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FORM PTO-1594
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RECORD



U.S. DEPARTMENT OF COMMERCE
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BOX ASSIGNMENTS, Commissioner of Patents and Trademarks, Washington, D.C. 20231
Please record and index the attached original documents or copy thereof.

1. Name of conveying party(ies): **FC Sub Corporation**
State of Wisconsin Corporation

2. Name and address of receiving party(ies):
Name: **David White, Inc.**
Address: **W209 N11845 Insurance Place**
City: **Germantown** State: **WI** Zip: **53022**
Type of Company: **A Corporation**
Corporation-State: **Wisconsin**

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

3. Nature of Conveyance: **Articles of Merger of FC Sub Corporation with and into David White, Inc.**

Execution Date: **July 30, 1997**

4. A. Trademark Application No.(s) _____

B. Trademark Registration No.(s) **1,630,688**

Additional numbers attached? Yes No

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

Dyann L. Kostello
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108

6. Total number of applications and registrations involved: **_1**

7. Total fee (37 CFR 3.41):.....\$ **40.00**
 Enclosed
 Deficiencies in fee charged to deposit account

8. Deposit account number: **13-3080**

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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.

Dyann L. Kostello
Name of Person Signing

Signature **January 8, 2001** Date

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

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

Attorney File **79011/9037**

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ARTICLES OF MERGER
OF
FC SUB CORPORATION
WITH AND INTO
DAVID WHITE, INC.

In accordance with sections 180.1101 and 180.1105 of the Wisconsin Business Corporation Law, FC SUB CORPORATION, a Wisconsin corporation ("FC Sub"), and DAVID WHITE, INC., a Wisconsin corporation ("David White"), hereby adopt the following ARTICLES OF MERGER:

ARTICLE I

PLAN OF MERGER

The Plan of Merger is as follows:

A. Upon the terms set forth herein, and in accordance with the Wisconsin Business Corporation Law, at the effective time of the Merger, FC Sub shall be merged with and into David White (the "Merger"). As a result of the Merger, the separate corporate existence of FC Sub shall cease and David White shall continue as the surviving corporation of the Merger (the "Surviving Corporation").

B. At the effective time of the Merger, the effect of the Merger shall be as provided in the applicable provisions of the Wisconsin Business Corporation Law. Without limiting the generality of, and subject to the provisions of, the Wisconsin Business Corporation Law, at the effective time of the Merger, all the property, interests, assets, rights, privileges, immunities, powers and franchises of FC Sub and David White shall vest in the Surviving Corporation, and all debts, liabilities, duties and obligations of FC Sub and David White shall become the debts, liabilities, duties and obligations of the Surviving Corporation.

C. At the effective time of the Merger, the Articles of Incorporation of the Surviving Corporation shall be amended and restated in their entirety in the form attached hereto as Exhibit A. At the effective time of the Merger, the By-Laws of FC Sub shall be the By-Laws of the Surviving Corporation.

D. The directors of FC Sub immediately prior to the effective time of the Merger shall be the initial directors of the Surviving Corporation, each to hold office in accordance with the Articles of Incorporation and By-Laws of the

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Surviving Corporation, and the officers of FC Sub immediately prior to the effective time of the Merger shall be the initial officers of the Surviving Corporation, in each case until their respective successors are duly elected or appointed and qualified.

E. At the effective time of the Merger, by virtue of the Merger and without any further action on the part of Choucroute Partners LLC, a Wisconsin limited liability company and the sole shareholder of FC Sub ("Choucroute"), FC Sub, David White, the Surviving Corporation or the holders of any of the following securities:

(1) each share of the \$3.00 par value common stock of David White ("David White Common Stock") issued and outstanding immediately prior to the effective time of the Merger (other than shares of David White Common Stock owned by Choucroute, FC Sub or David White or any direct or indirect subsidiary of Choucroute, FC Sub or David White) shall be canceled and extinguished and be converted into and become a right to receive a cash payment of \$12.00 per share, without interest (the "Merger Consideration");

(2) each share of David White Common Stock issued and outstanding immediately prior to the effective time of the Merger and owned by Choucroute, FC Sub or David White or any direct or indirect subsidiary of Choucroute, FC Sub or David White shall be canceled and extinguished and no payment shall be made with respect thereto; and

(3) each share of common stock, \$.01 par value, of FC Sub issued and outstanding immediately prior to the effective time of the Merger shall be converted into one fully paid and nonassessable share of common stock, \$.01 par value, of the Surviving Corporation.

