

05-10-01

05-17-2001

EET



101719683

To the Honorable Commissioner of

ached original documents or copy thereof.

1. Name of conveying party(ies):

Hartz-America, Inc.

- Individual(s)
- General Partnership
- Corporation-Maryland
- Other
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

5-9-01

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: November 15, 1999

2. Name and address of receiving party(ies):

Name: Hartz & Company, Inc.

Address: 1341 Hughes Ford Road

City: Frederick State: Maryland Zip: 21705

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-Maryland
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No

(Designations must be a separate document from Assignment)
Additional name(s) & address(es) attached? Yes No

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

EXPRESS MAIL CERTIFICATE

A. Trademark Applications 2853602004 - us

5/9/01 Label No.

Markedly certify that, on the date indicated above, this paper or was deposited with the U.S. Postal Service & that it was passed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office addressee" service.

B. Trademark Registrations

Mark	Reg. No.
HERTLING	1,281,100

Additional numbers attached? Yes No

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

Name: Darby & Darby P.C.

Street Address: 805 Third Avenue, 27th Floor

City: New York State: New York Zip: 10022-7513

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 3.41):.....\$40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: 04-0100

(Attach duplicate copy of this page if paying by deposit account)

05/16/2001 6TON11 00000129 1281100

01 FC:481 40.00 DP

DO NOT USE THIS SPACE

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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.

Amy L. Nelkin
Name of Person Signing

Amy L. Nelkin
Signature

May 9, 2001
Date

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

9



HARTZ & COMPANY, INC.

UNANIMOUS CONSENT OF SHAREHOLDERS

The undersigned, who are all of the shareholders entitled to vote of HARTZ & COMPANY, INC., a Maryland corporation (the "Company"), in accordance with Section 2-505 of the Corporations and Associations Article of the Annotated Code of Maryland, do hereby take the actions set forth below, and to evidence their waiver of any right to dissent from such actions, do hereby consent as follows:

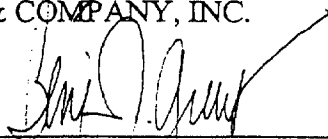
1. That the merger of Hartz-America, Inc., a Maryland corporation, into the Company, on substantially the terms and conditions as set forth in the form of the Articles of Merger of the Company, attached hereto and incorporated by reference herein, be and the same is hereby approved.
2. That the President of the Company is hereby authorized and directed to file with the Department of Assessments and Taxation of Maryland, Articles of Merger in the form attached hereto and incorporated by reference herein, and the proper officers of the Company be, and they hereby are, authorized to take any and all action to execute, acknowledge, seal and file any and all instruments and documents deemed necessary or proper in connection therewith.

WITNESS the following signatures as of this 15th day of November, 1999.

SHAREHOLDERS:


Abraham J. Cohen

HARTZ & COMPANY, INC.

By: 
Benjamin J. Gilbert, President
As Proxy for Brian A. Goldman, Personal
Representative of The Estate of Sigmund S.
Hartz, and Escrow Agent



HARTZ-AMERICA, INC.

UNANIMOUS CONSENT OF THE SOLE SHAREHOLDER

The undersigned, who is the sole shareholder of HARTZ-AMERICA, INC., a Maryland corporation (the "Company"), in accordance with Section 2-505 of the Corporations and Associations Article of the Annotated Code of Maryland, does hereby take the actions set forth below, and to evidence its waiver of any right to dissent from such actions, does hereby consent as follows:

1. That the merger of the Company into HARTZ & COMPANY, INC., a Maryland corporation, on substantially the terms and conditions as set forth in the form of the Articles of Merger of the Company, attached hereto and incorporated by reference herein, be and the same is hereby approved.
2. That the President of the Company is hereby authorized and directed to file with the Department of Assessments and Taxation of Maryland, Articles of Merger in the form attached hereto and incorporated by reference herein, and the proper officers of the Company be, and they hereby are, authorized to take any and all action to execute, acknowledge, seal and file any and all instruments and documents deemed necessary or proper in connection therewith.

WITNESS the following signatures as of this 15th day of November, 1999.

SHAREHOLDER:

Benjamin J. Gilbert, Proxy for
Hartz & Company, Inc.



HARTZ & COMPANY, INC.

