Serena. Mr. Dawson also had a discussion with a representative of WSGR regarding the progress of the potential transaction with Silver Lake Partners.

On September 26, 2005, Mark Woodward and Robert Pender met with representatives of Morgan Stanley to discuss the status of Morgan Stanley's efforts in evaluating other potential strategic alternatives and to prepare management for meetings with possible strategic parties and private equity firms.

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

On September 27, 2005, Mark Woodward and Robert Pender met with a representative of a sixth private equity firm. Representatives of Morgan Stanley arranged and were present at the meeting. The purpose of the meeting was to allow the private equity firm to conduct preliminary financial and business due diligence on

**Table of Contents**

Serena, including a discussion of product strategies and future direction of Serena, and to discuss various strategic alternatives for Serena, including the private equity firm potentially acquiring Serena in a going-private transaction.

On September 27, 2005, Mark Woodward and Robert Pender met with representatives of WSGR to discuss the status of the potential transaction with Silver Lake Partners and the other alternatives being explored by Serena.

On September 28, 2005, Hal Dawson discussed with representatives of Morgan Stanley and WSGR Silver Lake Partners' request to present a revised transaction proposal to the special committee at its meeting scheduled for October 5, 2005. Mr. Dawson agreed to the request, subject to Silver Lake Partners' agreeing to preview its proposal with Morgan Stanley prior to the special committee meeting.

On September 30, 2005, representatives of Morgan Stanley met with David Roux, Hollie Moore and Todd Morgenfeld, a principal of Silver Lake Partners, to review the status and timing of a potential revised transaction proposal from Silver Lake Partners, as well as to discuss certain results of Silver Lake Partners' due diligence investigation of Serena.

Throughout late September and early October 2005, representatives of Morgan Stanley continued their discussions with the additional private equity firms and other potential strategic parties concerning a potential transaction between each of such parties and Serena.

In early October 2005, representatives of Morgan Stanley had discussions with two additional private equity firms that had contacted Morgan Stanley to inquire about the possibility of a potential transaction with Serena. In response to these inquiries, representatives of Morgan Stanley offered to provide each of these parties with financial information about Serena and to arrange face-to-face meetings between each of these parties and members of Serena's management in order to allow each of these parties to conduct due diligence on Serena. One of these two private equity firms requested access to confidential information and signed a non-disclosure agreement. Following these initial contacts, neither party expressed any further interest in meeting with Serena.

On October 3, 2005, Mark Woodward and Robert Pender met with a representative of a seventh private equity firm. Representatives of Morgan Stanley arranged and were present at the meeting. The purpose of the meeting was to allow the private equity firm to conduct preliminary financial and business due diligence on Serena, including a discussion of product strategies and future direction of Serena, and to discuss various strategic alternatives for Serena, including the private equity firm potentially acquiring Serena and the possibility of a going-private transaction.

On October 4, 2005, at a meeting with representatives of Morgan Stanley, representatives of Silver Lake Partners indicated that its revised proposal to the special committee provided for a price of \$23.00 per share of Serena common stock. In addition, the representatives of Silver Lake Partners indicated that Silver Lake Partners had received commitment letters from its potential debt financing sources.

The special committee met again on October 5, 2005 at the offices of Morgan Stanley. Representatives of Morgan Stanley and WSGR attended the meeting. Also present for portions of the meeting were Messrs. Troxel, Woodward and Pender and Vita Strimaitis. The meeting began with the members of the special committee meeting in executive session with representatives of Morgan Stanley and WSGR. The representatives of Morgan Stanley discussed its discussions to date with Silver Lake Partners, including a proposed \$23.00 per share offer. The representatives of Morgan Stanley then discussed Silver Lake Partners' proposed price for Serena in the context of the historical range of prices for the common stock of Serena and the projections of analysts who covered Serena's common stock. The special committee then discussed with the representatives of Morgan Stanley the spectrum of potential parties who might be interested in a transaction with Serena, including private

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

equity firms and strategic parties as well as certain standalone alternatives and the relative merits of each. Serena's capital structure was discussed in detail and the likely effects of adjustments to Serena's financial leverage were considered. The representatives of Morgan Stanley reviewed the list of private equity firms and

## Table of Contents

strategic parties contacted by Morgan Stanley to date to gauge the extent of interest in the marketplace for a transaction with Serena and updated the special committee as to the status of those discussions. The representatives of Morgan Stanley made a presentation to the special committee that included preliminary financial analyses of Serena and preliminary analyses of comparable companies and comparable transactions. The special committee next considered and discussed with its advisors various possible responses to the proposal from Silver Lake Partners, and decided to reject the Silver Lake Partners' proposal. Then, Messrs. Troxel, Woodward and Pender joined the meeting and discussed the recent financial and stock performance of Serena and the outlook for the third quarter. The meeting participants then discussed the relative merits of, and potential for, taking Serena private, combining with a strategic party, or maintaining the current status and restructuring Serena's capital structure with additional debt financing. After concluding the meeting, the special committee reconvened later in the day at the offices of Silver Lake Partners. At the reconvened meeting, the special committee informed Mr. Roux and Ms. Moore of Silver Lake Partners that the special committee was unwilling to accept the \$23.00 per share offer. Mr. Roux and Ms. Moore then made a presentation detailing Silver Lake Partners' proposal to acquire Serena. After the presentation from Silver Lake Partners, the special committee reconvened at the offices of Morgan Stanley and again discussed with its advisors and Serena management the relative merits and risks of selling Serena to a private equity firm versus seeking to combine with a strategic acquiror versus various standalone alternatives. Finally, the special committee again met in executive session with its legal and financial advisors, at which time the special committee directed a representative of WSGR to indicate to Silver Lake Partners that the special committee would be willing to consider an offer to acquire Serena at a price in excess of \$24.00 per share.

Following the special committee meeting on October 5, 2005, at the direction of the special committee, representatives of Morgan Stanley continued their ongoing discussions with additional private equity firms and other potential financial and strategic parties about the possibility of entering into a transaction with Serena.

On October 6, 2005, a representative of WSGR spoke with David Roux at Silver Lake Partners to communicate the special committee's willingness to consider an offer to acquire Serena at a price in excess of \$24.00 per share, and subsequent to that conversation the representative of WSGR informed Hal Dawson of the communication with Silver Lake Partners.

On October 7, 2005, a representative of WSGR spoke again with David Roux of Silver Lake Partners, who informed the WSGR representative that the investment committee at Silver Lake Partners had approved an increase of the per share price for Serena to \$23.25. The representative of WSGR then communicated to Hal Dawson the revised proposal of Silver Lake Partners.

On October 10, 2005, Mark Woodward and Robert Pender met with representatives of a potential strategic party at the offices of WSGR. Representatives of Morgan Stanley arranged and were present at the meeting. The purpose of the meeting was to allow the potential strategic party to conduct preliminary financial and business due diligence on Serena and to discuss the potential for a strategic combination.

On October 10, 2005, Douglas Troxel called Hal Dawson to discuss the status of the potential transaction with Silver Lake Partners.

On October 10, 2005, the special committee met to discuss the options available to Serena. The members of the special committee agreed that they should insist on \$24.00 per share as the minimum price at which they would consider any transaction with Silver Lake Partners. Following the special committee meeting, Messrs. Dawson and Owens communicated this position to a representative of WSGR, who agreed to communicate the \$24.00 per share price to Silver Lake Partners. Mr. Dawson also contacted a representative of Morgan Stanley to update Morgan Stanley on the position of the special committee.

On October 10, 2005, representatives from Morgan Stanley suggested to Messrs. Dawson, Woodward and Pender the concept of structuring a transaction with Silver Lake Partners in which all of Serena's stockholders



## Table of Contents

other than Douglas Troxel could receive a higher price per share if Mr. Troxel would agree to contribute to Spyglass Merger Corp. a significant portion of his Serena shares at a lower value per share. Due to the relative size of Mr. Troxel's holdings of Serena common stock as compared to the holdings of the other members of Serena's management, a similar discount in the value of the per share amount for any shares of Serena common stock that the other members of Serena's management might contribute to the surviving corporation in the merger transaction was not discussed.

On October 11, 2005, a representative of WSGR had several conversations with David Roux. During these conversations, Mr. Roux indicated that Silver Lake Partners was willing to increase the per share price to \$23.50 and the representative of WSGR indicated that \$24.00 per share was the minimum price the special committee would consider with respect to the potential transaction. Mr. Roux also suggested potentially exploring a minority investment by Silver Lake Partners in Serena as an alternative to acquiring Serena, although neither the price nor any other specific terms of such an investment were discussed. Subsequently on October 11, 2005, the representative of WSGR reported the results of these conversations to Hal Dawson.

