

FORM PTO-1594
1-31-92

U.S. DEPARTMENT OF COMMERCE
Patents and Trademark Office



101570887

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

1. Name of conveying party(ies):

CONFINITY, INC.

Individual(s) Association

General Partnership Limited Partnership

X Corporation - State California

Other

Additional name(s) of conveying parties attached? Yes No

2. Name and address of receiving party(ies)

Name: X.COM Corporation

Internal Address:

Street Address: 1840 Embarcadero Road, East

City: Palo Alto, CA 94303

Individual(s) citizenship 11-30-00

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)

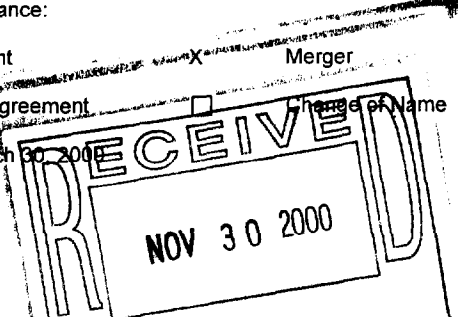
Additional names and addresses attached? Yes No

3. Nature of conveyance:

Assignment Merger

Security Agreement Change of Name

Effective Date: March 30, 2000



4. Application Number(s) or Registration Number(s).

A. Trademark Application No(s):

75/878,267 YOU'VE GOT MONEY

75/878,266 YOU'VE GOT CASH

B. Trademark Registration No(s):

Additional numbers attached? Yes ___ No XX

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

Name: Mark A. Steiner

TOWNSEND AND TOWNSEND AND CREW LLP

Two Embarcadero Center, 8th Floor

San Francisco, California 94111-3834

(415) 576-0200

6. Total number of applications and registrations involved 2

7. Total fee (37 CFR 3.41): \$65.00

Enclosed Charge Fees to Deposit Account

x Charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to deposit account.

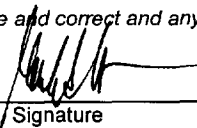
8. Deposit account number: 20-1430

(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 is true and correct and any attached copy is a true copy of the original document.

Mark A. Steiner  11-27-00

Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments and document: 15

10. Change Correspondence Address to that of Part 5? XX Yes No

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

Do not detach this portion

Mail documents to be recorded with required cover to:

01/02/2001 MTHAZ1 00000221 201430 75878267 Asst. Commissioner for Trademarks

01 FC:481 40.00 CH

02 FC:482 25.00 CH

Box: Assignments
Washington, D.C. 20231

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 30 2000

BILL JONES, Secretary of State

AGREEMENT OF MERGER
OF
X.COM CORPORATION
CONFINITY ACQUISITION CORP.
AND
CONFINITY, INC.

This Agreement of Merger, dated as of the 30th day of March, 2000 ("Agreement of Merger"), by and among Confinity Acquisition Corp. ("Merger Sub"), a Delaware corporation and a wholly owned subsidiary of X.com Corporation, a Delaware corporation ("X.com"), X.com and Confinity, Inc., a California corporation ("Confinity").

RECITALS

- A. X.com was incorporated in the State of Delaware on March 9, 1999.
- B. Merger Sub was incorporated in the State of Delaware on February 18, 2000.
- C. X.com, Merger Sub and Confinity have entered into an Agreement and Plan of Merger of March 1, 2000 (the "Agreement and Plan of Merger") providing for certain representations, warranties, covenants and agreements in connection with the transactions contemplated hereby. This Agreement of Merger and the Agreement and Plan of Merger are intended to be construed together to effectuate their purpose.
- D. The Boards of Directors of Confinity, X.com and Merger Sub deem it advisable and in their mutual best interests and in the best interests of the shareholders of Confinity and Merger Sub, respectively, that Confinity be acquired by X.com through a merger of Merger Sub with and into Confinity (the "Merger").
- E. The Boards of Directors and shareholders of X.com, Merger Sub and Confinity have approved the Merger.

AGREEMENTS

The parties hereto hereby agree as follows:

- 1. Merger Sub shall be merged with and into Confinity, and Confinity shall be the surviving corporation.
- 2. The Merger shall become effective at such time (the "Effective Time" of the Merger) as this Agreement of Merger and the officers' certificates of Merger Sub and Confinity are filed with the Secretary of State of the State of California pursuant to Section 1103 of the Corporations Code of the State of California.

