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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Tab settings

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To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

NetPhonic Communications, Inc.

- Individual(s)
- General Partnership
- Corporation-State Delaware
- 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: March 6, 1998

2. Name and address of receiving party(ies)

Name: General Magic, Inc.  
 Internal Address: \_\_\_\_\_  
 Street Address: 420 North Mary Avenue  
 City: Sunnyvale State: CA ZIP: 94086

- 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 patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2,080,205  
2,107,770  
2,080,206

Additional numbers attached?  Yes  No

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

Name: Allyn Taylor, Esq.  
 Internal Address: \_\_\_\_\_  
Gray Cary Ware & Freidenrich LLP  
 Street Address: 400 Hamilton Avenue  
 City: Palo Alto State: CA ZIP: 94301

6. Total number of applications and registrations involved:

3

7. Total fee (37 CFR 3.41).....\$ 90.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

07-1907

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

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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.

Allyn Taylor, Esq.  
Name of Person Signing

[Signature]  
Signature

8/13/98  
Date

Total number of pages including cover sheet, attachments, and document:

6

*State of Delaware*  
*Office of the Secretary of State* PAGE 1

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"NETPHONIC COMMUNICATIONS, INC.", A DELAWARE CORPORATION, WITH AND INTO "GENERAL MAGIC, INC." UNDER THE NAME OF "GENERAL MAGIC, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE SIXTH DAY OF MARCH, A.D. 1998, AT 5:30 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

2386010 8100M

981088244

AUTHENTICATION: 8960942

DATE: 03-09-98

TRADEMARK

REEL: 1778 FRAME: 0405

CERTIFICATE OF MERGER OF  
NETPHONIC COMMUNICATIONS, INC.  
INTO  
GENERAL MAGIC, INC.

Pursuant to Section 251 of the Delaware General Corporation Law (the "DGCL"),  
General Magic, Inc., a Delaware corporation, hereby certifies as set forth below:

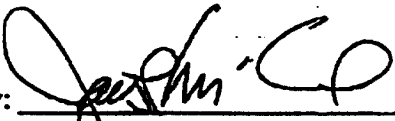
1. The name and state of incorporation of each of the constituent corporations of the merger  
is as follows:

<u>Name</u>	<u>State of Incorporation</u>
NetPhonic Communications, Inc.	Delaware
General Magic, Inc.	Delaware

2. An agreement and plan of reorganization (the "Merger Agreement") has been approved,  
adopted, certified, executed and acknowledged by each of the constituent corporations in  
accordance with the requirements of Section 251 of the DGCL.
3. General Magic, Inc. is the surviving corporation of the merger (the "Surviving  
Corporation").
4. The Certificate of Incorporation of General Magic, Inc. in effect immediately prior to the  
effective time, shall be the Amended and Restated Certificate of Incorporation of the Surviving  
Corporation.
5. The executed Merger Agreement is on file at the principal place of business of the  
Surviving Corporation at 420 North Mary Avenue, Sunnyvale, CA 94086.
6. A copy of the Merger Agreement will be furnished by the Surviving Corporation, on  
request and without cost, to any stockholder of any constituent corporation.
7. The merger shall become effective immediately upon the filing of this certificate with the  
Secretary of State of Delaware in accordance with Sections 251 and 103 of the DGCL.

This certificate of merger has been executed, acknowledged and attested on  
March 6<sup>th</sup> 1998.

GENERAL MAGIC, INC.

By:   
James P. McCormick, Vice President,  
Finance and Administration

TRADEMARK  
REEL: 1778 FRAME: 0407

## AGREEMENT AND PLAN OF REORGANIZATION

This AGREEMENT AND PLAN OF REORGANIZATION (the "Agreement") is made and entered into as of February 12, 1998 by and between General Magic, Inc., a Delaware corporation ("Acquiror"), and NetPhonic Communications, Inc., a Delaware corporation ("Target").