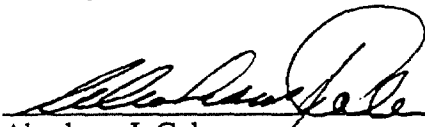
INFORMAL ACTION OF THE BOARD OF DIRECTORS

The undersigned, who are all of the Directors of HARTZ & COMPANY, INC., a Maryland corporation (the "Company"), in accordance with Section 2-408 of the Corporations and Associations Article of the Annotated Code of Maryland, do hereby take the actions set forth below, and to evidence their waiver of any right to dissent from such actions, do hereby consent as follows:

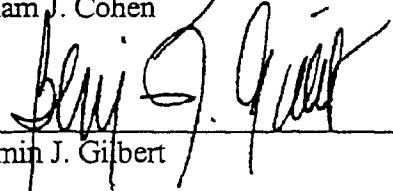
1. That the merger of HARTZ-AMERICA, INC., Inc., a Maryland corporation, into the Company, on substantially the terms and conditions as set forth in the form of the Articles of Merger of the Company, attached hereto and incorporated by reference herein, be and the same is hereby approved.
2. The Articles of Merger in the form attached hereto shall be submitted to the voting shareholders of the Company for their approval.
3. That upon approval of the shareholders of the Company the President of the Company is hereby authorized and directed to file with the Department of Assessments and Taxation of Maryland, Articles of Merger in the form attached hereto and incorporated by reference herein, and the proper officers of the Company be, and they hereby are, authorized to take any and all action to execute, acknowledge, seal and file any and all instruments and documents deemed necessary or proper in connection therewith.

WITNESS the following signatures as of the 15th day of November, 1999.

DIRECTORS:



Abraham J. Cohen



Benjamin J. Gilbert



HARTZ-AMERICA, INC.


INFORMAL ACTION OF THE BOARD OF DIRECTORS

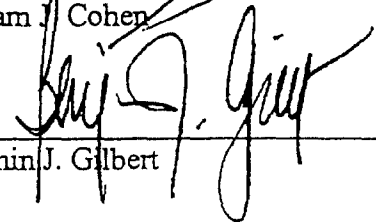
The undersigned, who are all of the Directors of HARTZ-AMERICA, INC., a Maryland corporation (the "Company"), in accordance with Section 2-408 of the Corporations and Associations Articles of the Annotated Code of Maryland, do hereby take the actions set forth below, and to evidence their waiver of any right to dissent from such actions, do hereby consent as follows:

1. That the merger of the Company into HARTZ & COMPANY, INC., a Maryland corporation, on substantially the terms and conditions as set forth in the form of the Articles of Merger of the Company, attached hereto and incorporated by reference herein, be and the same is hereby approved.
2. The Articles of Merger in the form attached hereto shall be submitted to the voting shareholder of the Company for its approval.
3. That upon approval of the shareholder of the Company the President of the Company is hereby authorized and directed to file with the Department of Assessments and Taxation of Maryland, Articles of Merger in the form attached hereto and incorporated by reference herein, and the proper officers of the Company be, and they hereby are, authorized to take any and all action to execute, acknowledge, seal and file any and all instruments and documents deemed necessary or proper in connection therewith.

WITNESS the following signatures as of the 15th day of November, 1999.

DIRECTORS:


Abraham J. Cohen


Benjamin J. Gilbert



**ARTICLES OF MERGER
OF
HARTZ-AMERICA, INC.
AND
HARTZ & COMPANY, INC.**

THESE ARTICLES OF MERGER, dated as of the 15th day of November, 1999, pursuant to Section 3-109 of the Corporations and Associations Article of the Annotated Code of Maryland, as amended (hereinafter referred to as the "Code"), are entered into by and between HARTZ-AMERICA, INC., a Maryland corporation (herein "HARTZ-AMERICA"), and HARTZ & COMPANY, INC., a Maryland corporation (herein the "CORPORATION"), which are hereinafter collectively referred to as the "Constituent Entities."

FIRST: Each of the Constituent Entities has agreed to merge, and the terms and conditions of the merger and the manner of carrying the same into effect are and shall be as set forth herein.

SECOND: The CORPORATION, a corporation organized under the laws of the State of Maryland, shall be the successor in the merger and shall continue operating under the name of HARTZ & COMPANY, INC.

