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FORM PTO 1684  
1-31-92



U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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

<p>1. Name of conveying party(ies):</p> <p><b>Value America, Inc.</b></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-State: <b>Nevada</b>  <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: <b>Value America, Inc.</b>  Street Address: <b>1550 Insurance Lane</b>  City: <b>Charlottesville</b> State: <b>Virginia</b> Zip: <b>22911</b></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 : <b>Virginia</b>  <input type="checkbox"/> Other</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached?  <input type="checkbox"/> Yes <input type="checkbox"/> No  (Designations must be on separate document from Assignments)  Additional name(s)</p>
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3. Nature of conveyance:

Assignment       Merger  
 Security Agreement       Change of Name  
 Other

Execution Date: **October 23, 1997**

05-07-1999

U.S. Patent & TMO/TM Mail Rcpt Dt. #61

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

A. Trademark Application No.(s) **N/A**

B. Trademark registration No.(s)

<b>2,138,287</b>	<b>2,177,825</b>
<b>2,141,860</b>	<b>2,098,957</b>

Additional numbers attached?  Yes  No

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

Name: **Christopher J. Mugel, Esquire**  
Internal Address: **LeClair Ryan**  
Street Address: **707 East Main Street, Eleventh Floor**  
City: **Richmond** State: **Virginia** Zip: **23219**

6. Total number of applications and registrations involved **4**

7. Total fee (37 CFR 3.41) ..... **\$ 115.00**

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.*

**Christopher J. Mugel**  
Name of Person Signing

*Christopher J. Mugel*  
Signature

**5/6/99**  
(Date)

Total number of pages comprising cover sheet: **1**

OMB No. 0651-0011 (exp. 4/94)

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Mail documents to be recorded with required cover sheet information to:

**05/28/1999 DNGUYEN 00000284 2138287** Commissioner of Patents and Trademarks  
Box Assignments  
Washington, D.C. 20231

**01 FC:481 40.00 OP**  
**02 FC:482 75.00 OP**

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

TRADEMARK  
REEL: 001905 FRAME: 0409

**ARTICLES OF MERGER**  
**for the Merger of**  
**VALUE AMERICA, INC., a Nevada Corporation**  
**into**  
**VALUE AMERICA, INC., a Virginia Corporation**

1. The Plan and Agreement of Merger ("Plan of Merger") is attached hereto as Exhibit A.

2. The sole shareholder of Value America, Inc., a Virginia corporation, adopted the Plan by written consent effective October 21, 1997.

3. The shareholders of Value America, Inc., a Nevada corporation, adopted the Plan by unanimous written consent effective October 21, 1997.

Effective Date: October 23 1997

VALUE AMERICA, INC.  
(a Virginia Corporation)

By: Rex Scatena  
Rex Scatena, President  
Date: 10-21-97

ATTEST:

By: Rex Scatena  
Rex Scatena, Secretary  
Date: 10-21-97

**AGREEMENT AND PLAN OF ARTICLES OF MERGER**  
of  
**VALUE AMERICA, INC.**  
(a Nevada Corporation)  
with and into  
**VALUE AMERICA, INC.**  
(a Virginia Corporation)

This Agreement and Plan of Articles of Merger (the "Plan") is made and entered into as of October 21, 1997 between Value America, Inc., a Nevada corporation ("Value America (Nevada)"), and Value America, Inc., a Virginia corporation (the "Corporation"), with reference to the following recitations. The address of each of Value America (Nevada) and the Corporation is 1650 State Farm Boulevard, Charlottesville, Virginia 22911.

A. The Corporation is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia. As of the date hereof, the authorized capital stock of the Corporation consists of 50,000,000 shares of common stock (the "Virginia Corporation Common Stock"), without par value, 100 of which shares are issued and outstanding, and 5,000,000 shares of preferred stock (the "Virginia Corporation Preferred Stock"), without par value, none of which shares are issued and outstanding.