3. At the Effective Time of the Merger:

(a) Each issued and outstanding share of the capital stock of Merger Sub shall be converted into and become one fully paid and nonassessable share of Common Stock, no par value, of the Surviving Corporation.

(b) All of the then outstanding shares of Common Stock of Confinity (the "Confinity Common Stock") and Series A, B and C Preferred Stock of Confinity (the "Confinity Preferred Stock") that are owned directly or indirectly by Confinity, X.com, Merger Sub or any other direct or indirect wholly-owned subsidiary (defined below) of X.com or Confinity shall be canceled and retired and shall cease to exist and no stock of X.com or other consideration shall be delivered in exchange therefor. "Subsidiary" means, with respect to any other party, any corporation or other organization, whether incorporated or unincorporated, of which (i) such party or any other subsidiary of such party is a general partner (excluding partnerships, the general partnership interests of which held by such party or any subsidiary of such party do not have a majority of the voting interest in such partnership), or (ii) at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the Board of Directors or others performing similar functions with respect to such corporation or other organization or a majority of the profit interests in such other organization is directly or indirectly owned or controlled by such party or by any one or more of its subsidiaries, or by such party and one or more of its subsidiaries.

(c) Conversion of Capital Stock. At the Effective Time, the Confinity Capital Stock will convert as follows: (i) each share of Confinity Common Stock issued and outstanding as of the Effective Time (other than shares, if any, held by persons who have not voted such shares for approval of the Merger and with respect to which such persons shall become entitled to exercise dissenters' rights in accordance with Chapter 13 of the California Corporations Code, referred to hereinafter as "Dissenting Shares", and shares canceled pursuant to subsection (b) above) shall, by virtue of the Merger and without any action on part of the holder thereof, be converted automatically into the right to receive a fraction of a fully paid and nonassessable share of X.com Common Stock, and (ii) each issued and outstanding share of Confinity Series A, B and C Preferred Stock (other than Dissenting Shares and shares cancelled pursuant to Section 3(a)) shall, by virtue of the Merger and without any action on part of the holder thereof, be converted automatically into the right to receive a fraction of a fully paid and nonassessable share of X.com Series AA, BB and CC Preferred Stock, respectively, in each case such fraction being equal to the quotient obtained by dividing

(A) the total number of shares of X.com capital stock outstanding immediately prior to the Effective Time (assuming (1) exercise of all outstanding options and warrants to purchase shares of capital stock of X.com, (2) conversion of all securities convertible into shares of capital stock of X.com and (3) issuance of 1,500,000 shares of capital stock of X.com in connection with a pending acquisition by X.com, as set forth in the Agreement and Plan of Merger), by:

(B) the total number of shares of Confinity capital stock outstanding immediately prior to the Effective Time (assuming (1) exercise of all outstanding options and warrants to purchase shares of capital stock of Confinity and (2) conversion of all securities convertible into shares of capital stock of Confinity) (the "Exchange Ratio"). The shares of X.com capital stock issued hereunder is referred to as the "Merger Consideration."

All such shares of Confinity Common Stock and Confinity Preferred Stock, when so converted, shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any such shares shall cease to have any rights with respect thereto, except the right to receive the shares of X.com Common Stock in the case of Confinity Common Stock, or X.com Series AA, BB and CC Preferred Stock in the case of Confinity Series A, B and C Preferred Stock, respectively, upon the surrender of such certificates of Confinity capital stock without interest.

(d) Confinity Options and Warrants.

(i) Confinity Options.

(A) All options to purchase Confinity Common Stock ("Confinity Options") issued and outstanding under Confinity's 1999 Stock Plan (the "Confinity Stock Plan"), whether or not exercisable, whether or not vested, and whether or not performance-based, shall remain outstanding following the Effective Time.

(B) At the Effective Time, the Confinity Options shall, by virtue of the Merger and without any further action on the part of Confinity or the holder thereof, be assumed by X.com in accordance with this Section 3(d)(i)(B). Each such Confinity Option so assumed by X.com under this Agreement of Merger shall continue to have, and be subject to, the same terms and conditions set forth in the Confinity Stock Plan (and any other collateral agreement(s) between the optionee and Confinity in connection with such grant) immediately prior to the Effective Time, except that (i) such Confinity Option will be exercisable for that number of whole shares of X.com Common Stock equal to the product of the number of shares of Confinity Common Stock that were issuable upon exercise of such Confinity Option immediately prior to the Effective Time multiplied by the Exchange Ratio and rounded down to the nearest whole number of shares of X.com Common Stock, and (ii) the per share exercise price for the shares of X.com Common Stock issuable upon exercise of such assumed option will be equal to the quotient determined by dividing the exercise price per share of Confinity Common Stock at which such Confinity Option was exercisable immediately prior to the Effective Time by the Exchange Ratio, rounded up to the nearest whole cent.