THIRD: The CORPORATION has its principal office in the State of Maryland in Frederick County, Maryland. HARTZ-AMERICA has its principal office in the State of Maryland in Frederick County, Maryland. Neither of the Constituent Entities has any interest in real property located in the State of Maryland.

FOURTH: The terms and conditions of the transaction set forth in these Articles of Merger were advised, authorized, and approved by the CORPORATION and HARTZ-AMERICA in the manner and by the vote required by: (a) for the CORPORATION, the By-Laws of the CORPORATION and the laws of the State of Maryland; and (b) for HARTZ-AMERICA, the By-Laws of HARTZ-AMERICA and the laws of the State of Maryland. By unanimous written consent dated November 1, 1999, the proposed merger and these Articles of Merger were approved by all of the shareholders and directors of the CORPORATION, as required by the laws of the State of Maryland. By unanimous written consent dated November 1, 1999, the proposed merger and these Articles of Merger were approved by all of the shareholders and directors of HARTZ-AMERICA, as required by the laws of the State of Maryland.

FIFTH: The Articles of Amendment and Restatement, AMENDING AND RESTATING THE CHARTER of the CORPORATION, shall not be amended, and shall remain in full force and effect as the Articles of Amendment and Restatement of the CORPORATION.

SIXTH: HARTZ-AMERICA has one class of shares, being common stock without par value, of which 5,000 shares are authorized, and 100 shares are issued and outstanding. The sole shareholder of HARTZ-AMERICA is the CORPORATION.

SEVENTH: The CORPORATION has two classes of shares. One class of stock is no par value Class A common stock, voting, of which currently 10,000 shares are authorized and of which 2,000 shares are issued and outstanding. The other class of stock is no par value Class B common

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stock, non-voting, of which 40,000 shares are authorized, and of which 1,000 shares are issued and outstanding.

EIGHTH: The manner and basis of converting or exchanging the issued stock of each of the Constituent Entities into different stock or other consideration and the treatment of any issued stock of the Constituent Entities not to be so converted or exchanged on the Effective Date (as hereinafter defined) shall be as follows:

- (a) Each share of HARTZ-AMERICA Common Stock which remains unissued on the Effective Date of this merger shall be cancelled.
- (b) All of the HARTZ-AMERICA Common Stock, which is issued and outstanding on the Effective Date, shall be, without consideration, surrendered and cancelled. Such surrendered and cancelled Common Stock shall not be converted to or exchanged for Common Stock of the CORPORATION.
- (c) Each share of CORPORATION's Common Stock which is issued and outstanding on the Effective Date shall remain issued and outstanding as one (1) share of CORPORATION'S Common Stock. No shares of the CORPORATION'S Common Stock shall be issued, converted or exchanged as a result of this merger transaction.
- (d) After the merger transaction described above shall have become effective, except as otherwise provided by the Code with respect to dissenting stockholders, the sole holder (i.e. the CORPORATION) of the outstanding certificate theretofore representing HARTZ-AMERICA Common Stock shall surrender the same to the CORPORATION and such certificate shall be cancelled.

If the holder of the outstanding certificate representing HARTZ-AMERICA Common Stock shall deliver to the CORPORATION such affidavits, indemnity agreements or surety bonds as CORPORATION shall reasonably require in conformity with its customary procedure with respect to lost stock certificates of the CORPORATION, the CORPORATION shall treat such delivery as surrender of any lost or misplaced or destroyed certificate or certificates representing HARTZ-AMERICA Common Stock.

NINTH: Upon the Effective Date (as hereinafter defined):

- (a) The assets and liabilities of HARTZ-AMERICA shall be taken up on the books of the CORPORATION at the amount at which they shall at that time be carried on the books of HARTZ-AMERICA, subject to such adjustments, if any, as may be necessary to conform to the CORPORATION's accounting procedures, and
- (b) All of the rights, privileges, immunities, powers, purposes, and franchises of HARTZ-AMERICA and all property, real, personal and mixed, and all debts due to HARTZ-AMERICA on whichever account shall be vested in the CORPORATION, and all property rights, privileges, immunities, powers, purposes

and franchises, and all and every other interest shall be thereafter as effectually the property of the CORPORATION as they were of HARTZ-AMERICA, and all debts, liabilities, obligations and duties of HARTZ-AMERICA shall thenceforth attach to the CORPORATION and may be enforced against it to the same extent as if said debts, liabilities, obligations and duties had been incurred or contracted by it.