F. Prior to the effective time of the Merger, Choucroute shall designate a bank or trust company (the "Exchange Agent") to act as exchange agent in effecting the exchange of the Merger Consideration for certificates representing shares of David White Common Stock entitled to payment pursuant to paragraph E above (the "Certificates"). Immediately prior to the effective time of the Merger, Choucroute shall deposit with the Exchange Agent an amount equal to the aggregate Merger Consideration. The Exchange Agent shall hold such sums in escrow for the purposes set forth in paragraph E above. Promptly after the effective time of the Merger, the Exchange Agent shall mail to each record holder of Certificates a letter of transmittal and instructions for use in surrendering Certificates and receiving the applicable Merger Consideration therefor. The form of the transmittal letter shall have been prepared by Choucroute, subject to the approval of David White, prior to the effective time of the Merger. Upon the

surrender of each Certificate, together with such letter of transmittal duly executed and completed in accordance with the instructions thereto, the holder of such Certificate shall be entitled to receive in exchange therefor an amount equal to the applicable Merger Consideration multiplied by the number of shares of David White Common Stock represented by such Certificate, and such Certificate shall be canceled. Until so surrendered and exchanged, each such Certificate shall represent solely the right to receive an amount equal to the Merger Consideration multiplied by the number of shares of David White Common Stock represented by such Certificate. No interest shall be paid or accrued on the Merger Consideration upon the surrender of the Certificates. If any Merger Consideration is to be paid to a person other than the person in whose name the Certificate surrendered in exchange therefor is registered, it shall be a condition to such exchange that the person requesting such exchange shall pay to the Exchange Agent any transfer or other similar taxes required by reason of the payment of such Merger Consideration to a person other than the registered holder of the Certificate surrendered, or such person shall establish to the satisfaction of the Exchange Agent that such tax has been paid or is not applicable. Notwithstanding the foregoing, neither the Exchange Agent nor any party hereto shall be liable to a holder of shares of David White Common Stock for any Merger Consideration delivered to a public official pursuant to applicable abandoned property, escheat and similar laws. Promptly following the date which is 180 days after the effective time of the Merger, the Exchange Agent's duties shall terminate and any portion of the sum not disbursed pursuant to paragraph E above shall be released to the Surviving Corporation. Thereafter, each holder of a Certificate may surrender Certificates to the Surviving Corporation and (subject to applicable abandoned property, escheat and similar laws) receive in exchange therefor an amount equal to the Merger Consideration multiplied by the number of shares of David White Common Stock represented by such Certificate, without any interest thereon, but shall have no greater rights against the Surviving Corporation than may be accorded to general creditors of the Surviving Corporation.

G. After the Effective Time there shall be no transfers on the stock transfer books of the Surviving Corporation of any shares of David White Common Stock. If, after the Effective Time, Certificates are presented to the Surviving Corporation or the Exchange Agent, they shall be canceled and exchanged for the Merger Consideration, as provided in paragraphs E and F above.

ARTICLE II

The Plan of Merger was approved in accordance with section 180.1103 of the Wisconsin Business Corporation Law.

DEPARTMENT OF FINANCIAL INSTITUTIONS
STATE OF WISCONSIN

Exhibit A

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**RESTATED
ARTICLES OF INCORPORATION
OF
DAVID WHITE, INC.**

ARTICLE I

The Corporation is incorporated under Chapter 180, Wisconsin Statutes.

ARTICLE II

The name of the Corporation is David White, Inc.

ARTICLE III

The aggregate number of shares which the Corporation shall be authorized to issue is 9,000 consisting of one class only, designated as "Common Stock," with a par value of \$.01 per share.

ARTICLE IV

The address of the registered office of the Corporation is 32451 Oakland Road, Nashotah, Wisconsin 53058 and the name of its initial registered agent at such address is Robert T. Foote, Jr.

ARTICLE V

The number of directors constituting the initial Board of Directors is one, and thereafter the number of directors shall be such number as is fixed, from time to time, in the manner prescribed by the By-Laws.

ARTICLE VI

Any action required to be taken at a meeting of the shareholders of the Corporation, or any other action which may be taken at a meeting of the shareholders of the Corporation, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by shareholders who would be entitled to vote at a meeting those shares with voting power to cast not less than the minimum number or, in the case of voting by voting groups, numbers of votes that would be necessary to authorize or take the action at a meeting at which all shares entitled to vote were present and voted.

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