

12-16-1998

FORM PTO-1594
(Rev. 6-93)

RECORDATION FORM C
TRADEMARKS C



F COMMERCE
ademark Office

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To the Honorable Commissioner of Patents and Trademarks. Please record this document and its attachments or copy thereof.

83-11-21 OMD

1. Name of conveying party(ies):
USA.NET, Inc.

Individual(s) Association

General Partnership Limited Partnership

Corporation-State, Colorado

Other _____

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

3. Nature of conveyance:

Assignment Merger

Security Agreement Change of Name

Other _____

Execution Date: March 14, 1997

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

Name: USA.NET, Inc.

Internal Address: _____

Street Address: 1155 Kelly Johnson Blvd., Ste. 400

City: Boulder State: CO ZIP 80920

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

(Designation 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)
74/733,561, 74/384,239, 74/733,560

Additional numbers attached? Yes No

B. Trademark Registration No.(s)
2,161,201, 2,053,357

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

Name: John W. Crittenden, Esq.

Internal Address: Cooley Godward LLP

Street Address: One Maritime Plaza, 20th Floor

City: San Francisco State: CA ZIP 94111-3580

6. Total number of applications and registration involved: 5

7. Total fee (37 CFR 3.41):.....
\$ 140.00

Enclosed

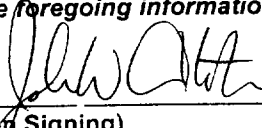
Authorized to be charged to deposit account

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.

 11/4/98
Date

(Name of Person Signing)
John W. Crittenden, Esq.

Total number of pages including cover sheet, attachments, and document: 10

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

12/14/1998 DNGUYEN 00000311 2161201

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02 FC:482 100.00 OP

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TRADEMARK
REEL: 1826 FRAME: 0583

ARTICLES OF MERGER

OF

USA.NET, INC.
(a Colorado corporation)
AND
USA.NET, INC.
(a Delaware corporation)

19971040075 C
\$ 85.00
SECRETARY OF STATE
03-14-97 11:59:04

The undersigned corporation, pursuant to Section 7-111-105 of the Colorado Business Corporations Act, hereby execute the following articles of Merger.

ARTICLE ONE

The names of the corporations proposing to merge and the names of the States under the laws of which such corporations are organized, are as follows:

<u>Name of Corporation</u>	<u>State of Incorporation</u>
USA.NET, Inc. ("USA.NET-Colorado")	Colorado
USA.NET, Inc. ("USA.NET-Delaware")	Delaware

ARTICLE TWO

The laws of the State under which such foreign corporation is organized permits such merger.

ARTICLE THREE

The name of the surviving corporation shall be "USA.NET, Inc." The surviving corporation shall be governed by the laws of the State of Delaware having its principal office address at 102 S Tejon, Suite 220, Colorado Springs, Colorado 80903.

ARTICLE FOUR

The Agreement and Plan of Merger is attached hereto as *Exhibit A*.

ARTICLE FIVE

The Agreement and Plan of Merger has been duly approved by the required vote of shareholders of USA.NET-Colorado in accordance with the Articles of Incorporation of USA.NET-Colorado, as amended, and Section 7-111-103 of the Colorado Business Corporations Act. The total number of outstanding shares of the corporation is 1,076,232. The number of shares voting in favor of the Agreement and Plan of Merger equaled or exceeded the vote required. The percentage vote required was more than a majority.

ARTICLE SIX

Immediately prior to the merger, USA.NET-Colorado (the parent corporation) owned at least ninety percent of the outstanding shares of each class of USA.NET-Delaware (the subsidiary corporation).

ARTICLE SEVEN

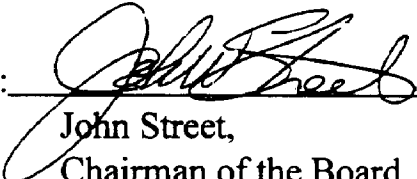
All provisions of the law of the State of Delaware and the State of Colorado applicable to the proposed merger have been complied with.

