

09-04-1998

FR SHEET ONLY

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

1-31-92



Tab settings

To the Honorable Commissioner

100810426

the attached original documents or copy thereof.

Mud 9-2-98

1. Name of conveying party(ies):

Cemax-Icon, Inc.

- Individual(s)
- General Partnership
- Corporation-State (California)
- Other
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: August 2, 1996

2. Name and address of receiving party(ies):

Name: Cemax-Icon, Inc.

Internal Address:

Street Address: 47281 Mission Falls Court

City: Fremont State: CA ZIP: 94539

- Individual(s) citizenship:
- Association
- General Partnership
- Limited Partnership
- Corporation-State Delaware
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No

(Designations must be a separate document from Assignment)

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark registration No.(s)

See Schedule A

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Keith E. Sharkin, Esq.

Internal Address: Nims, Howes, Collison, Hansen & Lackert

Street Address: 605 Third Avenue

Suite 3500

City: New York State: NY ZIP: 10158

6. Total number of applications and registrations involved: 10

7. Total fee (37 CFR 3.41): \$ 265.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

09/03/1998 DMGUYEN 00000098 1995168

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01 FC:481  
02 FC:482

40.00 OP  
225.00 OP

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Keith E. Sharkin  
Name of Person Signing

*Keith E. Sharkin*  
Signature

August 27, 1998  
Date

Total number of pages comprising cover sheet: 2

GMB No. 0851-0011 (exp. 4/94)

Do not detach this portion TRADEMARK REEL: 1777 FRAME: 0592

**SCHEDULE A**

<u>MARK</u>	<u>REGISTRATION NO.</u>
ACCURAD	1,995,168
ARCHIVEMANAGER	2,050,285
AUTORAD	1,995,169
CEMAX	1,430,986
CLINICALVIEW	1,993,061
ICON MEDICAL SYSTEMS & Design	1,960,029
NETCOMM	1,961,719
RADACCESS	1,984,810
SCANLINK	2,023,223
TELEMAX	1,944,148

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FILED IN  
In the office of the Secretary of State  
of the State of California

AUG 13 1996

*Bill Jones*  
Bill JONES, Secretary of State

*1264495 out*

**AGREEMENT AND PLAN OF MERGER  
OF CEMAX-ICON, INC.  
A DELAWARE CORPORATION  
AND CEMAX-ICON, INC.  
A CALIFORNIA CORPORATION**

THIS AGREEMENT AND PLAN OF MERGER dated as of August 2, 1996 (the "Agreement") is between Cemax-Icon, Inc., a Delaware corporation ("Cemax-Icon, Inc. Delaware") and (Cemax-Icon, Inc.) a California corporation ("Cemax-Icon, Inc. California"). Cemax-Icon, Inc. Delaware and Cemax-Icon, Inc. California are sometimes referred to herein as the "Constituent Corporations."

**RECITALS**

A. Cemax-Icon, Inc. Delaware is a corporation duly organized and existing under the laws of the State of Delaware and has an authorized capital of 80,000,000 shares, 50,000,000 of which are designated "Common Stock," \$.001 par value and 30,000,000 of which are designated "Preferred Stock." Of such authorized shares of Preferred Stock, 1,985,878 shares are designated "Series A Preferred Stock, \$.001 par value." As of the date of this Agreement of Merger, 100 shares of Common Stock were issued and outstanding, all of which were held by Cemax-Icon, Inc. California. No shares of Preferred Stock were outstanding.

B. Cemax-Icon, Inc. California is a corporation duly organized and existing under the laws of the State of California and has an authorized capital of 80,000,000 shares, 50,000,000 of which are designated "Common Stock" and 30,000,000 of which are designated "Preferred Stock." Of such authorized shares of Preferred Stock, 1,985,878 shares are designated "Series A Preferred Stock." As of the date of this Agreement of Merger, 11,782,117 shares of Common Stock and 1,985,878 shares of Series A Preferred Stock were issued and outstanding.

C. The Board of Directors of Cemax-Icon, Inc. California has determined that, for the purpose of effecting the reincorporation of Cemax-Icon, Inc. California in the State of Delaware, it is advisable and in the best interests of Cemax-Icon, Inc. California that Cemax-Icon, Inc. California merge with and into Cemax-Icon, Inc. Delaware upon the terms and conditions herein provided.