On October 11, 2005 and October 12, 2005, representatives of Morgan Stanley had several discussions with representatives of Silver Lake Partners regarding Silver Lake Partners' most recent proposal. During these discussions, the representatives of Morgan Stanley discussed the possibility that all of Serena's stockholders other than Douglas Troxel could receive \$24.00 per share if Mr. Troxel would agree to contribute to Spyglass Merger Corp. a significant portion of his Serena shares at a lower value per share, the net effect of which would be that Silver Lake Partners' effective per-share purchase price in the transaction would be \$23.50 per share.

On October 12, 2005, a representative of Morgan Stanley contacted a representative of Silver Lake Partners and reiterated that \$24.00 per share was the minimum price that the special committee would consider in connection with the potential transaction and the representative of Silver Lake Partners indicated that Silver Lake Partners was unable to agree to a price of greater than \$23.50 per share. Later in the day, after a series of communications among the parties, Silver Lake Partners determined that it would be prepared to proceed at \$24.00 per share if Douglas Troxel would be willing to accept a lower price with respect to shares that he would contribute to Spyglass Merger Corp. as part of the transaction. At the request of Silver Lake Partners, Mark Woodward and Robert Pender asked Mr. Troxel if he would consider contributing approximately two-thirds of his shares of Serena common stock to Spyglass Merger Corp. at a value of \$20.50 per Serena share. After the conversation with Messrs. Woodward and Pender, Mr. Troxel indicated that he would be prepared to consider Silver Lake Partners' proposal if the other terms and conditions of the transaction were acceptable to Mr. Troxel. Silver Lake Partners then conveyed to the special committee a revised proposal of \$24.00 per share and indicated that its revised proposal was conditioned on Mr. Troxel agreeing to contribute approximately two-thirds of his shares of Serena common stock to Spyglass Merger Corp. at a value of \$20.50 per share. Silver Lake Partners also indicated that, while the possibility of Mr. Troxel contributing his shares to Spyglass Merger Corp. at a value lower than \$24.00 per share had been discussed with Mr. Troxel, no agreement with Mr. Troxel to do so had been reached.

The special committee met to consider Silver Lake Partners' revised proposal on October 13, 2005 at the offices of Morgan Stanley. Representatives of Morgan Stanley and WSGR attended the meeting, as did Messrs. Troxel, Woodward and Pender for a portion of the meeting. The special committee first met with its legal and financial advisors. The representatives of Morgan Stanley provided an update on its discussions with various potential strategic parties, including one party that had expressed an interest in pursuing discussions with Serena. The special committee determined that it would be in the best interests of Serena to continue a dialogue with the potential strategic party and instructed Morgan Stanley to do so on behalf of Serena. The representatives of Morgan Stanley then discussed the latest proposal received from Silver Lake Partners. The representatives of Morgan Stanley also provided an update regarding its discussions with other potential private equity buyers. The representatives of WSGR then advised the special committee on its fiduciary obligations, both generally and in view of the Silver Lake Partners' proposal. Messrs. Troxel, Woodward and Pender then joined the meeting, at which time Mr. Pender discussed projections for Serena's operating results for the fiscal third quarter ending

**Table of Contents**

October 31, 2005 and for the fiscal fourth quarter ending January 31, 2006. Management also discussed the status of key initiatives and customers. The representatives of Morgan Stanley then discussed general market conditions in the software industry, noting recent pre-announcements of earnings by certain software companies and the generally negative reaction of the markets to the data contained in those pre-announcements. Management also provided an update on the due diligence being conducted by Silver Lake Partners and the financing for the proposed transaction. At the conclusion of the meeting, the special committee indicated to its advisors to pursue the proposed transaction with Silver Lake Partners while continuing to explore other alternatives. After the meeting, Hollie Moore of Silver Lake Partners updated the special committee regarding the status of confirmatory legal and financial diligence. Ms. Moore provided a presentation to the special committee that outlined the proposed transaction structure and valuation of Silver Lake Partners' proposal. Ms. Moore also reported that Silver Lake Partners had received draft commitment letters from several banks and was continuing to negotiate to improve a number of financing terms.

Following this meeting, representatives of Morgan Stanley continued to pursue discussions with the representatives of the potential strategic party with which they first met on October 10, 2005.

On October 19, 2005, Simpson Thacher & Bartlett LLP, counsel to Silver Lake Partners, sent an initial draft of the merger agreement to WSGR.

On October 24, 2005, at a lunch meeting, Mark Woodward, Robert Pender, David Roux, Todd Morgenfeld and Hollie Moore conducted preliminary discussions with respect to the potential terms of employment of Messrs. Woodward and Pender after completion of any transaction, as well as related equity incentive plans.

On October 25, 2005, Simpson Thacher sent to Gibson, Dunn & Crutcher LLP, counsel to Douglas Troxel, a draft term sheet with respect to Mr. Troxel's potential participation in the proposed transaction with Silver Lake Partners.

The special committee met again on October 31, 2005, at the offices of WSGR. Representatives of Morgan Stanley and WSGR and Robert Pender were also present at the meeting. Mr. Pender updated the special committee on expected financial results for the third fiscal quarter. The special committee next discussed with its advisors and Mr. Pender the recent increase in Serena's stock price and trading volume, and the possibility that there might be market speculation about a potential transaction. The WSGR representatives discussed the draft merger agreement, the draft term sheet prepared by Silver Lake Partners setting forth the proposed terms of the contribution of shares by Douglas Troxel and related governance matters concerning Serena following completion of the proposed transaction, and the initial discussion between senior management and Silver Lake Partners regarding proposed compensatory and other arrangements for management. The special committee instructed WSGR with regard to the continued negotiation of the terms of the proposed transaction with Silver Lake Partners. Mr. Pender also discussed with the special committee the status of management's negotiations with Silver Lake Partners concerning compensatory and other arrangements and the status of Silver Lake Partners' efforts to secure financing for the proposed transaction.

WSGR delivered its initial comments on the draft merger agreement to Simpson Thacher on November 1, 2005.

On November 1, 2005, David Roux had a follow up conversation with Mark Woodward and Robert Pender regarding potential management employment agreements and equity incentive plans.

On November 3, 2005, representatives of Simpson Thacher and WSGR had a telephone conference to discuss and negotiate the terms of the draft merger agreements.



A meeting of the board of directors of Serena was held on November 4, 2005. Representatives of Morgan Stanley and WSGR were present at the meeting. Mr. Pender discussed the projected third fiscal quarter financial

## Table of Contents

results. The representatives of Morgan Stanley made a presentation regarding Serena's historical stock price and various preliminary valuation considerations, including summary historical and projected financial performance and a preliminary discounted equity value analysis. The recent increase in the Serena stock price was discussed. The meeting participants expressed the belief that there had not been any change in the business or prospects of Serena and that the stock price increase was likely the result of market speculation about a potential transaction.

On November 4, 2005, Hal Dawson discussed with representatives of Morgan Stanley the status of the discussions with a strategic party. The representatives of Morgan Stanley reported that the potential party had expressed some strategic interest but was not prepared to move forward and negotiate a transaction at the present time.

On November 4, 2005, Simpson Thacher delivered to Gibson Dunn an initial draft of the contribution and voting agreement, which contemplated the contribution of a portion of Mr. Troxel's shares of Serena common stock to Spyglass Merger Corp. and his agreement to vote his shares in favor of the merger and against any competing proposals.

On November 5, 2005, Simpson Thacher delivered to Gibson Dunn, counsel to Messrs. Woodward and Pender, initial drafts of agreements setting forth the potential terms of employment of Mark Woodward and Robert Pender after the merger and the related equity arrangements.

During the period from November 5, 2005 through November 11, 2005, representatives of Simpson Thacher and WSGR continued to negotiate the terms of the merger agreement.

During the period between November 5, 2005 and November 11, 2005, representatives of Simpson Thacher and Gibson Dunn negotiated the terms of the agreements related to Mr. Troxel's participation in the transaction, including a stockholders agreement that he, the Troxel Trust and Silver Lake Partners would enter into upon the closing of the merger. During this same period, Messrs. Woodward and Pender and representatives of Silver Lake Partners, Gibson Dunn and Simpson Thacher negotiated the severance and other employment terms for Messrs. Woodward and Pender, as well as their investment commitment and equity participation in the surviving corporation.

On November 9, 2005, a telephonic meeting of the special committee was held. Also present were Douglas Troxel, Mark Woodward, Robert Pender, Vita Strimaitis, representatives of Morgan Stanley and representatives of WSGR. The special committee discussed with its advisors and management the recent increase in Serena's stock price. The representatives of Morgan Stanley made a presentation to the special committee during which they discussed their most recent valuation analyses concerning Serena and the proposed transaction with Silver Lake Partners. The representatives of Morgan Stanley also discussed the other potential financial sponsors and strategic parties that had been contacted by or on behalf of Serena in its efforts to explore alternative strategic transactions and the fact that no other party had submitted a proposal to undertake a transaction with Serena or had indicated that they intended to submit such a proposal. The WSGR representatives then discussed the current status of the proposed terms of the definitive transaction agreements. The WSGR representatives also reviewed with the special committee its fiduciary obligations in the context of the proposed transaction.