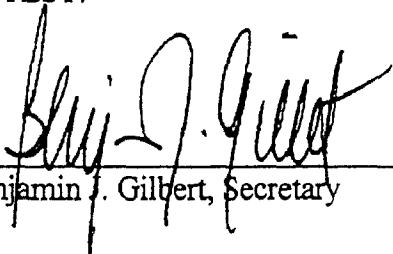
The Constituent Entities, by mutual consent of their respective stockholders, as required by their respective Charters and By-Laws and by the laws of Maryland, may amend, modify and supplement these Articles of Merger in such manner as may be agreed upon by them in writing at any time before or after approval or adoption thereof by the stockholders of any of the Constituent Entities or all of them; provided, however, that no such amendment, modification or supplement shall affect the rights of the stockholders of any of the Constituent Entities in a manner which is materially adverse to such stockholders in the judgment of their respective stockholders.

TENTH: The Merger provided for by these Articles of Merger shall become effective on the date (the "Effective Date") that these Articles of Merger, having been duly executed by the proper officer of HARTZ-AMERICA and duly executed by the proper officer of the CORPORATION are accepted for record by the State of Maryland, Department of Assessments and Taxation.

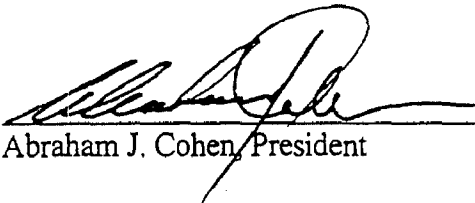
IN WITNESS WHEREOF, HARTZ-AMERICA has caused these Articles of Merger to be signed in its corporate name this 15th day of November, 1999.

ATTEST:

BY: HARTZ-AMERICA, INC.



Benjamin J. Gilbert, Secretary




Abraham J. Cohen, President (SEAL)

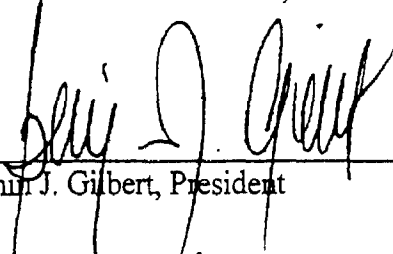
IN WITNESS WHEREOF, the CORPORATION has caused these Articles of Merger to be signed in its corporate name this 15th day of November, 1999.

ATTEST:

BY: HARTZ & COMPANY, INC.



Howard M. Goldstein, Secretary



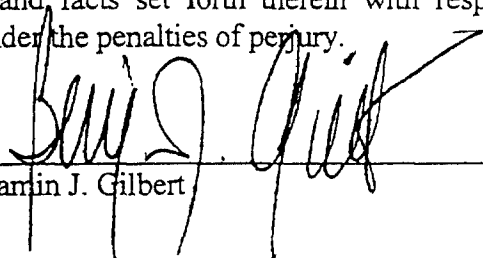
Benjamin J. Gilbert, President (SEAL)

THE UNDERSIGNED, President of HARTZ-AMERICA, INC., who executed on behalf of said corporation the foregoing Articles of Merger, of which this certificate is made a part, hereby acknowledges, in the name and on behalf of said corporation, the foregoing Articles of Merger, to be the corporate act of said corporation and further certifies that, to the best of his knowledge, information and belief, the matters and facts set forth therein with respect to the approval thereof are true in all material respects, under the penalties of perjury.



Abraham J. Cohen (SEAL)

THE UNDERSIGNED, President of HARTZ & COMPANY, INC., who executed on behalf of said corporation the foregoing Articles of Merger, of which this certificate is made a part, hereby acknowledges, in the name and on behalf of said corporation, the foregoing Articles of Merger, to be the corporate act of said corporation and further certifies that, to the best of his knowledge, information and belief, the matters and facts set forth therein with respect to the approval thereof are true in all material respects, under the penalties of perjury.



Benjamin J. Gilbert (SEAL)