D. The respective Boards of Directors of Cemax-Icon, Inc. Delaware and Cemax-Icon, Inc. California have approved this Agreement and have directed that this Agreement be submitted to a vote of their respective stockholders and executed by the undersigned officers.

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, Cemax-Icon, Inc. Delaware and Cemax-Icon, Inc. California hereby agree, subject to the terms and conditions hereinafter set forth, as follows:

TRADEMARK  
REEL: 1777 FRAME: 0594

## I. MERGER

1.1 **Merger.** In accordance with the provisions of this Agreement, the Delaware General Corporation Law and the California Corporations Code, Cemax-Icon, Inc. California shall be merged with and into Cemax-Icon, Inc. Delaware (the "Merger"), the separate existence of Cemax-Icon, Inc. California shall cease and Cemax-Icon, Inc. Delaware shall be, and is herein sometimes referred as, the "Surviving Corporation", and the name of the Surviving Corporation shall be Cemax-Icon, Inc.

1.2 **Filing and Effectiveness.** The Merger shall become effective when the following actions shall have been completed:

(a) This Agreement and Merger shall have been adopted and approved by the stockholders of each Constituent Corporation in accordance with the requirements of the Delaware General Corporation Law and the California General Corporation Law;

(b) All of the conditions precedent to the consummation of the Merger specified in this Agreement shall have been satisfied or duly waived by the party entitled to satisfaction thereof;

(c) An executed Agreement and Plan of Merger meeting the requirements of the Delaware General Corporation Law shall have been filed with the Secretary of State of the State of Delaware; and

The date and time when the Merger shall become effective, as aforesaid, is herein called the "Effective Date of the Merger."

1.3 **Effect of the Merger.** Upon the Effective Date of the Merger, the separate existence of Cemax-Icon, Inc. California shall cease and Cemax-Icon, Inc. Delaware, as the Surviving Corporation, (i) shall continue to possess all of its assets, rights, powers and property as constituted immediately prior to the Effective Date of the Merger, (ii) shall be subject to all actions previously taken by its and Cemax-Icon, Inc. California's Board of Directors, (iii) shall succeed, without other transfer, to all of the assets, rights, powers and property of Cemax-Icon, Inc. California in the manner more fully set forth in Section 259 of the Delaware General Corporation Law, (iv) shall continue to be subject to all of the debts, liabilities and obligations of Cemax-Icon, Inc. Delaware as constituted immediately prior to the Effective Date of the Merger, and (v) shall succeed, without other transfer, to all of the debts, liabilities and obligations of Cemax-Icon, Inc. California in the same manner as if Cemax-Icon, Inc. Delaware had itself incurred them, all as more fully provided under the applicable provisions of the Delaware General Corporation Law and the California Corporations Code.

## II. CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

2.1 Certificate of Incorporation. The Certificate of Incorporation of Cemax-Icon, Inc. Delaware as in effect immediately prior to the Effective Date of the Merger shall continue in full force and effect as the Certificate of Incorporation of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

2.2 Bylaws. The Bylaws of Cemax-Icon, Inc. Delaware as in effect immediately prior to the Effective Date of the Merger shall continue in full force and effect as the Bylaws of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

2.3 Directors and Officers. The directors and officers of Cemax-Icon, Inc. California immediately prior to the Effective Date of the Merger shall be the directors and officers of the Surviving Corporation until their successors shall have been duly elected and qualified or until as otherwise provided by law, the Certificate of Incorporation of the Surviving Corporation or the Bylaws of the Surviving Corporation.

## III. MANNER OF CONVERSION OF STOCK

3.1 Cemax-Icon, Inc. California Common Shares. Upon the Effective Date of the Merger, each share of Cemax-Icon, Inc. California Common Stock, \$.001 par value, issued and outstanding immediately prior thereto shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into and exchanged for one fully paid and nonassessable share of Common Stock, \$.001 par value, of the Surviving Corporation. No fractional share interests of Surviving Corporation Common Stock shall be issued. In lieu thereof, any fractional share interests to which a holder would otherwise be entitled shall be aggregated.