On November 10, 2005, meetings of the special committee and of the board of directors were held. Special committee members Hal Dawson, Gregory Owens, Carl Bass and, for a portion of the meetings, David DeWalt were present, as were directors Mark Woodward and Robert Pender. Also present were Vita Strimaitis and representatives from Morgan Stanley and WSGR. Mr. Pender reported on certain financial data reflecting the economics for members of management of certain aspects of the proposed transaction with Silver Lake Partners. A representative from WSGR discussed the fiduciary obligations of the board of directors and the special committee in light of the proposed transaction, including discussions of the efforts undertaken by the board of directors and the special committee to explore alternative transactions, the rights negotiated by the special committee to terminate the proposed transaction with Silver Lake Partners to accept an alternative superior



## Table of Contents

transaction under certain circumstances and the efforts of the board of directors and the special committee to be informed and analyze the fairness of the consideration to be received by the unaffiliated stockholders of Serena. The board of directors discussed a number of factors, including: its fiduciary duties; the recent upward movement in Serena's stock and the efforts undertaken by the board of directors and the special committee's advisors to understand this movement in the context of the recently completed fiscal quarter and rumors about a possible transaction; its views as to the long term prospects for Serena, including whether its views could have changed as a result of Serena's recently completed fiscal quarter and recent stock price movement; the merits of the proposed transaction with Silver Lake Partners and the risks and merits of not pursuing the transaction or not entering into the proposed transaction prior to the announcement of Serena's most recent quarterly results. The representatives of Morgan Stanley made a presentation regarding their valuation analyses of two sets of financial projections for Serena, one based on Wall Street research and a second prepared by management, and management offered its views on their level of confidence in achieving the results forecasted in these projections and the impact on the projections of recent results. A representative of WSGR discussed the terms of the proposed merger agreement. The special committee then met in executive session to discuss the merits and risks of the proposed transaction with Silver Lake Partners and the other alternatives available to Serena. The members of the special committee concluded that, subject to receipt of a fairness opinion of Morgan Stanley, the proposed transaction with Silver Lake Partners was fair to and in the best interests of Serena's unaffiliated stockholders, and the special committee recommended the transaction to the board of directors.

The representatives of Morgan Stanley then discussed the valuation materials Morgan Stanley had prepared and distributed in connection with the meetings. The representatives of Morgan Stanley also discussed with the board of directors its relationships with Silver Lake Partners, which WSGR had previously disclosed to and discussed with the special committee. The representatives of Morgan Stanley reviewed with the board of directors the work it had completed to assess the fairness of the proposed transaction and the assumptions made in the course of its analyses. Morgan Stanley then rendered its oral opinion to the special committee, subsequently confirmed in writing, that the consideration to be received by the holders of shares of Serena's common stock pursuant to the proposed transaction with Silver Lake Partners is fair from a financial point of view to such holders, other than Douglas Troxel. The members of the special committee and the members of the board of directors present at the meeting then unanimously approved the terms of the merger agreement and the transactions contemplated by the merger agreement and determined the merger, on the terms and conditions set forth in the merger agreement, advisable and to be fair to and in the best interests of Serena's unaffiliated stockholders.

On November 10, 2005, the execution and delivery of the merger agreement and related transaction documents was approved by the board of directors of Spyglass Merger Corp. and by the investment committee of Silver Lake Partners.

On November 11, 2005, Serena and Spyglass Merger Corp. executed the merger agreement and issued a press release announcing the merger.

## **Recommendations of the Special Committee and the Board of Directors**

The special committee of our board of directors unanimously approved the merger agreement and the transactions contemplated by the merger agreement and determined the merger, on the terms and conditions set forth in the merger agreement, advisable and to be fair to and in the best interests of our unaffiliated stockholders. The special committee unanimously recommended that the board of directors approve and declare advisable the merger and the merger agreement, submit the merger agreement to our stockholders and recommend that our stockholders approve the merger and adopt the merger agreement. The special committee considered a number of factors, as more fully described above under "Special Factors Background of the Merger" and below under "Special Factors Reasons for the Special Committee's Recommendation," in determining to recommend that the board of directors and stockholders adopt the merger agreement. **The special committee unanimously recommends that you vote FOR the adoption of the merger agreement.**

## Table of Contents

Our board of directors, acting upon the recommendation of the special committee, has approved the merger agreement and the transactions contemplated by the merger agreement, determined the merger, on the terms and conditions set forth in the merger agreement, advisable and to be fair to and in the best interests of our unaffiliated stockholders. The merger was unanimously approved by the directors present at the meeting called for that purpose, which included all of the directors except Douglas D. Troxel, who was absent from the meeting due to a prior commitment. The absence of Mr. Troxel from the meeting did not represent a disapproval of the merger agreement or a determination not to recommend that our stockholders vote for the adoption of the merger agreement. As described below under **Other Agreements** **Contribution and Voting Agreement**, Mr. Troxel has agreed to vote all shares of our common stock that he beneficially owns in favor of the adoption of the merger agreement. The board of directors considered a number of factors, as more fully described above under **Special Factors** **Background of the Merger** and below under **Special Factors** **Reasons for the Board's Recommendation**, in determining to recommend that the stockholders adopt the merger agreement. **Our board of directors recommends that you vote FOR the adoption of the merger agreement.**

## **Reasons for the Special Committee's Recommendation**

In reaching its conclusion regarding the fairness of the merger to the unaffiliated stockholders and its decision to approve the merger agreement and recommend its approval to the board of directors and our stockholders, the special committee considered the following factors, each of which the special committee believes supported its conclusion but which are not listed in any relative order of importance:

the special committee's belief that we face several challenges in our efforts to increase stockholder value as an independent publicly-traded company, including competition from companies with substantially greater scale, declining valuation multiples in our market sector and investor concern over our association with mainframe computing and that our long-term efforts to address these and other concerns are made more difficult by the short-term focus of the public equity markets on quarterly financial results;

the special committee's knowledge of our business, financial condition, results of operations and prospects and its belief that the merger is more favorable to our unaffiliated stockholders than any other alternative reasonably available to the company and our stockholders;

our recent financial performance, which included the failure to meet analysts' expectations during the first two quarters of the current fiscal year followed by higher than expected results in the recently completed third fiscal quarter;

estimated forecasts of our future financial performance prepared by our management, together with our management's view of our financial condition, results of operations, business and prospects;

the consideration to be received by our stockholders in the merger and a comparison of similar merger transactions;

the belief that the terms of the merger agreement, including the parties' representations, warranties and covenants, and the conditions to their respective obligations, are reasonable and were the product of arms-length negotiations between the special committee and its advisors and the Silver Lake investors and their advisors;

financial analyses and pro forma and other information with respect to Serena presented by Morgan Stanley to the special committee as discussed below under **Opinion of Morgan Stanley & Co. Incorporated**, including Morgan Stanley's opinion that the consideration to be paid pursuant to the merger agreement was fair from a financial point of view to the holders of our common stock, other than Douglas D. Troxel;

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

the commitments for debt financing represented by the commitment letters described below under Special Factors Financing of the Merger, the equity commitment of the Silver Lake investors contained in the contribution and voting agreement and the sponsor guarantee under which up to \$52,350,000 is payable to us by Silver Lake Partners II, L.P. upon a final court determination that Spyglass Merger Corp. has willfully breached the merger agreement;

**Table of Contents**

the fact that the merger consideration is all cash, so that the transaction allows our unaffiliated stockholders to immediately realize a fair value, in cash, for their investment and provides such stockholders certainty of value for their shares;

the fact that the \$24.00 per share price to be paid in the merger represented a 17% premium to the average closing prices of our common stock over the 30 trading day period prior to and including the date of the special committee's approval of the merger and a 21% premium to the average closing prices of our common stock over the 60 and 90 trading day periods prior to and including that date;

the 18% increase in our stock price in the nine trading days prior to the announcement of the transaction and the belief of the special committee that the increase may have resulted from rumors about a potential transaction;

the fact that, in order to induce the Silver Lake investors to agree to a price of \$24.00 for each Serena share exchanged in the merger, Mr. Troxel agreed that the number of shares of common stock of Spyglass Merger Corp. he will receive in exchange for the 7,518,483 Serena shares he will contribute to Spyglass Merger Corp. will be determined by valuing his Serena shares at \$20.50 per share, rather than \$24.00 per share, which will result in Mr. Troxel receiving substantially less value for each of the 7,518,483 Serena shares he is contributing to Spyglass Merger Corp. than unaffiliated stockholders will receive for each of their Serena shares in the merger;

the fact that, despite efforts conducted by us or on our behalf to determine the interest of other potential financial buyers and strategic partners, no alternative proposal to acquire us had been made. During the special committee process, 16 parties were contacted to explore a potential transaction with Serena, including 11 financial buyers in addition to Silver Lake Partners and four strategic partners, none of whom submitted a proposal to undertake a transaction with Serena or indicated that they intended to submit such a proposal. Moreover, neither the special committee, the board of directors nor the executive officers of Serena were aware of any firm offers made by any other person during the prior two years for the merger or consolidation of us with or into another person, the sale or transfer of all or substantially all of our assets or the acquisition of a controlling interest of our common stock;

the fact that, subject to compliance with the terms and conditions of the merger agreement, we are permitted to terminate the merger agreement prior to the completion of the merger in order to approve any alternative transaction proposed by a third party that is a superior proposal, as defined in the merger agreement, upon the prior or concurrent payment to Spyglass Merger Corp. or its designee of a \$35 million termination fee; and

the availability of appraisal rights to holders of our common stock who comply with all of the required procedures under Delaware law.