(ii) Confinity Warrants. The outstanding warrants to purchase Confinity Series C Preferred Stock (the "Confinity Warrants"), whether or not exercisable and whether or not vested at the Effective Time, shall remain outstanding at the Effective Time. At the Effective Time, the Confinity Warrants shall, by virtue of the Merger and without any further action on the part of Confinity or the holders of the Confinity Warrants (unless further action may be required by the terms of the Confinity Warrants), be assumed by X.com and the Confinity Warrants assumed by X.com shall be exercisable upon the same terms and conditions as under the warrant agreements with respect to the Confinity Warrants, except that (A) each Confinity Warrant shall be exercisable for that whole number of shares of X.com Series CC Preferred Stock (rounded down to the nearest whole share) into which the number of shares of Confinity Series C Preferred Stock subject to such Confinity Warrant would be converted hereunder, (B) the exercise price per share of X.com Series CC Preferred Stock shall be an amount equal to the exercise price per share of the Confinity Series C Preferred Stock subject to such Confinity Warrant in effect immediately prior to the Effective Time divided by the Exchange Ratio (the exercise price per share, so determined, being rounded up to the nearest full cent). From and after the Effective Time, all references to Confinity in the warrant agreements underlying the Confinity Warrants shall be deemed to refer to X.com. X.com further agrees that, notwithstanding any other term of this Agreement of Merger to the contrary, if required under the terms of the Confinity Warrants or if

otherwise appropriate under the terms of the Confinity Warrants, it will execute a supplemental agreement with the holders of the Confinity Warrants to effectuate the foregoing. No payment shall be made for fractional shares.

(d) Restricted Shares. Shares of Confinity Common Stock which are subject to repurchase by Confinity in the event the holder thereof ceases to be employed by Confinity ("Confinity Restricted Shares") shall be converted into X.com Common Stock on the same basis as provided in subsection (b) above and shall be registered in such holder's name, but shall be held by Confinity or X.com pursuant to the Stock Restriction Agreements or other applicable agreements in effect on the date of this Agreement.

4. Any Dissenting Shares shall not be converted into X.com capital stock but shall be converted into the right to receive such consideration as may be determined to be due with respect to such Dissenting Shares pursuant to the law of the State of California. If after the Effective Time any Dissenting Shares shall lose their status as Dissenting Shares, then as of the occurrence of the event which causes the loss of such status, such shares shall be converted into X.com capital stock in accordance with Section 3.

5. Notwithstanding any other term or provision hereof, no fractional shares of X.com capital stock shall be issued.

6. The conversion of Confinity capital stock into Merger Consideration as provided by this Agreement of Merger shall occur automatically at the Effective Time of the Merger without action by the holders thereof. Each holder of Confinity capital stock shall thereupon be entitled to receive his, her or its portion of the Merger Consideration in accordance with Section 3. Such shareholder shall receive certificates that represent the applicable number of shares of X.com capital stock in accordance with the Agreement and Plan of Merger and the following procedures:

From and after the Effective Time, each holder of an outstanding certificate or certificates which represented shares of Confinity Common Stock or Confinity Preferred Stock immediately prior to the Effective Time ("Certificates") shall have the right to surrender each Certificate to X.com (or at X.com's option, an exchange agent to be appointed by X.com), and receive promptly in exchange for all Certificates held by such holder a certificate representing the number of whole shares of X.com Common Stock, in the case of Confinity Common Stock, or X.com Series AA, BB or CC Preferred Stock, in the case of Confinity Series A, B or C Preferred Stock, into which the Confinity Common Stock or Confinity Preferred Stock evidenced by the Certificates so surrendered shall have been respectively converted pursuant to the provisions of Article 3 of this Agreement of Merger. The surrender of Certificates shall be accompanied by duly completed and executed Letters of Transmittal in such form as may be reasonably specified by X.com. Until surrendered, each outstanding Certificate which prior to the Effective Time represented shares of Confinity Common Stock or Confinity Series A, B or C Preferred Stock shall be deemed for all corporate purposes to evidence ownership of the number of whole shares of X.com Common Stock or X.com Series AA, BB or CC Preferred Stock into which the shares of Confinity capital stock have respectively been converted but shall, subject to applicable dissenter's rights under California Law, have no other rights. Subject to applicable dissenter's rights under California Law, from and after the Effective Time, the holders of shares of Confinity Common Stock and the holders of shares of Confinity Preferred Stock shall cease to have any rights in respect of such shares and their rights shall be solely in respect of the X.com Common Stock or X.com Series AA, BB or CC Preferred Stock into which such shares of Confinity capital stock have respectively been converted. From and after the Effective Time, there shall be no further registration of transfers on the records of Confinity of shares