3.2 Cemax-Icon, Inc. California Preferred Shares.

(a) Upon the Effective Date of the Merger, each share of Series A Preferred Stock of Cemax-Icon, Inc. California, \$.001 par value, issued and outstanding immediately prior to the Merger, which shares are convertible into such number of shares of Cemax-Icon, Inc. California Common Stock as set forth in the Cemax-Icon, Inc. California Articles of Incorporation, as amended, shall by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into or exchanged for one fully paid and nonassessable share of Series A Preferred Stock of the Surviving Corporation, \$.001 par value, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation, which share of Preferred Stock shall be convertible into the same number of shares of the Surviving Corporation's Common Stock, \$.001 par value, as such share of Cemax-Icon, Inc. California Preferred Stock was so

convertible into immediately prior to the Effective Date of the Merger, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

3.3 Cemax-Icon, Inc. California Options, Stock Purchase Rights and Convertible Securities.

(a) Upon the Effective Date of the Merger, the Surviving Corporation shall assume the obligations of Cemax-Icon, Inc. California under, and continue, the option plans (including without limitation the 1986 Amended Incentive Stock Plan, 1996 Employee Stock Purchase Plan and 1996 Director Option Plan) and all other employee benefit plans of Cemax-Icon, Inc. California. Each outstanding and unexercised option, other right to purchase, or security convertible into, Cemax-Icon, Inc. California Common Stock or Cemax-Icon, Inc. California Preferred Stock (a "Right") shall become, subject to the provisions in paragraph (c) hereof, an option, right to purchase or a security convertible into the Surviving Corporation's Common Stock or Preferred Stock, respectively, on the basis of one share of the Surviving Corporation's Common Stock or Preferred Stock, as the case may be, for each one share of Cemax-Icon, Inc. California Common Stock or Preferred Stock, as the case may be, issuable pursuant to any such Right, on the same terms and conditions and at an exercise price equal to the exercise price applicable to any such Cemax-Icon, Inc. California Right at the Effective Date of the Merger. This paragraph 3.3(a) shall not apply to Cemax-Icon, Inc. California Common Stock or Preferred Stock. Such Common Stock and Preferred Stock are subject to paragraph 3.1 and 3.2, respectively, hereof.

(b) A number of shares of the Surviving Corporation's Common Stock and Preferred Stock shall be reserved for issuance upon the exercise of options, stock purchase rights and convertible securities equal to the number of shares of Cemax-Icon, Inc. California Common Stock and Cemax-Icon, Inc. California Preferred Stock so reserved immediately prior to the Effective Date of the Merger.

(c) The assumed Rights shall not entitle any holder thereof to a fractional share upon exercise or conversion (unless the holder was entitled to a fractional interest immediately prior to the Merger). In lieu thereof, any fractional share interests to which a holder of an assumed Right (other than an option issued pursuant to Cemax-Icon, Inc. Delaware's 1996 Amended Incentive Stock Plan, 1996 Employee Stock Purchase Plan and 1996 Director Option Plan) would otherwise be entitled upon exercise or conversion shall be aggregated (but only with other similar Rights which have the same per share terms). To the extent that after such aggregation, the holder would still be entitled to a fractional share with respect thereto upon exercise or conversion, the holder shall be entitled upon the exercise or conversion of all such assumed Rights pursuant to their terms (as modified herein), to one full share of Common Stock or Preferred Stock in lieu of such fractional share. With respect to each class of such similar Rights, no holder will be entitled to more than one full share in lieu of a fractional share upon exercise or conversion.

Notwithstanding the foregoing, with respect to options issued under the Cemax-Icon, Inc. California 1986 Amended Incentive Stock Plan, 1996 Employee Stock Purchase Plan and 1996 Director Option Plan that are assumed in the Merger, the number of shares of Common Stock to which the holder would be otherwise entitled upon exercise of each such assumed option following the Merger shall be rounded down to the nearest whole number and the exercise price shall be rounded up to the nearest whole cent. In addition, no "additional benefits" (within the meaning of Section 424(a)(2) of the Internal Revenue Code of 1986, as amended) shall be accorded to the optionees pursuant to the assumption of their options.