In addition, the special committee believed that sufficient procedural safeguards were and are present to ensure the fairness of the merger to the unaffiliated stockholders and to permit the special committee to represent effectively the interests of our unaffiliated stockholders. These procedural safeguards include the following:

the special committee, which consisted entirely of directors who are not officers or employees of Serena and who will not have an economic interest in Serena following the merger, acted to represent solely the interests of the unaffiliated stockholders and to negotiate with the Silver Lake investors on behalf of such stockholders;

no member of the special committee has an interest in the proposed merger different from that of our other stockholders (other than the management participants), other than the fact (a) that members of the special committee hold unvested stock options that by their terms will become vested in connection with the merger, (b) that all stock options held by the members of the special committee will be cashed-out as part of the merger in the same manner as all other stock options held by unaffiliated security holders and (c) that members of the special committee will be entitled to customary indemnification and officer and director liability insurance coverage under the terms of the merger agreement;





**Table of Contents**

the special committee retained and received advice from Morgan Stanley, as financial advisor, and Wilson Sonsini Goodrich & Rosati, as legal advisor, each of which has extensive experience in transactions similar to the proposed merger;

the special committee requested and received from Morgan Stanley an opinion that the consideration to be paid pursuant to the merger agreement was fair from a financial point of view to the holders of our common stock, other than Douglas D. Troxel;

the special committee, with the assistance of its legal and financial advisors, conducted extensive negotiations with the Silver Lake investors and had the authority to reject the terms of the merger. These negotiations led to an increase in the merger consideration to be received by the unaffiliated stockholders from a price of \$22.00 per share initially proposed by Silver Lake investors to \$24.00 per share. As a result of these negotiations and the terms under which Mr. Troxel is contributing 7,518,483 Serena shares to Spyglass Merger Corp., the special committee believed that \$24.00 per share was the highest price the Silver Lake investors were willing to pay in the merger;

our ability, subject to compliance with the terms and conditions of the merger agreement, to terminate the merger agreement prior to the completion of the merger in order to approve any alternative transaction proposed by a third party that is a superior proposal, as defined in the merger agreement, upon the prior or concurrent payment to Spyglass Merger Corp. or its designee of a \$35 million termination fee;

the fact that the unaffiliated stockholders have the right to vote on the merger agreement; and

the availability of appraisal rights to holders of our common stock who comply with all of the required procedures under Delaware law, which allows such holders to seek appraisal of the fair value of their shares as determined by the Delaware Court of Chancery (see Dissenters Rights of Appraisal ).

The special committee believes that the merger is procedurally fair to the unaffiliated stockholders despite the fact that the terms of the merger agreement do not require the approval of at least a majority of our unaffiliated stockholders. In this regard, the special committee believes that it was not necessary that a separate vote of the unaffiliated stockholders be required because the special committee was charged with representing the interests of such unaffiliated stockholders, it engaged financial and legal advisors to act on its behalf and it was actively involved in extended and numerous deliberations and negotiations regarding the merger on behalf of the unaffiliated stockholders.

The special committee also considered a variety of potentially negative factors concerning the merger agreement and the merger, including the following factors which are not listed in any relative order of importance:

the possibility that the merger might not be consummated and the effect of public announcement of the merger on our sales and operating results and our ability to attract and retain key management, marketing and technical personnel;

the fact that an all cash transaction would be taxable to our stockholders for U.S. federal income tax purposes;

the fact that our stockholders, other than the management participants, will not participate in any future earnings or growth of Serena and will not benefit from any appreciation in value of Serena;

the terms of management participation in the merger and the fact that our directors and executive officers have interests in the transaction that are different from, or in addition to, those of other stockholders of the company;

the fact that Morgan Stanley and its employees had certain business relationships with Silver Lake Partners, which were disclosed to the special committee, and that Wilson Sonsini Goodrich & Rosati and its partners also had certain business relationships with Silver Lake Partners, which were disclosed to the special committee, although with regard to both Morgan Stanley and Wilson Sonsini Goodrich & Rosati the special committee concluded that these relationships did not impair the independence of its advisors;

## **Table of Contents**

that fact that, pursuant to the terms of the contribution and voting agreement, Douglas D. Troxel and the Troxel Trust agreed to vote all of their shares of our common stock that they beneficially own (a) in favor of the merger and the related transactions and any matter required to effect those transactions and (b) against alternative acquisition proposals;

the restrictions on the conduct of our business prior to the completion of the merger; and

the fact that Serena is entering into a merger agreement with a newly formed corporation with essentially no assets and, accordingly, that any remedy in connection with a breach of the merger agreement by Spyglass Merger Corp. could be limited.

In the course of reaching its conclusion regarding the fairness of the merger to the unaffiliated stockholders and its decision to approve the merger, the special committee did not consider the liquidation value of our assets because it considers us to be a viable going concern business and views the trading history of our common stock as an indication of our value as such. The special committee believes that the liquidation value would be significantly lower than our value as a viable going concern and that, due to the fact that we are being sold as a going concern, the liquidation value is irrelevant to a determination as to whether the merger is fair to the unaffiliated stockholders. Further, the special committee did not consider net book value, which is an accounting concept, as a factor because it believed that net book value is not a material indicator of the value of Serena as a going concern but rather is indicative of historical costs. Our net book value per share as of July 31, 2005 was \$6.68. This value is substantially below the \$24.00 per share cash merger consideration. In addition, the special committee did not consider the prices paid by us for past purchases of our common stock because those purchases were made at the then current market price.

The foregoing discussion of the information and factors considered by the special committee is not intended to be exhaustive, but includes a number of the factors considered by the special committee. In view of the wide variety of factors considered by the special committee, the special committee did not find it practicable to, and did not, quantify or otherwise assign relative weights to the foregoing factors in reaching its conclusion. In addition, individual members of the special committee may have given different weights to different factors and may have viewed some factors more positively or negatively than others. The special committee approved and recommends the merger agreement and the merger and recommends that our stockholder vote to adopt the merger agreement based upon the totality of the information presented to and considered by it.

## **Reasons for the Board's Recommendation**

In reaching its conclusion regarding the fairness of the merger to our unaffiliated stockholders and its decision to approve the merger agreement and recommend the adoption of the merger agreement by our stockholders, the board of directors relied on the special committee's recommendations and the factors examined by the special committee as described above. In view of the wide variety of factors considered in connection with its evaluation of the proposed merger, the board of directors did not find it practicable to, and did not, quantify or otherwise assign relative weights to the foregoing factors in reaching its conclusion. In addition, individual members of the board of directors may have given different weights to different factors and may have viewed some factors more positively or negatively than others. Rather, the board of directors viewed its position as being based on the totality of the information presented to and considered by it. As part of its determination with respect to the merger, the board of directors adopted the conclusion of the special committee and the analysis underlying the conclusion, based upon its view as to the reasonableness of that conclusion and analysis.

## **Opinion of Morgan Stanley & Co. Incorporated**

The special committee of the board of directors of Serena retained Morgan Stanley to provide it with financial advisory services and a financial opinion in connection with a possible merger, sale or other business combination. The special committee selected Morgan Stanley to act as its

Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

financial advisor based on Morgan Stanley's qualifications, expertise and reputation and its knowledge of the business and affairs of Serena. At the

**Table of Contents**

meeting of the special committee on November 10, 2005, Morgan Stanley rendered its oral opinion, subsequently confirmed in writing, that as of November 10, 2005, and based upon and subject to the assumptions, qualifications and limitations set forth in the opinion, the consideration to be received by holders of shares of Serena common stock pursuant to the merger agreement was fair from a financial point of view to such holders other than Douglas D. Troxel, who is referred to in this section of the proxy statement as the Rollover Investor, who is exchanging a portion of his Serena common stock for common stock of Spyglass Merger Corp.