of Confinity Common Stock or Confinity Preferred Stock outstanding immediately prior to the Effective Time.

7. At the Effective Time of the Merger, the separate existence of Merger Sub shall cease, and Confinity shall succeed, without other transfer, to all of the rights and properties of Merger Sub and shall be subject to all the debts and liabilities thereof in the same manner as if Confinity had itself incurred them. All rights of creditors and all liens upon the property of each corporation shall be preserved unimpaired, provided that such liens upon property of Merger Sub shall be limited to the property affected thereby immediately prior to the Effective Time of the Merger.

8. Effective upon the closing of the Merger, the Articles of Incorporation of Confinity shall be amended and restated as set forth on Schedule 1 to this Agreement of Merger and shall be the Articles of Incorporation of Confinity as the surviving corporation after the Merger unless thereafter amended.

9. (a) This Agreement of Merger may be terminated at any time prior to the Effective Time of the Merger by mutual agreement of X.com and Confinity.

(b) This Agreement of Merger shall terminate forthwith in the event that, prior to the filing of the Agreement of Merger with the Secretary of State, the Agreement and Plan of Merger shall be terminated as therein provided.

(c) In the event of the termination of this Agreement of Merger as provided above, this Agreement of Merger shall forthwith become void and there shall be no liability on the part of Confinity, X.com or Merger Sub or their respective officers or directors, except as otherwise provided in the Agreement and Plan of Merger.

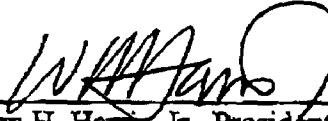
(d) This Agreement of Merger may be signed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one agreement.

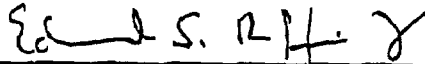
(e) This Agreement of Merger may be amended by the parties hereto any time before or after approval hereof by the shareholders of Confinity or Merger Sub, but after such approval, no amendments shall be made which by law requires the further approval of such shareholders without obtaining such approval. This Agreement of Merger may be amended by an instrument in writing signed on behalf of each of the parties hereto.

[Signature Page Follows]


IN WITNESS WHEREOF, the parties have executed this Agreement of Merger as of the date first written above.

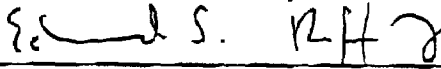
X.COM, INC.

By: 
William H. Harris, Jr., President and CEO

By: 
Edmund S. Ruffin, Jr., Secretary

CONFINITY ACQUISITION CORP.

By: 
William H. Harris, Jr., President

By: 
Edmund S. Ruffin, Jr., Secretary

CONFINITY, INC.

By: _____
Peter Thiel, Chairman of the Board and CEO

By: _____
Max Levchin, Secretary

IN WITNESS WHEREOF, the parties have executed this Agreement of Merger as of the date first written above.

X.COM, INC.

By: _____
William H. Harris, Jr., President and CEO

By: _____
Edmund S. Ruffin, Jr., Secretary

CONFINITY ACQUISITION CORP.

By: _____
William H. Harris, Jr., President

By: _____
Edmund S. Ruffin, Jr., Secretary

CONFINITY, INC.

By: Peter Thiel
Peter Thiel, Chairman of the Board and CEO

By: Max Levchin
Max Levchin, Secretary

SCHEDULE 1

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CONFINITY, INC.**

ARTICLE I

The name of this corporation is Confinity, Inc. (the "Corporation").

ARTICLE II

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

ARTICLE III

The Corporation is authorized to issue only one class of shares of stock, to be designated Common Stock; and the total number of shares which the Corporation is authorized to issue is 1,000 with no par value.

ARTICLE IV

(a) The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) to the fullest extent permissible under California law.