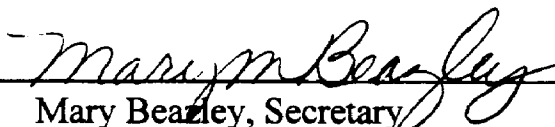
ARTICLE EIGHT

These Articles of Merger shall be effective upon filing this on March 14, 1997. This effective date complies with Section 7-111-104(5) of the Colorado Business Corporations Act.

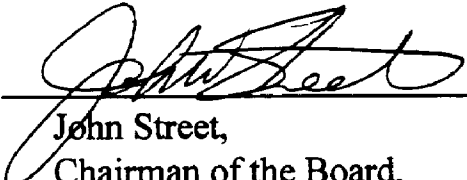
IN WITNESS WHEREOF, each of the undersigned corporations has caused these Articles of Merger to be executed in its name by its President or Vice President and Secretary, as of the 14th day of March, 1997.

USA.NET, INC.
a Colorado corporation

By: 
John Street,
Chairman of the Board,
Chief Executive Officer and
President

By: 
Mary Beazley, Secretary

USA.NET, INC.
a Delaware corporation

By: 
John Street,
Chairman of the Board,
Chief Executive Officer and
President


By: 
Mary Beazley, Secretary

EXHIBIT A

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Merger Agreement") is made as of March 14, 1997, by and between USA.NET, INC., a Colorado corporation ("USA.NET-Colorado"), and USA.NET, INC., a Delaware corporation ("USA.NET-Delaware"); (USA.NET-Colorado and USA.NET-Delaware, collectively, the "Constituent Corporations").

The authorized capital stock of USA.NET-Colorado consists of 500,000,000 shares of Common Stock, no par value. The authorized capital stock of USA.NET-Delaware, upon effectuation of the transactions set forth in this Merger Agreement, will consist of (i) five million (5,000,000) shares of Common Stock, \$.001 par value per share and (ii) one million one hundred thousand (1,100,000) shares of Preferred Stock, all of which shall be designated Series A Preferred Stock.

The directors of the Constituent Corporations deem it advisable and to the advantage of the Constituent Corporations that USA.NET-Colorado merge with and into USA.NET-Delaware upon the terms and conditions provided herein.

NOW, THEREFORE, the parties do hereby adopt the plan of reorganization encompassed by this Merger Agreement and do hereby agree that USA.NET-Colorado shall merge with and into USA.NET-Delaware on the following terms, conditions and other provisions:

1. TERMS AND CONDITIONS

1.1 Merger. USA.NET-Colorado shall be merged with and into USA.NET-Delaware (the "Merger"), and USA.NET-Delaware shall be the surviving corporation (the "Surviving Corporation") effective March 14, 1997 (the "Effective Date").

1.2 Succession. On the Effective Date, USA.NET-Delaware shall continue its corporate existence under the laws of the State of Delaware, and the separate existence and corporate organization of USA.NET-Colorado, except insofar as it may be continued by operation of law, shall be terminated and cease.

1.3 Transfer of Assets and Liabilities. On the Effective Date, the rights, privileges, powers and franchises, both of a public as well as of a private nature, of each of the Constituent Corporations shall be vested in and possessed by the Surviving Corporation, subject to all of the disabilities, duties and restrictions of or upon 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, of each of the Constituent Corporations, and all debts due to each of the Constituent Corporations on whatever account, and all things in action or belonging to each of the Constituent Corporations shall be transferred to and vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest, thereafter shall be the property of the Surviving Corporation as they were of the Constituent Corporations, and the title to any real estate vested by deed or otherwise in either of the Constituent Corporations shall not revert or be in any way impaired by reason of the Merger; provided, however, that the liabilities of the Constituent Corporations and of their stockholders, directors and officers shall not be affected and all rights of creditors and all liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and any claim existing or action or proceeding pending by or against either of the Constituent Corporations may be prosecuted to judgment as if the Merger had not been consummated, except as they may be modified with the consent of such creditors, and all debts, liabilities and duties of or upon each of the Constituent Corporations shall attach to the Surviving Corporation, and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