**The full text of the written opinion of Morgan Stanley, dated as of November 10, 2005, is attached to this proxy statement as Annex B. The opinion sets forth, among other things, the assumptions made, procedures followed, matters considered and limitations on the scope of the review undertaken by Morgan Stanley in rendering its opinion. We encourage you to read the entire opinion carefully. Morgan Stanley's opinion is directed to the special committee of Serena's board of directors and addresses only the fairness from a financial point of view of the consideration to be received by holders of shares of Serena common stock, other than the Rollover Investor, pursuant to the merger agreement as of the date of the opinion. It does not address any other aspects of the merger and does not constitute a recommendation to any holder of Serena common stock as to how to vote at the stockholders' meeting to be held in connection with this transaction. The summary of the opinion of Morgan Stanley set forth in this proxy statement is qualified in its entirety by reference to the full text of the opinion.**

In connection with rendering its opinion, Morgan Stanley, among other things:

reviewed certain publicly available financial statements and other business and financial information of Serena;

reviewed certain internal financial statements and other financial and operating data concerning Serena prepared by the management of Serena;

reviewed certain financial projections of Serena prepared by the management of Serena;

discussed the past and current operations and financial condition and the prospects of Serena with senior executives of Serena;

reviewed the reported prices and trading activity for Serena common stock and other publicly available information regarding Serena;

compared the financial performance of Serena and the prices and trading activity of Serena common stock with that of certain other comparable publicly traded companies and their securities;

reviewed the financial terms, to the extent publicly available, of certain comparable acquisition transactions;

participated in discussions and negotiations among representatives of Serena, Spyglass Merger Corp. and their financial and legal advisors;

reviewed the merger agreement, the contribution agreement between Spyglass Merger Corp. and the Rollover Investor, the financing agreements between Spyglass Merger Corp. and Lehman Brothers Inc., Lehman Commercial Paper Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, UBS Securities LLC and UBS Loan Finance LLC, substantially in the form of the drafts dated November 8, 2005 and certain related documents; and

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

performed such other analyses and considered other such factors as Morgan Stanley deemed appropriate.

In arriving at its opinion, Morgan Stanley assumed and relied upon without independent verification the accuracy and completeness of the information supplied or otherwise made available to Morgan Stanley by Serena for the purposes of this opinion. With respect to the financial projections, Morgan Stanley assumed that they had been reasonably prepared on bases reflecting the best available estimates and judgments of the future financial performance of Serena. Morgan Stanley also assumed that the merger would be consummated in accordance with

**Table of Contents**

the terms set forth in the merger agreement without any waiver, amendment or delay of any terms or conditions including, among other things, that Spyglass Merger Corp. would obtain financing for the merger in accordance with the terms set forth in the financing agreements and that the transactions contemplated by the contribution agreement would be consummated in accordance with its terms. Morgan Stanley relied upon, without independent verification, the assessment by the management of Serena of the validity of, and risks associated with, Serena's existing and future technologies, intellectual property, products and services, and the strategic rationale for the merger. Morgan Stanley assumed that in connection with the receipt of all the necessary governmental, regulatory or other approvals and consents required for the merger, no delays, limitations, conditions or restrictions will be imposed that would have a material adverse effect on the contemplated benefits expected to be derived in the merger. Morgan Stanley is not a legal, tax or regulatory advisor and relied upon, without independent verification, the assessment of Serena and its legal, tax or regulatory advisors with respect to such matters. This opinion did not address the fairness of any consideration to be received by the Rollover Investor pursuant to the merger agreement or the contribution agreement. Morgan Stanley did not make any independent valuation or appraisal of the assets or liabilities of Serena nor was Morgan Stanley furnished with any such appraisals. Morgan Stanley's opinion was necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to Morgan Stanley as of, November 10, 2005. Events occurring after such date may affect Morgan Stanley's opinion and the assumptions used in preparing it, and Morgan Stanley did not assume any obligation to update, revise or reaffirm its opinion.

The following is a brief summary of the material analyses performed by Morgan Stanley in connection with its oral opinion and the preparation of its written opinion letter dated November 10, 2005. The various analyses summarized below were based on closing prices for the common stock of Serena as of November 10, 2005, the day of the meeting of the special committee of the board of directors of Serena to consider and approve the merger. Some of these summaries of financial analyses include information presented in tabular format. In order fully to understand the financial analyses used by Morgan Stanley, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses.

*Trading Range Analysis.* Morgan Stanley performed a trading range analysis to provide background and perspective with respect to the historical share prices of Serena common stock. Morgan Stanley reviewed the range of closing prices of Serena common stock for various periods ending on November 10, 2005. Morgan Stanley observed the following:

<b>Period Ending November 10, 2005</b>	<b>Range of Closing Prices</b>	
Last 30 Trading Days	\$19.12	\$23.65
Last 60 Trading Days	\$18.00	\$23.65
Last 90 Trading Days	\$17.84	\$23.65
Last 12 Months	\$17.84	\$23.76
Unaffected Closing Price (10/28/2005)	\$20.03	

Morgan Stanley noted that the consideration per share of \$24.00 to be received by holders of Serena common stock pursuant to the merger agreement reflected a 1% premium to Serena's closing price as of November 10, 2005, a 17% premium to the average closing price per share of Serena common stock for the 30 trading days prior to and including November 10, 2005, a 21% premium to the average closing price per share of Serena common stock for the 60 trading days prior to and including November 10, 2005 and a 21% premium to the average closing price per share of Serena common stock for the 90 trading days prior to and including November 10, 2005. In addition, Morgan Stanley noted that on October 31, 2005, Serena's common stock price increased 9.3% and approximately 2.3 million shares of Serena common stock traded in the market, substantially higher than the average historical trading volume of Serena's common stock. Based in part on such price and volume data, Morgan Stanley estimated an unaffected price per share of Serena common stock of \$20.03, which was the closing price of Serena common stock as of October 28, 2005, the last trading day prior to October 31, 2005. Morgan Stanley noted that the consideration per share of \$24.00 received by holders of Serena common stock pursuant to the merger agreement reflected a 20% premium to Serena's unaffected closing price as of October 28, 2005.

**Table of Contents**

*Review of Projected Financial Performance.* Morgan Stanley reviewed Serena's projected financial performance based on publicly available equity research estimates through fiscal year 2007 and extrapolations to such equity research estimates for fiscal year 2008, which is referred to in this section as the Street Case. In addition, Morgan Stanley reviewed management estimates of Serena's projected financial performance for fiscal years 2006, 2007 and 2008, which is referred to in this section as the Management Case. A summary of the Street Case and Management Case is set forth in the following table:

Fiscal Year (January 31)	Street Case				Management Case			
	(\$ in millions)				(\$ in millions)			
Financial Statistic	Revenue		Operating Income		Revenue		Operating Income	
(Excluding Certain Non-Cash Expenses and Nonrecurring Items)	Amount	% Growth	Amount	% Margin	Amount	% Growth	Amount	% Margin
FY 2006	\$ 248	10%	\$ 84	34%	\$ 253	13%	\$ 88	35%
FY 2007	260	5	91	35	274	8	104	38
FY 2008	276	6	99	36	296	8	118	40

Morgan Stanley noted that Serena's historical operating income margins were higher than companies that shared similar business characteristics of Serena and that both the Street Case and Management Case assumed further improvement in Serena's operating income margins.

*Comparable Company Analysis.* Morgan Stanley performed a comparable company analysis, which attempts to provide an implied value of a company by comparing it to similar companies. Morgan Stanley compared certain financial information of Serena with publicly available consensus equity research estimates for other companies that shared similar business characteristics of Serena. The companies used in this comparison included the following software companies:

BMC Software, Inc.

Borland Software Corporation

Computer Associates International, Inc.

Compuware Corporation

Mercury Interactive Corporation

Quest Software, Inc.

For purposes of this analysis, Morgan Stanley analyzed the following statistics of each of these companies for comparison purposes:



## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

the ratio of aggregate value, defined as market capitalization plus total debt less cash and cash equivalents, to estimated calendar years 2005 and 2006 revenue (based on publicly available equity research estimates);

the ratio of aggregate value to trailing twelve-month EBITDA, defined as earnings before interest, taxes, depreciation and amortization;

the ratio of price to estimated cash earnings per share, defined as net income excluding certain non-cash and non-recurring expenses divided by fully diluted shares outstanding, for calendar year 2006 (based on publicly available equity research estimates); and

the ratio of price to estimated cash earnings per share for calendar years 2005 and 2006 (based on publicly available equity research estimates) divided by publicly available equity research consensus long-term earnings growth estimates.

