

10-02-1998



COVER SHEET
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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

Tab settings ▼

100842899

To the Honorable Commissioner of Patents and Trademarks

Record the attached original documents or copy thereof.

1. Name of conveying party(ies): Mrs 9-29-98
SMITH INVESTMENT COMPANY

- Individual(s)
- General Partnership
- Corporation-State (DE)
- 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: November 20, 1997

2. Name and address of receiving party(ies) PH 3:19

Name: SMITH INVESTMENT COMPANY
 Internal Address: One Belvidere Boulevard
 Street Address: One Belvidere Boulevard
 City: Belvidere State: IL ZIP: 61008

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State NEVADA
- 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)

(see attached schedule)

Additional numbers attached? Yes No

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

Name: Todd A. Rathe
 Internal Address: Foley & Lardner
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5367
 Street Address: Foley & Lardner
777 East Wisconsin Avenue
 City: Milwaukee State: WI ZIP: 53202

6. Total number of applications and registrations involved: 8

7. Total fee (37 CFR 3.41).....\$ 215.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

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

DO NOT USE THIS SPACE

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.

Mary A. Miller
Name of Person Signing

Mary A. Miller
Signature

Sept. 25, 1998
Date

Total number of pages including cover sheet, attachments, and document: 8

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231

TRADEMARK
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02 FC:48

ATTACHMENT A

SMITH INVESTMENT COMPANY

U.S. TRADEMARK REGISTRATIONS

<u>TRADEMARK</u>	<u>REGISTRATION NO.</u>	<u>REGISTRATION DATE</u>
ALPHA	1,194,360	April 27, 1982
BELVEDERE	1,484,290	April 12, 1988
CABARET	1,194,359	April 27, 1982
COSMOS	1,190,720	February 23, 1982
FIRST LADY & Design	765,592	February 25, 1964
FLO-TEMP	655,981	December 24, 1957
MONDO	1,190,721	February 23, 1982
WHIZ	1,103,385	October 3, 1978

FILED
IN THE OFFICE OF THE
SECRETARY OF STATE OF THE
STATE OF NEVADA

NOV 21 1997

No. C 21392-97

Dean Heller
DEAN HELLER, SECRETARY OF STATE

ARTICLES OF MERGER

MERGING
SMITH INVESTMENT COMPANY
(a Delaware corporation)
WITH AND INTO
SMITH INVESTMENT COMPANY
(a Nevada corporation)

ARTICLES OF MERGER executed as of this 18th day of November, 1997, by and between Smith Investment Company, a Nevada corporation (hereinafter referred to as the "Survivor" or "Surviving Corporation"), and Smith Investment Company, a Delaware corporation (hereinafter referred to as the "Merging Corporation"), approved in accordance with Section 92A.190 of the Nevada General Corporation Law ("NGCL") and Section 252 of the Delaware General Corporation Law ("DGCL").

ARTICLE 1

The Boards of Directors of the Survivor and the Merging Corporation, in accordance with their Articles of Incorporation and Certificate of Incorporation, respectively, and By-Laws, respectively, and Sections 92A.100 and 92A.190 of the NGCL and Sections 251 and 252 of the DGCL, each adopted resolutions adopting and approving an Agreement and Plan of Merger, dated as of November 4, 1997, (the "Plan of Merger"), by and between the Survivor and the Merging Corporation, a true and correct copy of which is attached hereto as Exhibit A and incorporated herein by reference.

ARTICLE 2

In accordance with Section 92A.120 of the NGCL and Section 251 of the DGCL, the respective stockholders of the Survivor and the Merging Corporation each approved as of November 5, 1997 the Plan of Merger by the following votes:

<u>Class</u>	<u>Number of Shares Outstanding and Entitled to Vote</u>	<u>Number of Votes per Share</u>	<u>Number of Affirmative Votes Cast</u>	<u>Number of Affirmative Votes Required</u>	<u>Number of Negative Votes Cast</u>
Survivor Common Stock	100	1	100	51	0
Merging Corporation Common Stock	1,658,533	1	950,120	829,267	0

ARTICLE 3

At the Effective Time, as defined in the Plan of Merger, the Articles of Incorporation of Survivor in effect immediately prior to the Effective Time shall continue without change (until further amended in accordance with applicable law) as the Articles of Incorporation of the Surviving Corporation.

ARTICLE 4

These Articles of Merger shall be effective, and the merger of the Merging Corporation with and into the Survivor shall take effect, as of 12:01 a.m. (Central Time) on November 20, 1997.