1.4 Capital Stock of USA.NET-Colorado and USA.NET-Delaware On the Effective Date, by virtue of the Merger and without any further action on the part of the Constituent Corporations or their respective stockholders, (i) each share of Common Stock of USA.NET-Colorado issued and outstanding immediately prior thereto shall be combined, changed and converted into (A) one-half (1/2) share of Common Stock of USA.NET-Delaware and (B) one (1) share of Series A Preferred Stock of USA.NET-Delaware, in each case fully paid and nonassessable, and (ii) each share of Common Stock of USA.NET-Delaware issued and outstanding immediately prior thereto shall be canceled and returned to the status of authorized but unissued shares.

1.5 Stock Certificates On and after the Effective Date, all of the outstanding certificates that, prior to that time, represented shares of Common Stock of USA.NET-Colorado shall be deemed for all purposes to evidence ownership of and to represent the shares of USA.NET-Delaware into which the shares of USA.NET-Colorado represented by such certificates have been converted as herein provided and shall be so registered on the books and records of the Surviving Corporation or its transfer agents. The registered owner of any such outstanding stock certificate shall, until such certificate shall have been surrendered for transfer or conversion or otherwise accounted for to the Surviving Corporation or its transfer agent, have and be entitled to exercise any voting and other rights with respect to and to receive any dividend and other distribution upon the shares of USA.NET-Delaware evidenced by such outstanding certificate as above provided.

1.6 Options. On the Effective Date, if any options or rights to purchase shares of Common Stock of USA.NET-Colorado remain outstanding, then the Surviving Corporation will assume the outstanding and unexercised portions of such options and such options shall be changed and converted into options to purchase Common Stock and Series A Preferred Stock of USA.NET-Delaware, such that an option to purchase one share of Common Stock of USA.NET-Colorado shall be converted into an option to purchase (A) one-half (1/2) share of Common Stock of USA.NET-Delaware and (B) one (1) share of Series A Preferred Stock of USA.NET-Delaware. No other changes in the terms and conditions of such options or rights will occur.

1.7 Employee Benefit Plans. On the Effective Date, the Surviving Corporation shall assume all obligations of USA.NET-Colorado under any and all employee benefit plans in effect as of such date with respect to which employee rights or accrued benefits are outstanding as of such date. On the Effective Date, the Surviving Corporation shall adopt and continue in effect all such employee benefit plans upon the same terms and conditions as were in effect immediately prior to the Merger.

1.8 Fractional Shares. No fractional shares of USA.NET-Delaware capital stock will be issued in connection with the merger and no certificate therefore will be issued. In lieu of such fractional shares, any holder of USA.NET-Colorado Common Stock who would otherwise receive a fractional share shall upon surrender of his or her certificates representing USA.NET-Colorado Common Stock be paid an amount in cash (without interest) determined by multiplying the fractional share that would otherwise be due to such holder by \$4.76.

2. CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

2.1 Certificate of Incorporation and Bylaws. From and after the Effective Date, the Certificate of Incorporation of USA.NET-Delaware shall read in its entirety as set forth in full in *Exhibit A* attached hereto and made a part hereof, without change or amendment until further amended in accordance with the provisions thereof and applicable law. The Bylaws of USA.NET-Delaware in effect on the Effective Date shall continue to be the Bylaws of the Surviving Corporation without change or amendment until further amended in accordance with the provisions thereof and applicable law.

2.2 Directors. The directors of USA.NET-Delaware immediately preceding the Effective Date shall become the directors of the Surviving Corporation on and after the Effective Date to serve until the expiration of their terms and until their successors are elected and qualified.

