

08-31-1999

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8-26-99



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RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
Document ID #
- Correction of PTO Error
Reel # Frame #
- Corrective Document
Reel # Frame #

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
- Merger
Effective Date
Month Day Year
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year

Formerly

- Individual General Partnership Limited Partnership Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

HSE

Address (line 2)

Address (line 3)
City

State/Country

Zip Code

- Individual General Partnership Limited Partnership

- Corporation Association

Other

Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

08/31/1999 MTHAI1 00000069 75395663

FOR OFFICE USE ONLY

01 FC:481
02 FC:482

40.00 OP
75.00 OP

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

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number: #

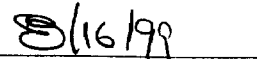
Authorization to charge additional fees: Yes No

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. Charges to deposit account are authorized, as indicated herein.

Robert F. Mechur, Esq.


Signature

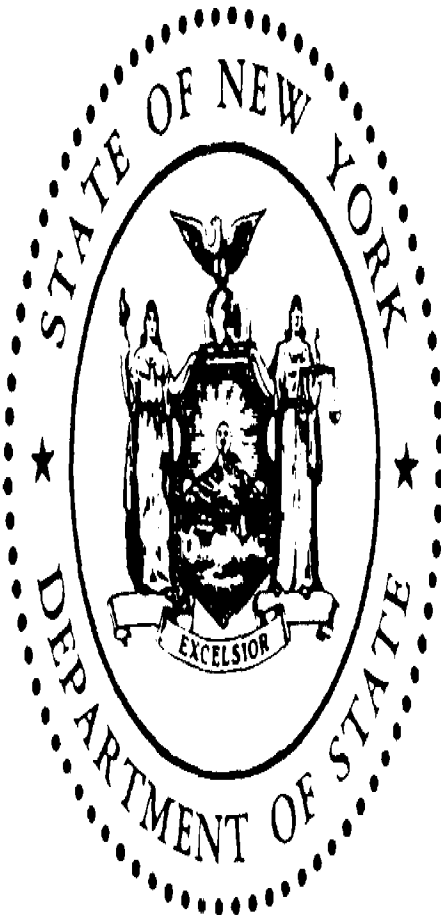

Date Signed

State of New York }
Department of State }^{ss.}

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

AUG 11 1999



A handwritten signature in black ink, appearing to read "J. K. ...", written over a horizontal line.

Special Deputy Secretary of State

F990430000342

CERTIFICATE OF MERGER
of
APPLIEDTHEORY COMMUNICATIONS, INC.,
a New York Corporation,
into
APPLIEDTHEORY CORPORATION,
a Delaware Corporation,

CT-07

CT-07

Under Section 907 of the
New York Business Corporation Law

Pursuant to the provisions of Section 907 of the New York Business Corporation Law, the undersigned being the duly authorized officers of AppliedTheory Communications, Inc., a New York corporation, and the duly authorized officers of AppliedTheory Corporation, a Delaware corporation, hereby certify that:

FIRST: The names of the constituent corporations are AppliedTheory Communications, Inc. (formerly NYSErNet.com, Inc.), a New York corporation, and AppliedTheory Corporation (formerly AppliedTheory Inc.), a Delaware corporation. The surviving corporation shall be AppliedTheory Corporation, a Delaware corporation.

SECOND: AppliedTheory Communications, Inc. is the owner of all of the outstanding shares of capital stock of AppliedTheory Corporation.

THIRD: Set forth below are (i) the designation and number of outstanding shares of each class of each constituent corporation, (ii) the number of such shares of each class, if any, owned by AppliedTheory Corporation and (iii) if the number of any such shares is subject to change prior to the effective date of the merger, the manner in which such change may occur:

(a) AppliedTheory Communications, Inc.

<u>Designation of Class</u>	<u>Shares Authorized</u>	<u>Shares Outstanding⁽¹⁾</u>
Voting Common Stock, par value \$0.01 per share	25,000,000	10,565,805
Non-Voting Common Stock, par value \$0.01 per share	5,000,000	80,981
Preferred Stock, par value \$0.01 per share	75,000	15,000

(1) Based on number of shares outstanding as of March 31, 1999. Outstanding shares of Voting Common Stock and Non-Voting Common Stock of AppliedTheory Communications, Inc. are subject to increase in the event of the exercise of outstanding stock options prior to the effective date of the merger. No outstanding shares of Voting Common Stock, Non-Voting Common

Stock of Preferred Stock of AppliedTheory Communications, Inc. are owned by AppliedTheory Corporation.