IN WITNESS WHEREOF, the undersigned, the Survivor and the Merging Corporation have executed these Articles of Merger in duplicate as of the date written above.

**SMITH INVESTMENT
COMPANY**
(the "Merging Corporation")

**SMITH INVESTMENT
COMPANY**
(the "Survivor")

By: *Bruce M. Smith*
Bruce M. Smith
President

By: *Bruce M. Smith*
Bruce M. Smith
President

By: *Wesley A. Ulrich*
Wesley A. Ulrich
Secretary & Treasurer

By: *Wesley A. Ulrich*
Wesley A. Ulrich
Secretary & Treasurer

State of Wisconsin)
) SS.
County of Milwaukee)

On this 18th day of November, 1997, before me, a notary public in and for said County, personally appeared Bruce M. Smith and Wesley A. Ulrich to me personally known, who, being by me duly sworn, did say that they are the President and Secretary & Treasurer, respectively, of Smith Investment Company and that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors.

Notary Public
My commission expires: _____

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Plan of Merger"), dated as of November 4th, 1997, is entered into by and between Smith Investment Company, a Nevada corporation (the "Survivor"), and Smith Investment Company, a Delaware corporation (the "Merging Corporation").

WHEREAS, the authorized capital stock of the Merging Corporation consists of 1,700,000 shares of common stock, \$.10 par value, of which 1,658,533 shares are issued and outstanding as of the date hereof.

WHEREAS, the authorized capital stock of Survivor will consist solely of 10,000,000 shares of common stock, \$.10 par value.

WHEREAS, 100 shares of Survivor common stock are issued and outstanding and are owned of record by the Merging Corporation.

WHEREAS, the Merging Corporation and Survivor are entering into this Plan of Merger, which contemplates the merger ("Merger") of the Merging Corporation with and into Survivor upon the terms and conditions provided herein and pursuant to the applicable provisions of the Nevada General Corporation Law ("NGCL"), the applicable provisions of the Delaware General Corporation Law ("DGCL") and Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended.

WHEREAS, the respective Boards of Directors of the Merging Corporation and Survivor deem it in the best interests of their respective corporations and shareholders that the Merging Corporation be merged with and into Survivor with Survivor being the surviving corporation of the Merger, and each such Board of Directors has approved this Plan of Merger, has authorized its execution and delivery, has directed that this Plan of Merger be submitted to its respective shareholders for approval and has recommended its approval.

NOW, THEREFORE, in consideration of the premises and the agreements herein contained and in accordance with the DGCL and NGCL, the parties hereto adopt and agree to the following agreements, terms and conditions relating to the Merger and the mode of carrying the same into effect:

ARTICLE 1

THE MERGER

1.01 The Merger. Subject to the terms and conditions of this Plan of Merger, at the Effective Time (as defined below) the Merging Corporation will be merged with and into

Survivor, in accordance with the applicable provisions of the NGCL and the applicable provisions of the DGCL.

1.02 Effective Time of the Merger. Subject to the provisions of this Plan of Merger, articles of merger ("Articles of Merger") shall be duly prepared and executed by the Merging Corporation and Survivor and thereafter delivered to the Secretary of State of the State of Nevada for filing as provided in the NGCL as soon as practicable after approval of the Plan of Merger and the Merger by the shareholders of the Merging Corporation and Survivor, and a certificate of merger ("Certificate of Merger") shall be duly prepared and executed by the Merging Corporation and Survivor and thereafter delivered to the Secretary of State of the State of Delaware for filing as provided in the DGCL as soon as practicable after approval of the Plan of Merger and the Merger by the shareholders of the Merging Corporation and Survivor. The Merger shall become effective as of 12:01 a.m. (Central Time) on the day of filing of the Articles of Merger with the Nevada Secretary of State and a Certificate of Merger with the Delaware Secretary of State (the "Effective Time").

1.03 Effects of the Merger.

(a) At the Effective Time, (i) the separate existence of the Merging Corporation shall cease, and the Merging Corporation shall be merged with and into Survivor as provided in Section 92A.250 of the NGCL and Section 259 of the DGCL (Merging Corporation and Survivor are sometimes referred to herein as the "Constituent Corporations," and Survivor, after consummation of the Merger, is sometimes referred to herein as the "Surviving Corporation"); (ii) the Articles of Incorporation of Survivor in effect immediately prior to the Effective Time shall continue without change (until further amended in accordance with applicable law) as the Articles of Incorporation of the Surviving Corporation; (iii) the By-Laws of Survivor in effect immediately prior to the Effective Time shall continue without change as the By-Laws of the Surviving Corporation; and (iv) the members of the Board of Directors and the officers of Survivor immediately prior to the Effective Time shall continue without change as the directors and officers of the Surviving Corporation (in each case until such time as their respective successors are duly elected or their earlier resignation, death, retirement or removal).