2.3 Officers. The officers of USA.NET-Delaware immediately preceding the Effective Date shall become the officers of the Surviving Corporation on and after the Effective Date to serve at the pleasure of its Board of Directors.

3. MISCELLANEOUS

3.1 Further Assurances. From time to time, and when required by the Surviving Corporation or by its successors and assigns, the Surviving Corporation shall execute and deliver, or cause to be executed and delivered, such deeds and other instruments, and the Surviving Corporation shall take or cause to be taken such further and other action as shall be appropriate or necessary in order to vest or perfect in or to conform of record or otherwise, in the Surviving Corporation the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of USA.NET-Colorado and otherwise to carry out the purposes of this Merger Agreement, and the officers and directors of the Surviving Corporation are authorized fully in the name and on behalf of USA.NET-Colorado or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

3.2 Amendment. At any time before or after approval by the shareholders of USA.NET-Colorado, this Merger Agreement may be amended in any manner (except that, after the approval of the Merger Agreement by the shareholders of USA.NET-Colorado, the principal terms may not be amended without the further approval of the shareholders of USA.NET-Colorado) as may be determined in the judgment of the respective Board of Directors of USA.NET-Delaware and USA.NET-Colorado to be necessary, desirable, or expedient in order to clarify the intention of the parties hereto or to effect or facilitate the purpose and intent of this Merger Agreement.

3.3 Conditions to Merger. The obligation of the Constituent Corporations to effect the transactions contemplated hereby is subject to satisfaction of the following conditions (any or all of which may be waived by either of the Constituent Corporations in its sole discretion to the extent permitted by law):

(a) the Merger shall have been approved by the shareholders of USA.NET-Colorado in accordance with applicable provisions of the Colorado Business Corporations Act;

(b) USA.NET-Colorado, as sole stockholder of USA.NET-Delaware, shall have approved the Merger in accordance with the General Corporation Law of the State of Delaware; and

(c) any and all consents, permits, authorizations, approvals, and orders deemed in the sole discretion of USA.NET-Colorado to be material to consummation of the Merger shall have been obtained.

3.4 Abandonment or Deferral. Notwithstanding the approval of this Merger Agreement by the shareholders of USA.NET-Colorado or by the sole stockholder of USA.NET-Delaware, at any time before the Effective Date, (a) this Merger Agreement may be terminated and the Merger may be abandoned by the Board of Directors of either USA.NET-Colorado or USA.NET-Delaware or both, including by reason of a determination, in the sole discretion of either Board of Directors, that holders of an unacceptable number of shares intend to exercise their statutory appraisal rights pursuant to Sections 7-113-101 through 7-113-302 of the Colorado Business Corporations Act, or (b) the consummation of the Merger may be deferred for a reasonable period of time if, in the opinion of the Boards of Directors of USA.NET-Colorado and USA.NET-Delaware, such action would be in the best interests of such corporations. In the event of termination of this Merger Agreement, this Merger Agreement shall become void and of no effect and there shall be no liability on the part of either Constituent Corporation or their respective Board of Directors or stockholders with respect thereto, except that USA.NET-Colorado shall pay all expenses incurred in connection with the Merger or in respect of this Merger Agreement or relating thereto.

3.5 Counterparts. In order to facilitate the filing and recording of this Merger Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, this Merger Agreement, having first been duly approved by the Board of Directors of USA.NET-Colorado and USA.NET-Delaware, hereby is executed on behalf of each such corporations and attested by their respective officers thereunto duly authorized.

USA.NET, INC.,
a Colorado Corporation

By: _____
John Street
Chairman, Chief Executive Officer and
President

ATTEST:

Mary Beazley
Secretary

USA.NET, INC.
A Delaware Corporation

By: _____
John Street
Chairman, Chief Executive Officer and
President

ATTEST:

Mary Beazley
Secretary