

05-28-1999



U.S. DEPARTMENT OF COMMERCE

101050102

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

Patent and Trademark Office
Docket No. 32814-24011

5.17.99

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

<p>1. Name of conveying party(ies): XOOM, Inc.</p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-Delaware <input type="checkbox"/> Other</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: XOOM.com, Inc. Street Address: 300 Montgomery Street, 3rd Floor City: San Francisco, State: CA ZIP: 94104</p> <p><input type="checkbox"/> Individual(s) citizenship: _____ <input type="checkbox"/> Association: _____ <input type="checkbox"/> General Partnership: _____ <input type="checkbox"/> Limited Partnership: _____ <input checked="" type="checkbox"/> Corporation-State: <u>Delaware</u> <input type="checkbox"/> Other: _____</p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input checked="" type="checkbox"/> Change of Name <input type="checkbox"/> Other:</p> <p>Execution Date: <u>10/8/98</u></p>	

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

If this document is being filed together with a new application, the execution date of the application is:

A. Trademark Application No.(s) B. Registration No.(s)

75/441,441

Additional numbers attached? Yes No

<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Lynn M. Humphreys Morrison & Foerster LLP 425 Market Street San Francisco, California 94105-2482</p>	<p>6. Total number of applications and trademark registrations involved: <u>1</u></p> <p>7. Total fee (37 C.F.R. § 3.41): \$40</p> <p><input checked="" type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account, referencing Attorney Docket 32814-24011</p> <p>8. Deposit account number: <u>03-1952</u></p>
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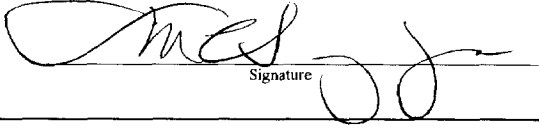
The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.21 which may be required by this paper, or to credit any overpayment to Deposit Account No. 03-1952.

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.

Name: Lynn M. Humphreys


Signature

5/13/99
Date

Total number of pages comprising cover sheet, attachments and document: 6

05/27/1999 DNGUYEN 00000326 75441441
01 FC:481 (40.00 DP)

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

sf-690326

Office of the Secretary of State

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 RESTATED CERTIFICATE OF "XOOM, INC.", CHANGING ITS NAME FROM "XOOM, INC." TO "XOOM.COM, INC.", FILED IN THIS OFFICE ON THE THIRTEENTH DAY OF OCTOBER, A.D. 1998, AT 4:30 O'CLOCK P.M.



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991126892

Edward J. Freel

Edward J. Freel, Secretary of State
9663607

AUTHENTICATION: 03-31-99
DATE:

RESTATED CERTIFICATE OF INCORPORATION
OF
XOOM, INC.

XOOM, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"),

DOES HEREBY CERTIFY:

1. That the name of the Corporation is XOOM, Inc. The Corporation was originally incorporated under the name Atomsoft, Inc.; and the original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on April 16, 1996.

2. That pursuant to a unanimous written consent of the Board of Directors of the Corporation dated October 7, 1998, resolutions were duly adopted setting forth the proposed amendment and restatement of the Certificate of Incorporation of the Corporation and declaring said amendment and restatement to be advisable. The resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Certificate of Incorporation of the Corporation be, and it hereby is, amended and restated in its entirety to read as set forth attached hereto.

3. That thereafter, the directors and the stockholders of the Corporation took action by executing a written consent in lieu of a meeting in accordance with Section 108(c) and Section 228(a), respectively, of the General Corporation Law of the State of Delaware.

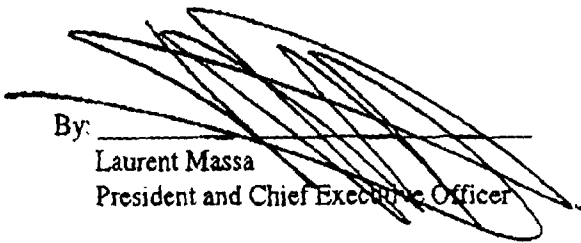
4. That said amendment and restatement was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Restated Certificate of Incorporation to be signed by its duly authorized officer, this 8th day of October, 1998.

XOOM, INC.

By: _____

Laurent Massa
President and Chief Executive Officer



**RESTATED CERTIFICATE OF INCORPORATION
OF
XOOM, INC.**

ARTICLE ONE

The name of the Corporation is XOOM.com, Inc.

ARTICLE TWO

The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, Wilmington, Delaware 19801, County of New Castle. The name of the Corporation's registered agent at such address is The Corporation Trust Company.

ARTICLE THREE

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE FOUR

The total number of shares of all classes of stock that the Corporation is authorized to issue is Forty-Five Million (45,000,000) shares, consisting of Forty Million (40,000,000) shares of Common Stock, par value (\$.0001) per share, and Five Million (5,000,000) shares of Preferred Stock, par value (\$.0001) per share.

Any of the shares of Preferred Stock may be issued from time to time in one or more series. Subject to the limitations and restrictions set forth in this Article Four, the Board of Directors, by resolution or resolutions, is authorized to create or provide for any such series, and to fix the designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, including, without limitation, the authority to fix or alter the dividend rights, dividend rates, conversion rights, exchange rights, voting rights, rights and terms of redemption (including sinking and purchase fund provisions), the redemption price or prices, the dissolution preferences and the rights in respect to any distribution of assets of any wholly unissued series of Preferred Stock and the number of shares constituting any such series, and the designation thereof, or any of them and to increase or decrease the number of shares of any series so created, subsequent to the issue of that series but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

There shall be no limitation or restriction on any variation between any of the different series of Preferred Stock as to the designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof; and the several series of Preferred Stock may, except as otherwise expressly provided herein, vary in any and all respects as fixed and determined by the resolution or resolutions of the Board of Directors, providing for the issuance of the various series; *provided, however*, that all shares of any one series of Preferred Stock shall have the same designation, preferences and relative, participating, optional or other special rights and qualifications, limitations and restrictions.

Except as otherwise required by law, or as otherwise fixed by resolution or resolutions of the Board of Directors with respect to one or more series of Preferred Stock, the entire voting power and all voting rights shall be vested exclusively in the Common Stock, and each stockholder of the Corporation who at the time possesses voting power for any purpose shall be entitled to one vote for each share of such stock standing in his name on the books of the Corporation.

ARTICLE FIVE

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to make, alter or repeal the Bylaws of the Corporation.

ARTICLE SIX

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

ARTICLE SEVEN

The Corporation shall indemnify, to the fullest extent permitted by Section 145 of the General Corporation Law of Delaware, as amended from time to time, all officers and directors of the Corporation whom it may indemnify pursuant thereto. The personal liability of a director of the Corporation to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director shall be limited to the fullest extent permitted by the General Corporation Law of the State of Delaware, as it now exists or may hereafter be amended. The Corporation may indemnify, to the fullest extent permitted by Section 145 of the General Corporation Law of Delaware, as amended from time to time, any or all employees or agents of the Corporation whom it may indemnify pursuant thereto. Any repeal or modification of this Article by the stockholders of the Corporation shall not adversely affect any right or protection of an officer or director of the Corporation existing at the time of such repeal or modification.

ARTICLE EIGHT

Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class

of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

ARTICLE NINE

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed herein and by the laws of the State of Delaware, and all rights conferred upon stockholders herein are granted subject to this right.