**Table of Contents**

Based on the analysis of the relevant metrics for each of the comparable companies, Morgan Stanley selected representative ranges of financial multiples of the comparable companies and applied this range of multiples to the relevant Serena financial statistic. For purposes of estimated calendar years 2005 and 2006 revenues, EBITDA and earnings per share, Morgan Stanley utilized publicly available equity research estimates as of November 10, 2005. Based on Serena's outstanding shares and options as of November 10, 2005, Morgan Stanley estimated the implied value per Serena common share as of November 10, 2005 as follows:

Calendar Year Financial Statistic	Serena Financial Statistic	Comparable Company		Implied Value	
	(\$ in millions except EPS)	Multiple Range		Per Share for Serena	
Aggregate Value to Estimated 2005 Revenue	\$248	1.8x	3.5x	\$9.86	\$19.77
Aggregate Value to Estimated 2006 Revenue	\$260	1.5x	3.0x	\$8.51	\$17.82
Aggregate Value to LTM EBITDA	\$90	10.0x	12.0x	\$20.51	\$24.02
Price to Estimated 2006 Earnings Per Share	\$1.42	14.0x	18.0x	\$19.87	\$25.54
Price to Estimated 2005 Earnings Per Share to Estimated Long-Term Earnings Growth	\$1.31 / (12.5% LTG)	1.0x	2.0x	\$16.35	\$32.71
Price to Estimated 2006 Earnings Per Share to Estimated Long-Term Earnings Growth	\$1.42 / (12.5% LTG)	0.8x	2.0x	\$14.19	\$35.48

Morgan Stanley noted that the consideration per share to be received by holders of Serena common stock pursuant to the merger agreement was \$24.00.

No company utilized in the comparable company analysis is identical to Serena. In evaluating comparable companies, Morgan Stanley made judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of Serena, such as the impact of competition on the businesses of Serena and the industry generally, industry growth and the absence of any adverse material change in the financial condition and prospects of Serena or the industry or in the financial markets in general. Mathematical analysis (such as determining the average or median) is not in itself a meaningful method of using peer group data.

*Discounted Equity Value Analysis.* Morgan Stanley performed a discounted equity value analysis, which is designed to provide insight into the future value of a company's common equity as a function of the company's future earnings and its current forward price to earnings multiples. The resulting value is subsequently discounted to arrive at a present value for the company's stock price. In connection with this analysis, Morgan Stanley calculated a range of present equity values per share for Serena's common stock on a standalone basis. To calculate the discounted equity value, Morgan Stanley utilized calendar year 2007 forecasts from the Management Case and the Street Case. Morgan Stanley applied a range of price to earnings multiples to these estimates and applied a discount rate of 11.5% to these ranges.

The following table summarizes Morgan Stanley's analysis:

Calendar Year 2007 Financial Statistic	Serena Financial Statistic	Forward Price to Earnings Multiple Range		Implied Value Per Share of Serena	
Street Case Earnings Per Share	\$ 1.48	14.0x	18.0x	\$ 18.63	\$23.95

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

Management Case Earnings Per Share	\$	1.75	14.0x	18.0x	\$ 21.98	\$28.26
------------------------------------	----	------	-------	-------	----------	---------

Morgan Stanley noted that the consideration per share to be received by holders of Serena common stock pursuant to the merger agreement was \$24.00.

*Equity Research Analysts Price Targets.* Morgan Stanley reviewed and analyzed future public market trading price targets for Serena common stock prepared and published by equity research analysts. These targets reflect each analyst's estimate of the future public market trading price of Serena common stock. The range of

**Table of Contents**

undiscounted analyst price targets for Serena was \$22.00 to \$29.00 with a median price target of \$23.50. Morgan Stanley noted that the consideration per share to be received by holders of Serena common stock pursuant to the merger agreement was \$24.00.

The public market trading price targets published by the equity research analysts do not necessarily reflect current market trading prices for Serena common stock and these estimates are subject to uncertainties, including the future financial performance of Serena and future financial market conditions.

*Analysis of Precedent Transactions.* Morgan Stanley also performed a precedent transaction analysis, which is designed to imply a value of a company based on publicly available financial terms and premiums of selected transactions that share certain characteristics with the merger. In connection with its analysis, Morgan Stanley compared publicly available statistics for fourteen selected software sector transactions between January 1, 2002 and November 3, 2005 in which the target company was publicly traded and transaction values were between \$500 million and \$2 billion. The following is a list of these transactions:

**Selected Precedent Transactions (Target / Acquiror)**

Ascential Software Corporation / International Business Machines Corporation

Aspect Communications Corporation / Concerto Software, Inc.

Documentum, Inc. / EMC Corporation

DoubleClick Inc. / Hellman & Friedman, LLC

Geac Computer Corporation Ltd. / Golden Gate Capital

HNC Software Inc. / Fair Isaac Corporation

J.D. Edwards & Company / PeopleSoft, Inc.

Legato Systems, Inc / EMC Corporation

Netegrity, Inc. / Computer Associates International, Inc.

Overture Services, Inc. / Yahoo! Inc.

Precise Software Solutions Ltd. / Veritas Software Corporation

Square Co., Ltd. / Enix Corporation

Systems & Computer Tech / Sungard Data Systems Inc.

Verity Inc. / Autonomy Corporation

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

For each transaction noted above Morgan Stanley noted the following financial statistics where available: (1) aggregate value to last twelve months estimated revenues; (2) aggregate value to next twelve months estimated revenues; (3) implied premium to closing share price one trading day prior to announcement; and (4) implied premium to 30 trading day average closing share price prior to announcement. Based on the analysis of the relevant metrics for each of the precedent transactions, Morgan Stanley selected representative ranges of financial metrics of the precedent transactions and applied this range of metrics to the relevant Serena financial statistic. For purposes of estimating Serena's next twelve months revenues, Morgan Stanley utilized publicly available equity research estimates as of November 10, 2005. Morgan Stanley applied the representative range of one-day premiums to Serena's closing common stock price as of November 10, 2005 and October 28, 2005. The following table summarizes Morgan Stanley's analysis:

<u>Precedent Transaction Financial Statistic</u>	<u>Reference Range</u>		<u>Implied Value Per Share</u>		<u>Serena Merger Statistic</u>
Aggregate Value to Last Twelve Months (LTM) Revenues	3.0x	5.0x	\$ 16.97	\$26.87	4.4x
Aggregate Value to Next Twelve Months (NTM) Estimated Revenues	3.0x	4.0x	\$ 17.82	\$23.31	4.2x
Premium to 1-day prior closing share price	15%	40%	\$ 27.20	\$33.11	1%
Premium to unaffected closing share price (10/28/2005)	15%	40%	\$ 23.03	\$28.04	20%
Premium to 30-day average closing share price	10%	40%	\$ 22.62	\$28.79	17%

**Table of Contents**

Morgan Stanley noted that the consideration per share to be received by holders of Serena common stock pursuant to the merger agreement was \$24.00.

No company or transaction utilized in the precedent transaction analysis is identical to Serena or the merger. In evaluating the precedent transactions, Morgan Stanley made judgments and assumptions with regard to general business, market and financial conditions and other matters, which are beyond the control of Serena, such as the impact of competition on the business of Serena or the industry generally, industry growth and the absence of any adverse material change in the financial condition of Serena or the industry or in the financial markets in general, which could affect the public trading value of the companies and the aggregate value of the transactions to which they are being compared.

*Leveraged Buyout Analysis.* Morgan Stanley also analyzed Serena from the perspective of a potential purchaser that was primarily a financial buyer that would effect a leveraged buyout of Serena using a debt capital structure consistent with the merger. Morgan Stanley observed the implied 5-year internal rates of return on a potential equity investment utilizing the Street Case and the Management Case and extrapolations to both the Street Case and Management Case and assuming exit valuation multiples of 9.0x – 11.0x to calendar 2010E EBITDA and an assumed desired internal rate of return on equity investment. These ranges are detailed below:

<u>Leveraged Buyout Analysis Forecast Case</u>	<u>Internal Rate of Return Range</u>		<u>Implied Value Per Share of Serena</u>	
Street Case	15%	25%	\$18.95	\$23.93
Management Case	20%	25%	\$21.07	\$24.65

Morgan Stanley noted that the consideration per share to be received by holders of Serena common stock pursuant to the merger agreement was \$24.00.