### RECITALS

A. Pursuant to a statutory merger of Target with and into Acquiror (the "Merger"), among other things, the outstanding shares of Target Common Stock ("Target Common Stock") and Target Preferred Stock ("Target Preferred Stock") shall be converted into the right to receive the Merger Consideration (as defined in Section 1.6) upon the terms and subject to the conditions set forth herein.

B. Target and Acquiror desire to make certain representations and warranties and other agreements in connection with the Merger.

C. The parties intend, by executing this Agreement, to adopt a plan of reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"), and to cause the Merger to qualify as a reorganization under the provisions of Section 368(a) of the Code.

NOW, THEREFORE, in consideration of the covenants and representations set forth herein, and for other good and valuable consideration, the parties agree as follows:

#### 1. The Merger.

1.1. The Merger. At the Effective Time (as defined in Section 1.2) and subject to and upon the terms and conditions of this Agreement, the Certificate of Merger attached hereto as Exhibit A (the "Certificate of Merger") and the applicable provisions of the Delaware General Corporation Law ("Delaware Law" or "DGL"), Target shall be merged with and into Acquiror, the separate corporate existence of Target shall cease and Acquiror shall continue as the surviving corporation. Acquiror as the surviving corporation after the Merger is hereinafter sometimes referred to as the "Surviving Corporation."

1.2. Closing; Effective Time. The closing of the transactions contemplated hereby (the "Closing") shall take place as soon as practicable after the satisfaction or waiver of each of the conditions set forth in Section 2 hereof, but no later than two (2) business days after such time, or at such other time as the parties hereto agree (the "Closing Date"). The Closing shall take place at the offices of Gray Cary Ware & Freidenrich LLP ("GCWF"), 400 Hamilton Avenue, Palo Alto, California 94301, or at such other location as the parties hereto agree. In connection with the Closing, the parties hereto shall cause the Merger to be consummated by filing the Certificate of Merger, together with the required officers' certificates, with the Secretary

of State of the State of Delaware, in accordance with the relevant provisions of Delaware Law (the time of such filing being the "Effective Time").

1.3. Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement, the Certificate of Merger and the applicable provisions of Delaware Law. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of Target shall vest in the Surviving Corporation, and all debts, liabilities and duties of Target shall become the debts, liabilities and duties of the Surviving Corporation.

1.4. Certificate of Incorporation; Bylaws.

(a) At the Effective Time, the Certificate of Incorporation of Acquiror, as in effect immediately prior to the Effective Time, shall be the Certificate of Incorporation of the Surviving Corporation until thereafter amended as provided by Delaware Law and such Certificate of Incorporation.

(b) At the Effective Time, the Bylaws of Acquiror, as in effect immediately prior to the Effective Time, shall be the Bylaws of the Surviving Corporation until thereafter amended.

1.5. Directors and Officers At the Effective Time, the directors and officers of Acquiror immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation, until their respective successors are duly elected or appointed and qualified.

1.6. Cash Consideration; Merger Consideration. At the Effective Time, by virtue of the Merger, Acquiror shall (a) deliver to Target a check in the amount of \$200,000 (the "Cash Consideration") to be paid to Ken Rhie as deferred compensation for services rendered as President of Target and (b) deliver to the holders of Target Common Stock and Target Preferred Stock (together "Target Capital Stock") the shares of Acquiror Common Stock as set forth in Section 1.7 hereof (the "Merger Consideration").

1.7. Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Acquiror, Target or the holders of any of the following securities:

(a) Conversion of Target Preferred Stock. Each share of Target Preferred Stock issued and outstanding immediately prior to the Effective Time (the "Outstanding Target Preferred Shares") shall be converted and exchanged, without any action on the part of the holders thereof, into the right to receive the following: that number of validly issued, fully paid and nonassessable shares of the Common Stock, \$.001 par value, of Acquiror ("Acquiror Common Stock") equal to a fraction, (i) the numerator of which is \$1,600,000 divided by the Fair Market Value (as defined in Section 1.7(c) below) of Acquiror Common Stock and (ii) the denominator of which is the number of Outstanding Target Preferred Shares (the "Preferred Exchange Ratio"), subject to Section 1.7(g).