B. Value America (Nevada) is a corporation organized and validly existing under the laws of the State of Nevada, with authorized capital stock of 7,500,000 shares (the "Nevada Corporation Common Stock"), \$.01 par value, 7,500,000 of which shares are issued and outstanding.

C. The board of directors and shareholders of the Corporation have adopted resolutions by unanimous written consent authorizing the proposed merger (the "Merger") of Value America (Nevada) with and into the Corporation upon the terms and conditions hereinafter set forth in accordance with the Virginia Stock Corporation Act.

D. The board of directors and shareholders of Value America (Nevada) have adopted resolutions by unanimous written consent approving the Merger upon the terms and conditions hereinafter set forth in accordance with Title 7 of the Nevada Revised Statutes.

E. The Merger is intended to qualify as a reorganization under Sections 368(a)(1)(A) and 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended.

~~The Corporation and Value America (Nevada) are hereinafter sometimes referred to collectively as the "Constituent Corporations."~~

NOW, THEREFORE, in consideration of the matters recited above and the covenants, conditions and agreements contained herein and intending to be legally bound hereby, the parties hereto agree as follows.

1. **Merger.** The Constituent Corporations shall effect the Merger on the terms and conditions set forth in this Plan.

a. **Effect.** At the Effective Time, as defined in subsection (b), Value America (Nevada) shall be merged with and into the Corporation, and the separate existence of Value America (Nevada), except insofar as it may be continued by statute or Section 7, shall cease, all with the effect provided in Section 92A.190 of the Nevada Revised Statutes and Section 13.1-721 of the Virginia Stock Corporation Act. From and after the Effective Time, the Corporation shall be, and is sometimes hereinafter referred to as, the "Surviving Corporation."

b. **Effectiveness.** Subject to the terms and conditions herein provided, an appropriate Articles of Merger under the Nevada Revised Statutes and Articles of Merger under the Virginia Stock Corporation Act shall be executed by the Constituent Corporations to be effective as of October 23, 1997. On October 23, 1997, Articles of Merger shall be filed with the Secretary of State of the State of Nevada, and Articles of Merger shall be filed with the State Corporation Commission of Virginia (the "Commission") and the Merger shall become effective upon the date and at the time the Certificate of Merger is issued by the Commission (which date and time are hereinafter referred to as the "Effective Time").

2. **Conversion of Shares; Stock Incentive Plan.** At the Effective Time, the manner and basis of converting shares of the Constituent Corporations will be as follows: every share of the Nevada Corporation Common Stock issued and outstanding at the Effective Time shall at the Effective Time be exchanged for and converted into and become without further action by the holder thereof 1 share of the Virginia Corporation Common Stock, and from and after the Effective Time shall represent 1 share of the common stock, without par value, of the Surviving Corporation. Pursuant to Section 19 of the Value America, Inc. 1997 Stock Incentive Plan established by Value America (Nevada) as of August 1, 1997 (the "Stock Incentive Plan"), the Stock Incentive Plan shall become the stock incentive plan of the Surviving Corporation as of the Effective Time. Every right of a participant in the Stock Incentive Plan to purchase a share of the Nevada Corporation Common Stock shall become, as of the Effective Time, a right to purchase a share of the Virginia Corporation Common Stock under the same terms and conditions and at the same price provided in the Stock Incentive Plan. All terms and conditions of the Stock Incentive Plan (including without limitation the reservation for issuance pursuant to Section 4 of the Stock Incentive Plan of 1,250,000 shares of common stock) shall be binding upon the Surviving Corporation and shall apply to the Virginia Corporation Common Stock, and all obligations under the Stock Incentive Plan (including without limitation all outstanding options for the purchase of common stock) shall be assumed by the Surviving Corporation, as of the Effective Time.

3. **Articles of Incorporation.** From and after the Effective Time, the Articles of Incorporation of the Corporation, as in effect immediately prior to the Effective Time, shall be the Articles of Incorporation of the Surviving Corporation until duly amended in accordance with law, and the Surviving Corporation shall continue to be a corporation organized and governed by the laws of the Commonwealth of Virginia.