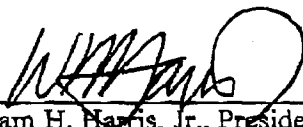
(c) Any amendment or repeal or modification of the foregoing provisions of this Article V by the shareholders of the corporation shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

CONFINITY ACQUISITION CORP.**Officer's Certificate of Approval of Merger**

The undersigned, William H. Harris, Jr. and Edmund S. Ruffin, Jr., do hereby certify that:

1. They are the President and Secretary, respectively, of Confinity Acquisition Corp., a Delaware corporation ("CAC").
2. The Agreement of Merger attached to this Certificate providing for the merger of CAC with and into Confinity, Inc., a California corporation ("Confinity"), with Confinity surviving as a wholly-owned subsidiary of X.com Corporation, a Delaware corporation, was duly approved by the Board of Directors and stockholders of CAC.
3. CAC has one authorized class of shares, designated as Common Stock. The number of shares of Common Stock outstanding and entitled to vote upon the merger was 1,000 shares.
4. The terms of the Agreement of Merger were approved by CAC by the vote of a number of shares of Common Stock of this corporation which equaled or exceeded the vote required. The percentage vote required for such approval was more than 50% of the Common Stock. The required vote of the stockholders of X.com Corporation has been obtained.

Each of the undersigned declares under penalty of perjury under the law of the State of California that the matters set forth in this certificate are true and correct of their own knowledge. Executed at Menlo Park, California on this 30th day of March, 2000.



William H. Harris, Jr., President

Edmund S. Ruffin, Jr. Secretary

CONFINITY, INC.

Officer's Certificate of Approval of Merger

The undersigned, Peter Thiel and Max Levchin, do hereby certify that:

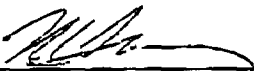
1. They are the Chief Executive Officer and Secretary, respectively, of Confinity, Inc., a California corporation ("Confinity").
2. The Agreement of Merger attached to this Certificate providing for the merger of Confinity Acquisition Corp., a Delaware Corporation ("CAC") with and into Confinity, with Confinity surviving as a wholly-owned subsidiary of X.com Corporation, a Delaware corporation, was duly approved by the Board of Directors and shareholders of Confinity.
3. Confinity has three authorized classes of stock, designated as Preferred Stock, Non-Voting Common Stock and Common Stock. The Preferred Stock consists of Series A Preferred Stock, Series B Preferred Stock, Non-Voting Series B Preferred Stock and Series C Preferred Stock. The number of shares of Common Stock outstanding and entitled to vote upon the merger was 12,614,450 shares. The total number of shares of Preferred Stock outstanding and entitled to vote upon the merger was 23,666,664 shares, consisting of 2,500,000 shares of Series A Preferred Stock, 12,000,000 shares of Series B Preferred Stock and 9,166,664 shares of Series C Preferred Stock. There are no outstanding shares of Non-Voting Common Stock or Non-Voting Series B Preferred Stock, nor have there ever been any.
4. The terms of the Agreement of Merger were approved by Confinity by the vote of a number of shares of Common Stock and Preferred Stock of this corporation which equaled or exceeded the vote required. The percentage vote required for such approval was more than 50% of the Common Stock and more than 50% of the Preferred Stock, each voting separately as a class. In addition, although not required, the terms of the Agreement of Merger were approved by a majority of the Series C Preferred Stock.

[Signature Page Follows]

Each of the undersigned declares under penalty of perjury under the law of the State of California that the matters set forth in this certificate are true and correct of their own knowledge. Executed at Menlo Park, California on this 30th day of March, 2000.



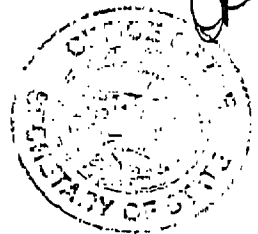
Peter Thiel, Chief Executive Officer



Max Levchin, Secretary

0424116.01

State of California



SECRETARY OF STATE

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 11 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