(b) In accordance with Section 92A.250 of the NGCL and Section 259 of the DGCL, at and after the Effective Time, the Surviving Corporation shall possess all the rights, privileges, powers and franchises of a public as well as of a private nature, and be subject to all the restrictions, disabilities and duties, of each of the Constituent Corporations; and all and singular rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, and all debts due to either of the Constituent Corporation on whatever account, as well as for stock subscriptions and all other things in action or belonging to each of the Constituent Corporations, shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest, shall be thereafter as effectually the property of the Surviving Corporation as they were of the Constituent Corporations shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of either of the Constituent Corporations

shall be preserved unimpaired, and all debts, liabilities and duties of the Constituent Corporations shall thereafter attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts and liabilities had been incurred or contracted by it. Any action or proceeding, whether civil, criminal, administrative or investigatory, pending by or against either Constituent Corporation shall be prosecuted as if the Merger had not taken place, or the Surviving Corporation may be substituted as a party in such action or proceeding in place of any Constituent Corporation.

ARTICLE 2

CONVERSION AND CANCELLATION OF SHARES

2.01 Conversion of Merging Corporation Common Stock. At the Effective Time, in accordance with the terms and conditions set forth in this Plan of Merger, and by virtue of the Merger and without any action on the part of any holder of shares of common stock, \$.10 par value, of the Merging Corporation ("Merging Corporation Common Stock"), each share of Merging Corporation Common Stock issued and outstanding immediately prior to the Effective Time shall be converted into one (1) share of common stock, \$.10 par value, of the Survivor ("Survivor Common Stock").

2.02 Cancellation of Survivor Common Stock. At the Effective Time, in accordance with the terms and conditions set forth in this Plan of Merger, and by virtue of the Merger and without any action on the part of any holder of shares of Survivor Common Stock, each share of Survivor Common Stock that is owned by the Merging Corporation shall be cancelled and cease to exist, and no consideration shall be delivered in exchange therefor.

ARTICLE 3

SHAREHOLDER APPROVAL

3.01 Shareholder Approval. This Plan of Merger and the Merger herein contemplated shall be submitted to the shareholders of each of the parties hereto in accordance with the applicable provisions of law, and the consummation of this Plan of Merger and the Merger herein provided for are conditioned upon the approval hereof by the shareholders of the respective parties as provided by law.

ARTICLE 4

TERMINATION: AMENDMENT

4.01 Termination. This Plan of Merger may be terminated and the Merger abandoned by the Boards of Directors of the Merging Corporation and Survivor at any time until the first to occur of the filing of Articles of Merger with the Secretary of State of Nevada or the filing of a Certificate of Merger with the Secretary of State of Delaware.

4.02 Amendment. Subject to the following sentence, this Plan of Merger may be amended, modified or supplemented by the Constituent Corporations at any time until the first to occur of the filing of Articles of Merger with the Secretary of State of Nevada or the filing of a Certificate of Merger with the Secretary of State of Delaware. Notwithstanding the foregoing, amendments, modifications or supplements of this Plan of Merger that are required by the Secretary of State of the State of Nevada or the Secretary of State of Delaware and that do not materially and adversely affect the rights, benefits and obligations of any Constituent Corporation may be made unilaterally by the Constituent Corporation filing this Plan of Merger with such office.

ARTICLE 5

GENERAL PROVISIONS

5.01 Counterparts. This Plan of Merger may be executed in counterparts, each of which shall constitute one and the same instrument.

5.02 Headings. The headings in this Plan of Merger are inserted for convenience only and shall not constitute a part thereof.

IN WITNESS WHEREOF, the Constituent Corporations have executed this Plan of Merger as of the date and year first above written.

SMITH INVESTMENT COMPANY
(a Delaware corporation)

By: Arthur O. Smith
Arthur O. Smith
Chairman and Chief Executive Officer

SMITH INVESTMENT COMPANY
(a Nevada corporation)

By: Arthur O. Smith
Arthur O. Smith
Chairman and Chief Executive Officer