In connection with the review of the merger by the special committee of Serena’s board of directors, Morgan Stanley performed a variety of financial and comparative analyses for purposes of rendering its opinion. The preparation of a fairness opinion is a complex process and is not necessarily susceptible to a partial analysis or summary description. In arriving at its opinion, Morgan Stanley considered the results of all of its analyses as a whole and did not attribute any particular weight to any analysis or factor it considered. Morgan Stanley believes that selecting any portion of its analyses, without considering all analyses as a whole, would create an incomplete view of the process underlying its analyses and opinion. In addition, Morgan Stanley may have given various analyses and factors more or less weight than other analyses and factors, and may have deemed various assumptions more or less probable than other assumptions. As a result, the ranges of valuations resulting from any particular analysis described above should not be taken to be Morgan Stanley’s view of the actual value of Serena. In performing its analyses, Morgan Stanley made numerous assumptions with respect to industry performance, general business and economic conditions and other matters. Many of these assumptions are beyond the control of Serena. Any estimates contained in Morgan Stanley’s analyses are not necessarily indicative of future results or actual values, which may be significantly more or less favorable than those suggested by such estimates.

Morgan Stanley conducted the analyses described above solely as part of its analysis of the fairness of the consideration pursuant to the merger agreement from a financial point of view to holders of shares of Serena common stock other than the Rollover Investor and in connection with the delivery of its opinion dated November 10, 2005 to the special committee of Serena’s board of directors. These analyses do not purport to be appraisals or to reflect the prices at which shares of common stock of Serena might actually trade.

The merger consideration was determined through arm’s length negotiations between Serena and Spyglass Merger Corp. and was recommended by the special committee of Serena’s board of directors for approval by Serena’s board of directors and approved by Serena’s board of directors.

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

Morgan Stanley provided advice to the special committee of Serena's board of directors during these negotiations. Morgan Stanley did not, however, recommend any specific merger consideration to Serena, the special committee of its board of directors or its

## **Table of Contents**

board of directors or that any specific merger consideration constituted the only appropriate consideration for the merger.

In addition, Morgan Stanley's opinion and its presentation to the special committee of Serena's board of directors was one of many factors taken into consideration by the special committee of Serena's board of directors in deciding to approve the merger. Consequently, the analyses as described above should not be viewed as determinative of the opinion of the special committee of Serena's board of directors or of Serena's board of directors with respect to the consideration or of whether the special committee of Serena's board of directors or Serena's board of directors would have been willing to agree to different consideration. The foregoing summary describes the material analyses performed by Morgan Stanley but does not purport to be a complete description of the analyses performed by Morgan Stanley.

The special committee of Serena's board of directors retained Morgan Stanley based upon Morgan Stanley's qualifications, experience and expertise. Morgan Stanley is an internationally recognized investment banking and advisory firm. Morgan Stanley, as part of its investment banking and financial advisory business, is continuously engaged in the valuation of businesses and securities in connection with mergers and acquisitions, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for corporate, estate and other purposes. In the ordinary course of Morgan Stanley's trading and brokerage activities, Morgan Stanley or its affiliates may at any time hold long or short positions, and may trade or otherwise effect transactions, for its own account or for the account of customers in the equity and other securities of Serena, affiliates of Spyglass Merger Corp. or any other parties, commodities or currencies involved in the merger. In addition, Morgan Stanley, its affiliates, directors or officers, including individuals working with Serena in connection with this transaction, may have committed and may commit in the future to invest in private equity funds managed by affiliates of Silver Lake Partners.

Under the terms of its engagement letter, Morgan Stanley provided the special committee of Serena's board of directors financial advisory services and a financial opinion in connection with the merger, and Serena has agreed to pay Morgan Stanley a fee of approximately \$8.7 million for its services, of which approximately \$2.2 million was payable upon announcement of the transaction and the remaining approximately \$6.5 million is contingent upon the consummation of the merger. Serena has also agreed to reimburse Morgan Stanley for its expenses, including attorneys' fees, incurred in connection with its engagement. In addition, Serena has agreed to indemnify Morgan Stanley and any of its affiliates, their respective directors, officers, agents and employees and each person, if any, controlling Morgan Stanley or any of its affiliates against certain liabilities and expenses, including certain liabilities under the federal securities laws, relating to or arising out of its engagement and any related transactions.

### **Position of Douglas D. Troxel as to Fairness**

Under the rules of the Securities and Exchange Commission, Douglas D. Troxel is required to provide certain information regarding his position as to the fairness of the merger to the unaffiliated stockholders of Serena. Mr. Troxel is making the statements included in this section solely for purposes of complying with such requirements. Mr. Troxel's views as to the fairness of the merger should not be construed as a recommendation to any stockholder as to how that stockholder should vote on the proposal to adopt the merger agreement.

Mr. Troxel has interests in the merger different from, and in addition to, the other stockholders of Serena. These interests are described under **Special Factors** **Interests of the Company's Directors and Executive Officers in the Merger**.

Mr. Troxel did not undertake a formal evaluation of the fairness of the merger or engage a financial advisor for such purposes, nor did he receive advice from the special committee's legal or financial advisors as to the fairness of the merger. However, Mr. Troxel believes that the merger agreement and the merger are substantively and procedurally fair to the unaffiliated stockholders of Serena and has adopted the analyses and



conclusions of the special committee based upon the reasonableness of those analyses and conclusions and his knowledge of

## **Table of Contents**

Serena, as well as the factors considered by, and the findings of, the special committee with respect to the fairness of the merger to such stockholders (see Special Factors Recommendation of the Special Committee and Board of Directors and Special Factors Reasons for the Special Committee's Recommendation). While Mr. Troxel is a director of Serena, because of his differing interests in the merger, he did not participate in the negotiation of the merger agreement or the evaluation or approval of the merger agreement and the merger. In addition, in order to induce the Silver Lake investors to agree to the price of \$24.00 per share for Serena common stock in the merger, Mr. Troxel agreed to contribute 7,518,483 Serena shares to Spyglass Merger Corp. at a valuation of \$20.50 per share, rather than \$24.00 per share. Mr. Troxel is therefore receiving substantially less value for the 7,518,483 Serena shares he is contributing to Spyglass Merger Corp. than unaffiliated stockholders will receive for their Serena shares in the merger.

The foregoing discussion of the information and factors considered and given weight by Mr. Troxel in connection with the fairness of the merger agreement and the merger is not intended to be exhaustive but is believed to include all material factors considered by Mr. Troxel. Mr. Troxel did not find it practicable to, and did not, quantify or otherwise attach relative weights to the foregoing factors in reaching his position as to the fairness of the merger agreement and the merger. Mr. Troxel believes that these factors provide a reasonable basis for their belief that the merger is fair to the unaffiliated stockholders of Serena.

### **Position of Spyglass Merger Corp. as to Fairness**

Under the rules of the Securities and Exchange Commission, Spyglass Merger Corp. is required to express its belief as to the fairness of the proposed merger to Serena's stockholders who are unaffiliated with Serena. The following is included in this proxy statement solely for the purpose of complying with such requirements.

Spyglass Merger Corp. believes that the merger is both substantively and procedurally fair to Serena's unaffiliated stockholders. However, Spyglass Merger Corp. has not undertaken any formal evaluation of the fairness of the merger to Serena's unaffiliated stockholders or engaged a financial advisor for such purposes. Moreover, Spyglass Merger Corp. did not participate in the deliberations of the special committee or receive advice from the special committee's advisors in connection with the merger.

The belief of Spyglass Merger Corp. that the merger is substantively and procedurally fair to the unaffiliated stockholders of Serena is based on the following factors:

the \$24.00 per share merger consideration and other terms and conditions of the merger agreement resulted from arm's-length negotiations between the special committee and its advisors and the Silver Lake investors and their advisors;

the special committee unanimously determined that the merger agreement and the merger is fair to the unaffiliated stockholders of Serena and in the best interests of such stockholders and the Company;

the merger was unanimously approved by the directors present at the meeting called for that purpose, which included all of the directors except Douglas D. Troxel, who was absent from the meeting due to a prior commitment;

notwithstanding that the Morgan Stanley opinion was provided solely for the information and assistance of the special committee and Spyglass Merger Corp. is not entitled to rely on such opinion, the fact that the special committee received an opinion from Morgan Stanley to the effect that, based upon and subject to the assumptions, qualifications and limitations set forth in such opinion, as of the

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

date of such opinion, the \$24.00 per share consideration to be received by holders of shares of Serena common stock pursuant to the merger agreement was fair from a financial point of view to such holders other than Douglas D. Troxel;

the fact that the \$24.00 per share price represented a premium of 17% over the average closing prices of a share of Serena's common stock over the 30 trading day period prior to and including the date of the special committee's approval of the merger and a 21% premium to the average closing price of Serena's common stock over the 60 and 90 trading day periods prior to and including that date;

## **Table of Contents**

the 18% increase in Serena's stock price in the nine trading days prior to the announcement of the transaction and the belief of Spyglass Merger Corp. that the increase may have resulted from rumors about a potential transaction;

the merger will provide consideration to the stockholders of Serena entirely in cash, which provides certainty of value;

the special committee retained and received advice from Morgan Stanley, as financial advisor, and Wilson Sonsini Goodrich & Rosati, as legal advisor, each of which has extensive experience in transactions similar to the proposed merger;

Spyglass Merger Corp. did not participate in or have any influence on the deliberative process of, or the conclusions reached by, the special committee or the negotiating positions of the special committee;

the availability of appraisal rights to holders of Serena common stock who comply with all of the required procedures under Delaware law; and

the merger agreement provides Serena with the ability to terminate the merger agreement in order to recommend, approve or accept a superior proposal that would, if completed, result in a transaction more favorable to Serena's stockholders from a financial point of view than the merger, subject to certain conditions, including the prior or concurrent payment of a termination fee of \$35 million.