3.4 Cemax-Icon, Inc. Delaware Common Stock. Upon the Effective Date of the Merger, each share of Common Stock, \$.001 par value, of Cemax-Icon, Inc. Delaware issued and outstanding immediately prior thereto shall, by virtue of the Merger and without any action by Cemax-Icon, Inc. Delaware, the holder of such shares or any other person, be canceled and returned to the status of authorized but unissued shares.

3.5 Exchange of Certificates. After the Effective Date of the Merger, each holder of an outstanding certificate representing shares of Cemax-Icon, Inc. California Common Stock or Preferred Stock may be asked to surrender the same for cancellation to an exchange agent, whose name will be delivered to holders prior to any requested exchange (the "Exchange Agent"), and each such holder shall be entitled to receive in exchange therefor a certificate or certificates representing the number of shares of the Surviving Corporation's Common Stock or Preferred Stock, as the case may be, into which the surrendered shares were converted as herein provided. Until so surrendered, each outstanding certificate theretofore representing shares of Cemax-Icon, Inc. California Common Stock or Preferred Stock shall be deemed for all purposes to represent the number of shares of the Surviving Corporation's Common Stock or Preferred Stock, respectively, into which such shares of Cemax-Icon, Inc. California Common Stock or Preferred Stock, as the case may be, were converted in the Merger.

The registered owner on the books and records of the Surviving Corporation or the Exchange Agent of any such outstanding certificate shall, until such certificate shall have been surrendered for transfer or conversion or otherwise accounted for to the Surviving Corporation or the Exchange Agent, have and be entitled to exercise any voting and other rights with respect to and to receive dividends and other distributions upon the shares of Common Stock or Preferred Stock of the Surviving Corporation represented by such outstanding certificate as provided above.

Each certificate representing Common Stock or Preferred Stock of the Surviving Corporation so issued in the Merger shall bear the same legends, if any, with respect to the restrictions on transferability as the certificates of Cemax-Icon, Inc. California so converted and given in exchange therefore, unless otherwise determined by the Board of Directors of the Surviving Corporation in compliance with applicable laws.

If any certificate for shares of the Surviving Corporation's stock is to be issued in a name other than that in which the certificate surrendered in exchange therefor is registered, it shall be a

condition of issuance thereof that the certificate so surrendered shall be properly endorsed and otherwise in proper form for transfer, that such transfer otherwise be proper and comply with applicable securities laws and that the person requesting such transfer pay to the Exchange Agent any transfer or other taxes payable by reason of issuance of such new certificate in a name other than that of the registered holder of the certificate surrendered or establish to the satisfaction of the Surviving Corporation that such tax has been paid or is not payable.

#### IV. GENERAL

4.1 Covenants of Cemax-Icon, Inc. Delaware. Cemax-Icon, Inc. Delaware covenants and agrees that it will, on or before the Effective Date of the Merger:

(a) Qualify to do business as a foreign corporation in the State of California and in connection therewith irrevocably appoint an agent for service of process as required under the provisions of Section 2105 of the California General Corporation Law.

(b) File any and all documents with the California Franchise Tax Board necessary for the assumption by Cemax-Icon, Inc. Delaware of all of the franchise tax liabilities of Cemax-Icon, Inc. California.

(c) Take such other actions as may be required by the California General Corporation Law.

4.2 Further Assurances. From time to time, as and when required by Cemax-Icon, Inc. Delaware or by its successors or assigns, there shall be executed and delivered on behalf of Cemax-Icon, Inc. California such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other actions as shall be appropriate or necessary in order to vest or perfect in or conform of record or otherwise by Cemax-Icon, Inc. Delaware the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Cemax-Icon, Inc. California and otherwise to carry out the purposes of this Agreement, and the officers and directors of Cemax-Icon, Inc. Delaware are fully authorized in the name and on behalf of Cemax-Icon, Inc. California or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

4.3 Abandonment. At any time before the Effective Date of the Merger, this Agreement may be terminated and the Merger may be abandoned for any reason whatsoever by the Board of Directors of either Cemax-Icon, Inc. California or of Cemax-Icon, Inc. Delaware, or of both, notwithstanding the approval of this Agreement by the shareholders of Cemax-Icon, Inc. California or by the sole stockholder of Cemax-Icon, Inc. Delaware, or by both.