APR 13 2000

Bill Jones

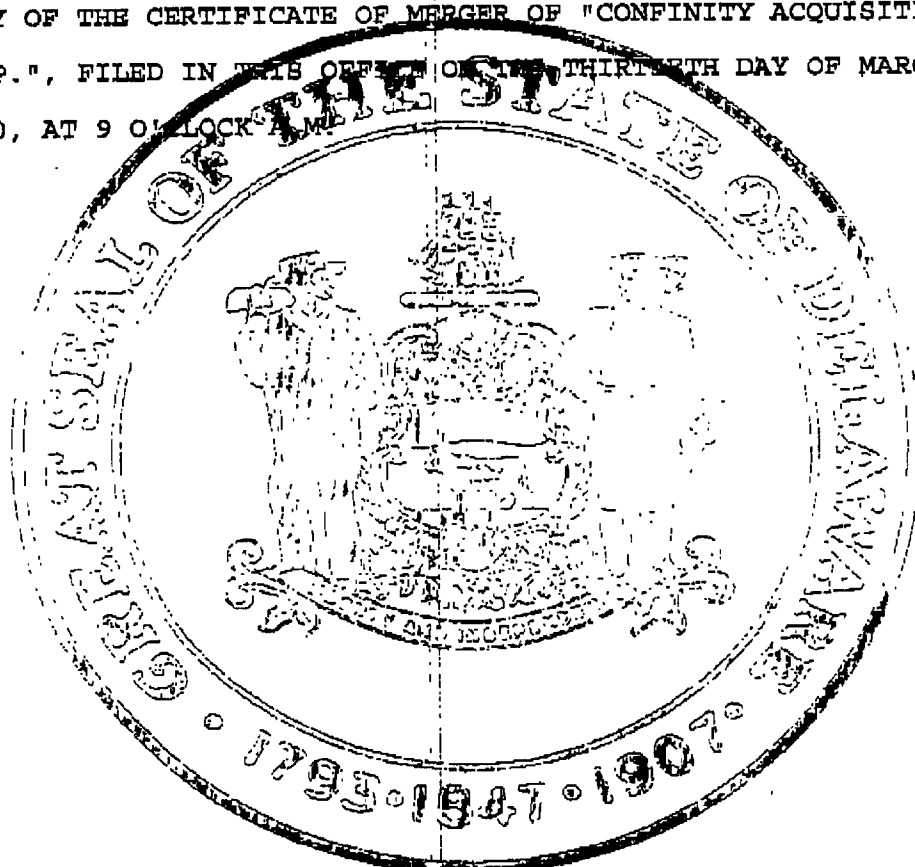
Secretary of State



State of Delaware
Office of the Secretary of State

PAGE 1

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 CERTIFICATE OF MERGER OF "CONFINITY ACQUISITION CORP.", FILED IN THIS OFFICE ON THE THIRTEENTH DAY OF MARCH, A.D. 2000, AT 9 O'CLOCK A.M.



Edward J. Freel

Edward J. Freel, Secretary of State

3179874 8100
001166352

AUTHENTICATION: 0354878
DATE: 03-31-00

CERTIFICATE OF MERGER

The undersigned, the President of Confinity, Inc., a California corporation, hereby certifies in connection with the merger of Confinity, Inc. and Confinity Acquisition Corp. that:

1. The name and state of incorporation of each of the constituent corporations of the merger is as follows:

Name	State of Incorporation
Confinity Acquisition Corp.	Delaware
Confinity, Inc.	California

2. An agreement and plan of merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 252(a) of the General Corporation Law of the State of Delaware (the "DGCL").

3. The name of the surviving corporation of the merger is Confinity, Inc.

4. The articles of incorporation of Confinity, Inc., the surviving corporation, shall be the articles of incorporation of the surviving corporation.

5. The executed agreement and plan of merger is on file at the principal place of business of the surviving corporation at 165 University Ave., Palo Alto, CA 94301.

6. A copy of the agreement and plan of merger will be furnished by the surviving corporation, on request and without cost, to any stockholder of any constituent corporation.

7. In accordance with DGCL, Confinity, Inc. hereby agrees that it may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of Confinity, Inc. arising from the Merger, including any suit or other proceeding to enforce the right of any stockholders as determined in appraisal proceedings pursuant to Section 262 of the DGCL, and Confinity, Inc. hereby irrevocably appoints the Secretary of State of Delaware as its agent to accept service of process in any such suit or other proceedings. The address to which a copy of such process shall be mailed by the Secretary of State of Delaware is as follows: Confinity, Inc., 165 University Ave., Palo Alto, CA 94301.

24th Confinity, Inc. has caused the Certificate to be signed by Peter Thiel, its authorized officer, this day of March, 2000.

CONFINITY, INC.

By: Peter Thiel
Peter Thiel, President

0417257.01

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 09:00 AM 03/30/2000
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