Spyglass Merger Corp. considered each of the foregoing factors to support its determination as to the fairness of the merger to the unaffiliated stockholders of Serena. It did not find it practicable to assign, nor did it assign, relative weights to the individual factors considered in reaching its conclusion as to the fairness of the merger to such stockholders.

Spyglass Merger Corp. did not consider the company's net book value, which is an accounting concept, to be a factor in determining the substantive fairness of the transaction to Serena's unaffiliated stockholders because it believed that net book value is not a material indicator of the value of Serena as a going concern but rather an indicator of historical costs. Spyglass Merger Corp. also did not consider the liquidation value of Serena's assets as indicative of Serena's value primarily because of its belief that the liquidation value would be significantly lower than Serena's value as a viable going concern and that, due to the fact that Serena is being sold as a going concern, the liquidation value is irrelevant to a determination as to whether the merger is fair to the unaffiliated stockholders of Serena. Spyglass Merger Corp. did not consider the prices paid by Serena for past purchases of its common stock because those purchases were made at the then current market price

In making its determination as to the substantive fairness of the proposed merger to the unaffiliated stockholders of Serena, Spyglass Merger Corp. was not aware of any firm offers during the prior two years by any person for the merger or consolidation of Serena with another company, the sale or transfer of all or substantially all of Serena's assets, or a purchase of Serena's assets that would enable the holder to exercise control of Serena.

Spyglass Merger Corp.'s view as to the fairness of the merger to the unaffiliated stockholders of Serena is not a recommendation as to how any such stockholder should vote on the merger. The foregoing discussion of the information and factors considered and weight given by Spyglass Merger Corp. is not intended to be exhaustive but is believed to include all material factors considered by Spyglass Merger Corp.

## **Purposes and Structure of the Merger**

## Edgar Filing: SERENA SOFTWARE INC - Form PREM14A

The purpose of the merger for Serena is to enable its stockholders to immediately realize the value of their investment in Serena through their receipt of the per share merger price of \$24.00 in cash, without interest. In this respect, the special committee and the board of directors believed that the merger was more favorable to such stockholders than any other alternative reasonably available to Serena and its stockholders because of the uncertain returns to such stockholders in light of the company's business, operations, financial condition, strategy

## **Table of Contents**

and prospects, as well as the risks involved in achieving those prospects, and general industry, economic and market conditions, both on a historical and on a prospective basis. In particular, the special committee and the board believe that we face several challenges in our efforts to increase stockholder value as an independent publicly-traded company, including competition from companies with substantially greater scale, declining valuation multiples in our market sector and investor concern over our association with mainframe computing and that our long-term efforts to address these and other concerns are made more difficult by the short-term focus of the public equity markets on quarterly financial results. For these reasons, and the other reasons discussed under Special Factors Reasons for the Special Committee's Recommendation, and Special Factors Reasons for the Board's Recommendation, the special committee and the board of directors each have determined that the merger agreement and the merger, upon the terms and conditions set forth in the merger agreement, are advisable and fair to and in the best interests of our unaffiliated stockholders.

For Spyglass Merger Corp., the purpose of the merger is to allow its stockholders to own Serena and to bear the rewards and risks of such ownership after Serena's common stock ceases to be publicly traded. The transaction has been structured as a cash merger in order to provide the unaffiliated stockholders of Serena with cash for all of their shares and to provide a prompt and orderly transfer of ownership of Serena in a single step, without the necessity of financing separate purchases of Serena's common stock in a tender offer or implementing a second-step merger to acquire any shares of common stock not tendered into any such tender offer, and without incurring any additional transaction costs associated with such activities.

### **Certain Effects of the Merger**

If the merger agreement is adopted by our stockholders and the other conditions to the closing of the merger are either satisfied or waived, Spyglass Merger Corp. will be merged with and into Serena, with Serena being the surviving corporation. When the merger is completed, each share of Serena common stock issued and outstanding immediately prior to the effective time of the merger (other than shares held in the treasury of Serena, owned by Spyglass Merger Corp. or any wholly owned subsidiary of Spyglass Merger Corp. or Serena or held by Serena stockholders who are entitled to and who properly exercise appraisal rights under Delaware law) will be converted into the right to receive \$24.00 in cash, without interest.

Following the merger, the entire equity in Serena is expected to be owned by the Silver Lake investors and the management participants. If the merger is completed, Serena's current stockholders, other than the management participants, will cease to have any direct or indirect ownership interest in Serena or rights as stockholders of Serena. As a result, those stockholders of Serena will not participate in any future earnings or growth of Serena and will not benefit from any appreciation in value of Serena.

Following the merger, the entire interest in Serena's net book value and net earnings that is not ultimately held by the management participants through their ownership interest in the surviving corporation will be held by the Silver Lake investors. Based on his beneficial ownership of Serena common stock as of November 15, 2005, Mr. Troxel's interest in Serena's net book value as of the fiscal year ended January 31, 2005 was approximately \$82.4 million, which represented 27.7% of Serena's net book value as of that date, and his interest in Serena's net earnings for the fiscal year ended January 31, 2005 was approximately \$2.6 million, which represented 27.7% of Serena's net earnings for that period. Based on the expected beneficial ownership of Serena by Mr. Troxel following the merger, his interest in Serena's net book value as of the fiscal year ended January 31, 2005 would have been approximately \$90.4 million, which would have represented 30.4% of Serena's net book value as of that date, and his interest in Serena's net earnings for the fiscal year ended January 31, 2005 would have been approximately \$2.9 million, which would have represented 30.4% of Serena's net earnings for that period.

The merger agreement provides that immediately prior to the effective time of the merger, all outstanding options to acquire Serena common stock will become fully vested and immediately exercisable unless otherwise agreed between the holder of any of those options and Spyglass Merger Corp. Options will not be assumed and will be terminated or cancelled (other than certain options held by the management participants)

and the option

**Table of Contents**

holders will generally be entitled to receive cash, without interest, in an amount equal to the product of (1) the total number of shares of Serena common stock subject to the option multiplied by (2) the excess, if any, of \$24.00 over the exercise price per share of Serena common stock under such option, less any applicable withholding taxes.

Serena's common stock is currently registered under the Securities Exchange Act of 1934 and is quoted on The NASDAQ National Market under the symbol SRNA. As a result of the merger, Serena will become a privately held corporation, and there will be no public market for its common stock. After the merger, the common stock will cease to be quoted on The NASDAQ National Market, and price quotations with respect to sales of shares of common stock in the public market will no longer be available. In addition, we expect that the registration of our common stock under the Securities Exchange Act of 1934 will be terminated. This termination will make certain provisions of the Exchange Act, such as the requirement of filing periodic and other reports with the Securities and Exchange Commission and furnishing a proxy or information statement in connection with stockholders' meetings, no longer applicable to Serena on account of its common stock.

At the effective time of the merger, the directors of Spyglass Merger Corp. together will be the initial directors of the surviving corporation and we expect that most of the current executive officers of Serena will continue as executive officers of the surviving corporation. Pursuant to the stockholders agreement that will be entered into by Spyglass Merger Corp., Douglas D. Troxel, the Troxel Trust and the Silver Lake Investors immediately prior to the completion of the merger, the board of directors of the surviving corporation initially will include the chief executive officer of the surviving corporation and two board members designated by the Troxel Trust. The certificate of incorporation of Serena will be amended as set forth in an exhibit to the merger agreement so as to contain only the provisions of the certificate of incorporation of Spyglass Merger Corp. as in effect immediately prior to the effective time of the merger, except that the name of the surviving corporation will continue to be Serena Software, Inc. The bylaws of Spyglass Merger Corp. in effect immediately prior to the effective time of the merger will become the bylaws of the surviving corporation.

It is expected that, upon consummation of the merger, the operations of Serena will be conducted substantially as they currently are being conducted, except that Serena will not be subject to the obligations and constraints, and the related direct and indirect costs and personnel requirements, associated with having publicly-traded equity securities. The Silver Lake invest