4.4 Amendment. The Boards of Directors of the Constituent Corporations may amend this Agreement at any time prior to the filing of this Agreement (or certificate in lieu thereof) with the Secretary of State of the State of Delaware, provided that an amendment made subsequent to the adoption of this Agreement by the stockholders of either Constituent Corporation shall not:



(1) alter or change the amount or kind of shares, securities, cash, property and/or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such Constituent Corporation, (2) alter or change any term of the Certificate of Incorporation of the Surviving Corporation to be effected by the Merger, or (3) alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of any class or series of capital stock of any Constituent Corporation.

4.5 Registered Office. The registered office of the Surviving Corporation in the State of Delaware is 1209 Orange Street, Wilmington, County of New Castle, DE 19801 and The Corporation Trust Company is the registered agent of the Surviving Corporation at such address.

4.6 Agreement. Executed copies of this Agreement will be on file at the principal place of business of the Surviving Corporation at 47281 Mission Falls Court, Fremont, California 94539, and copies thereof will be furnished to any stockholder of either Constituent Corporation, upon request and without cost.

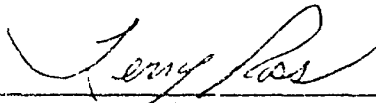
4.7 Governing Law. This Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of Delaware and, so far as applicable, the merger provisions of the California Corporations Code.

4.8 FIRPTA Notification. (a) On the Effective Date of the Merger, Cemax-Icon, Inc. California shall deliver to Cemax-Icon, Inc. Delaware, as agent for the shareholders of Cemax-Icon, Inc. California, a properly executed statement (the "Statement") substantially in the form attached hereto as Exhibit A. Cemax-Icon, Inc. Delaware shall retain the Statement for a period of not less than seven years and shall, upon request, provide a copy thereof to any person that was a shareholder of Cemax-Icon, Inc. California immediately prior to the Merger. In consequence of the approval of the Merger by the shareholders of Cemax-Icon, Inc. California, (i) such shareholders shall be considered to have requested that the Statement be delivered to Cemax-Icon, Inc. Delaware as their agent and (ii) Cemax-Icon, Inc. Delaware shall be considered to have received a copy of the Statement at the request of the Cemax-Icon, Inc. California shareholders for purposes of satisfying Cemax-Icon, Inc. Delaware's obligations under Treasury Regulation Section 1.1445-2(c)(3).

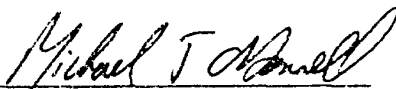
(b) Cemax-Icon, Inc. California shall deliver to the Internal Revenue Service a notice regarding the Statement in accordance with the requirements of Treasury Regulation Section 1.897-2(h)(2).

IN WITNESS WHEREOF, this Agreement having first been approved by the resolutions of the Board of Directors of Cemax-Icon, Inc. Delaware and Cemax-Icon, Inc. California is hereby executed on behalf of each of such two corporations and attested by their respective officers thereunto duly authorized.

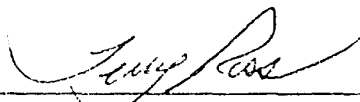
Cemax-Icon, Inc.  
a Delaware corporation

By:   
Terry Ross, President  
and Chief Executive Officer

ATTEST:

  
Michael J. O'Donnell,  
Assistant Secretary

Cemax-Icon, Inc.  
a California corporation

By:   
Terry Ross, President  
and Chief Executive Officer

ATTEST:

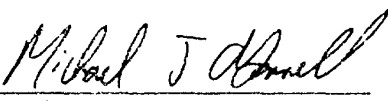
  
Michael J. O'Donnell,  
Assistant Secretary

EXHIBIT A

\_\_\_\_\_, 1996

TO THE SHAREHOLDERS OF Cemax-Icon, INC.

In connection with the reincorporation (the "Reincorporation") in Delaware of Cemax-Icon, Inc., Pharmaceuticals, Inc., a California corporation (the "Company"), pursuant to the Agreement and Plan of Merger (the "Agreement") dated as of August \_\_, 1996 between the Company and Cemax-Icon, Inc., a Delaware corporation and wholly owned subsidiary of the Company ("Cemax-Icon, Inc. Delaware"), your shares of Company stock will be replaced by shares of stock in Cemax-Icon, Inc. Delaware.