4. **Bylaws.** The Bylaws of the Corporation, as in effect immediately prior to the Effective Time, shall be the Bylaws of the Surviving Corporation until duly amended in accordance with law.

5. **Certain Agreements.** As of the Effective Time, the Surviving Corporation shall assume all obligations under, and the Surviving Corporation shall be bound by the terms and conditions of, each of the following agreements: any and all agreements titled "Employment Agreement" to which Value America (Nevada) was a party immediately prior to the Effective Time; any and all agreements titled "Incentive Stock Option Agreement" to which Value America (Nevada) was a party immediately prior to the Effective Time; and any and all agreements titled "Developments, Noncompete and Nondisclosure Agreement" to which Value America (Nevada) was a party immediately prior to the Effective Time.

6. **Directors and Officers.** The directors and officers of the Corporation immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation until their successors have been duly elected and qualified, or until their earlier death, resignation or removal.

7. **Termination.** This Plan may be terminated at any time at or before the Effective Time by agreement of the boards of directors of the Constituent Corporations.

8. **Further Assurances.** If at any time the Surviving Corporation shall consider or be advised that any further assignments or assurances of any other acts are necessary or desirable to carry out the purposes of this Plan, Value America (Nevada) and its proper officers and directors shall be deemed to have granted to the Surviving Corporation an irrevocable power of attorney to execute and deliver all such proper deeds, assignments and assurances and to do all acts necessary or proper to carry out the purposes of this Plan; and the proper officers and directors of the Surviving Corporation are fully authorized in the name of Value America (Nevada).

9. **Interpretation.** The headings herein are for convenience of reference only, do not constitute a part of this Plan, and shall not be deemed to limit or affect any of the provisions hereof. Words used herein, regardless of the number specifically used, shall be deemed to include any other number, singular or plural, as the context may require.

IN WITNESS WHEREOF, the undersigned have executed this Plan as of the date first above written.

VALUE AMERICA, INC.  
(a Virginia corporation)

Attest:

By: *Alex S. Adams*  
Secretary  
Date: 10.21.97

By: *Alex S. Adams*  
Its: President  
Date: 10.21.97

VALUE AMERICA, INC.  
(a Nevada corporation)

Attest:

By: *Rex Scates*  
Secretary

Date: 10.21.97

By: *Rex Scates*  
Its: President

Date: 10.21.97

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

October 23, 1997

The State Corporation Commission finds the accompanying articles submitted on behalf of

VALUE AMERICA, INC.

to comply with the requirements of law. Therefore, it is ORDERED that this

**CERTIFICATE OF MERGER**

be issued and admitted to record with the articles in the office of the Clerk of the Commission. Each of the following:

VALUE AMERICA, INC. (A NV CORPORATION NOT QUALIFIED IN VA)

is merged into VALUE AMERICA, INC., which continues to exist under the laws of VIRGINIA with the name VALUE AMERICA, INC.. The existence of each non-surviving entity ceases, according to the plan of merger.

The certificate is effective on October 23, 1997.

STATE CORPORATION COMMISSION

By



Commissioner

MERGACPT  
CIS20317  
97-10-23-0507

# Commonwealth of Virginia

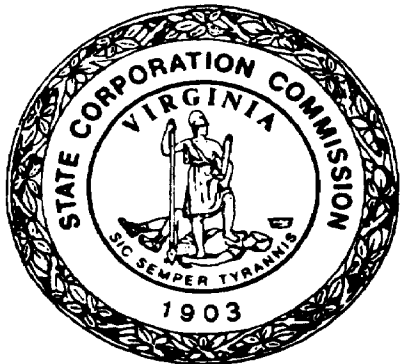


## State Corporation Commission

I Certify the Following from the Records of the Commission:

the foregoing is a true copy of the ARTICLES OF MERGER of VALUE AMERICA, INC. issued October 23, 1997.

Nothing more is hereby certified.



Signed and Sealed at Richmond  
on this Date: May 05, 1999

*Joel H. Beck*

Clerk of the Commission

CIS20505

RECORDED: 05/07/1999

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