(b) AppliedTheory Corporation

Designation of Class	Shares Authorized	Shares Outstanding ⁽¹⁾
Common Stock, par value \$.01 per share	90,000,000	100
Preferred Stock, par value \$.01 per share	1,000,000	0

⁽¹⁾ Based on number of shares outstanding as of March 31, 1999. AppliedTheory Corporation owns none of its outstanding shares of Common Stock.

FOURTH: No amendments or changes in the certificate of incorporation of AppliedTheory Corporation will be effected by the merger.

FIFTH: The effective date of the merger shall be on April 30, 1999 (the "Effective Date").

SIXTH: The merger is permitted by the laws of the State of Delaware and is in compliance with such laws.

SEVENTH: The merger has been approved by the shareholders of AppliedTheory Communications, Inc. in accordance with subparagraph (a) of Section 903 of the New York Business Corporation Law.

EIGHTH: AppliedTheory Corporation was incorporated as a Delaware corporation on January 28, 1999. An application for authority of AppliedTheory Corporation to do business in the State of New York was filed with the New York Department of State on March 24, 1999.

NINTH: AppliedTheory Communications, Inc. was incorporated as a New York corporation on November 6, 1995.

TENTH: AppliedTheory Corporation, as the surviving corporation, agrees that it may be served with process in the State of New York in any action or special proceeding for the enforcement of any liability or obligation of AppliedTheory Communications, Inc., and for the enforcement, as and if provided under the New York Business Corporation Law, of the right of the shareholders of AppliedTheory Communications, Inc., to receive payment for their shares against AppliedTheory Corporation.

ELEVENTH: Under the provisions of Section 910 of the New York Business Corporation Law, the dissenting shareholders of AppliedTheory Communications, Inc., if any, are not entitled to receive payment of the fair value of their

divers and other rights and benefits that they would otherwise be entitled to under Section 623 of the New York Business Corporation Law.

TWELFTH: AppliedTheory Corporation, as the surviving corporation, hereby designates the Secretary of State of the State of New York as its agent upon whom process against it may be served in the manner set forth in paragraph (b) of Section 306 of the New York Business Corporation Law, in any action or special proceeding. AppliedTheory Corporation hereby designates its office at 40 Cutter Mill Road, Suite 400, Great Neck, New York 11021 to be the post office address to which the Secretary of State of the State of New York shall mail any copy of any process against it served upon him. Such post office address supercedes any prior address designated as the address to which process shall be mailed.

THIRTEENTH: All fees and taxes (including penalties and interest) assessed by the New York State Department of Taxation and Finance due and payable by AppliedTheory Communications, Inc. have been paid and a cessation franchise tax report (estimated) through the anticipated date of the merger (which return is subject to amendment) has been filed by AppliedTheory Communications, Inc. AppliedTheory Corporation, as the surviving corporation, agrees that it will within thirty days after the filing of the certificate of merger with the Secretary of State of the State of New York file the final cessation franchise tax report and promptly pay to the New York State Department of Taxation and Finance all fees and taxes (including penalties and interest), if any, due to the New York State Department of Taxation and Finance by AppliedTheory Communications, Inc.

FOURTEENTH: Anything herein or elsewhere to the contrary notwithstanding, this merger may be terminated and abandoned by the Board of Directors of AppliedTheory Communications, Inc. or AppliedTheory Corporation at any time prior to its Effective Date.

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NY-184490.3

IN WITNESS WHEREOF, AppliedTheory Communications, Inc. and AppliedTheory Corporation have caused this Certificate of Merger to be executed in their respective names and on their behalf and attested as of this 29 day of April, 1999.

APPLIEDTHEORY COMMUNICATIONS, INC., a New York corporation

By: Richard Mandelbaum
Richard Mandelbaum
Chairman of the Board and
Chief Executive Officer

Attest:
By: David A. Buckel
David A. Buckel
Vice President and Chief Financial
Officer and Secretary

APPLIEDTHEORY CORPORATION,
a Delaware corporation

Attest:
By: Richard Mandelbaum
Richard Mandelbaum
Chairman of the Board and
Chief Executive Officer

By: David A. Buckel
David A. Buckel
Vice President and Chief Financial
Officer and Secretary

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NY-284498.5

F990430000342

CT-07

CERTIFICATE OF MERGER

OF

APPLIEDTHEORY COMMUNICATIONS, INC. (2)

INTO

APPLIEDTHEORY CORPORATION

UNDER SECTION 907 OF THE BUSINESS CORPORATION LAW

ICC
STATE OF NEW YORK
DEPARTMENT OF STATE

APR 30 1999

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Nassau

BILLED

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DEWEY BALLANTINE LLP
1301 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019

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