In order to establish that (i) you will not be subject to tax under Section 897 of the Internal Revenue Code of 1986, as amended (the "Code"), in consequence of the Reincorporation and (ii) Cemax-Icon, Inc. Delaware will not be required under Section 1445 of the Code to withhold taxes from the Cemax-Icon, Inc. Delaware stock that you will receive in connection therewith, the Company hereby represents to you that, as of the date of this letter, shares of Company stock do not constitute a "United States real property interest" within the meaning of Section 897(c) of the Code and the regulations issued thereunder.

A copy of this letter will be delivered to Cemax-Icon, Inc. Delaware pursuant to Section 4.9 of the Agreement.

Under penalties of perjury, the undersigned officer of the Company hereby declares that, to the best knowledge and belief of the undersigned, the facts set forth herein are true and correct.

Sincerely,

\_\_\_\_\_  
Terry Ross, President and  
Chief Executive Officer

CEMAX-ICON, INC.  
A California Corporation

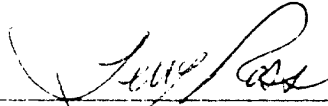
OFFICER'S CERTIFICATE

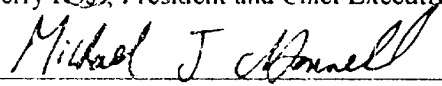
Terry Ross and Michael J. O'Donnell hereby certify that:

1. They are the President and Chief Executive Officer and Secretary, respectively, of Cemax-Icon, Inc., a corporation organized under the laws of the State of California.
2. The corporation has authorized two classes of stock, designated "Common Stock" and "Preferred Stock," respectively. There is authorized one series of Preferred Stock, designated "Series A Preferred Stock."
3. There were 12,553,417 shares of Common Stock and 1,985,878 shares of Series A Preferred Stock outstanding as of the record date (the "Record Date") and entitled to vote at the annual meeting of the shareholders whereby the Agreement and Plan of Merger attached hereto was approved.
4. The principal terms of the Agreement and Plan of Merger were approved by the Board of Directors and by the vote of a number of shares of each class and series of stock which equaled or exceeded the vote required.
5. The percentage vote required was more than 50% of the votes entitled to be cast by the holders of Common Stock outstanding as of the Record Date and more than 50% of the votes entitled to be cast by holders of Preferred Stock outstanding as of the Record Date voting as a single class.

We further declare under penalty of perjury under the laws of the States of Delaware and California that we have read the foregoing certificate and know the contents thereof and that the same is true and correct of our own knowledge.

Executed in Palo Alto, California on July 12, 1996.

  
\_\_\_\_\_  
Terry Ross, President and Chief Executive Officer

  
\_\_\_\_\_  
Michael J. O'Donnell, Secretary

CEMAX-ICON, INC.  
A Delaware Corporation

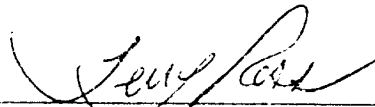
OFFICER'S CERTIFICATE

Terry Ross and Michael J. O'Donnell hereby certify that:

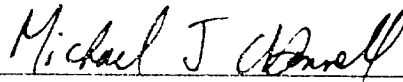
1. They are the President and Chief Executive Officer and Secretary, respectively, of Cemax-Icon, Inc., a corporation organized under the laws of the State of Delaware.
2. The corporation has authorized two classes of stock, designated "Common Stock" and "Preferred Stock", respectively. There is authorized one series of Preferred Stock, designated "Series A Preferred Stock."
3. There are 100 shares of Common Stock outstanding and entitled to vote on the Agreement and Plan of Merger attached hereto. There are no shares of Preferred Stock outstanding.
4. The principal terms of the Agreement and Plan of Merger were approved by the Board of Directors and by the vote of a number of shares of each class and series of stock which equaled or exceeded the vote required.
5. The percentage vote required was more than 50% of the votes cast entitled to be cast by holders of outstanding shares of Common Stock.

We further declare under penalty of perjury under the laws of the States of Delaware and California that we have read the foregoing certificate and know the contents thereof and that the same is true and correct of our own knowledge.

Executed in Palo Alto, California on July 12, 1996.



Terry Ross, President and Chief Executive Officer



Michael J. O'Donnell, Secretary