

08-29-2001

Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings



U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

101826642

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

1. Name of conveying party(ies): Avonite, Inc. 08/23/01
Individual(s) Association General Partnership Limited Partnership
[X] Corporation-State of California Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)
Name: AVT, Inc.
Internal Address:
Street Address: 1945 Highway 304
City: Belen State: NM Zip: 87002
Individual(s) citizenship Association General Partnership Limited Partnership
[X] Corporation-State New Mexico Other
If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
Assignment Merger Security Agreement Change of Name Other
Execution Date: February 1, 1993

4. Application number(s) or registration number(s):
A. Trademark Application No.(s)
B. Trademark Registration No.(s)
1,660,375 1,444,153 1,756,138
1,753,241 1,757,643 1,845,601
Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Jenifer C. Slinsky
Internal Address: Thorp Reed & Armstrong, LLP
One Oxford Centre
14th Floor
Street Address: 301 Grant St.
City: Pittsburgh State: PA Zip: 15219

6. Total number of applications and registrations involved: 6
7. Total fee (37 CFR 3.41): \$ 165.00
[X] Enclosed
[X] Authorized to be charged to deposit account
8. Deposit account number: 20-0888
(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.

Jenifer C. Slinsky
Name of Person Signing

[Signature]
Signature

August 21, 2001
Date

Total number of pages including cover sheet, attachments, and document: 12

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

08/29/2001 LMBELLR 0000046 1160375

1 FD:481 90.00 GF
2 FD:482 125.00 GF

## PLAN AND AGREEMENT OF MERGER

THIS PLAN AND AGREEMENT OF MERGER ("Agreement") dated as of the 1st day of February, 1993, is entered into between AVT, Inc., a New Mexico corporation, hereinafter sometimes called the surviving corporation, and Avonite, Inc., a California corporation, hereinafter sometimes called the absorbed corporation.

### RECITALS

A. AVT, Inc. is a corporation duly organized and existing under the laws of the State of New Mexico, with its principal office located at 1945 Highway 304, Belen, New Mexico 87002.

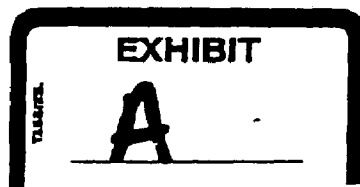
B. AVT, Inc. has a capitalization of 10,000 authorized shares of common stock, having a no par value, of which 50 shares are issued and outstanding.

C. Avonite, Inc. is a corporation duly organized and existing under the laws of the State of California, with its principal office located at 5100 W. Goldleaf Circle, Suite 200, Los Angeles, California 90056, and is qualified to do business as a foreign corporation in the State of New Mexico.

D. Avonite, Inc. has a capitalization of 10,000 authorized share of common stock, having a no par value of which 5,000 shares are issued and outstanding.

E. Avonite desires to change its state of incorporation or domicile from the state of California to the state of New Mexico.

F. The board of directors of the constituent corporations deem it desirable and in the best interests of the corporations and



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their shareholders that Avonite, Inc. be merged into AVT, Inc., in accordance with the provisions of Section 53-14-7 NMSA 1978, and in a manner that the transaction will qualify as a "reorganization" within the meaning of Sections 368(a) and 368(b) of the Internal Revenue Code of 1954, as amended, and not cause a taxable event.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants, and subject to the terms and conditions hereinafter set forth, the constituent corporations agree as follows:

#### SECTION ONE

##### MERGER

Avonite, Inc., the absorbed or disappearing corporation shall merge with and into AVT, Inc. which shall be the surviving corporation.

#### SECTION TWO

##### TERMS AND CONDITIONS

On the effective date of the merger, the following shall occur:

A. The separate existence of Avonite, Inc., the absorbed or disappearing corporation, shall cease;

B. The surviving corporation AVT, Inc. shall thereupon succeed to and possess all the rights, privileges, immunities and

franchises of a public or private nature of each of the corporations, and all property, real, personal and mixed and all debts due on whatever account, including subscriptions to shares, and all other choses in action and every other interest of, or belonging to, or due to, each of the corporations so merged shall be taken and deemed to be transferred to and vested in AVT, Inc. without further act or deed, and the title to or lease in any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of the merger; and

C. The surviving corporation, AVT, Inc., shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged, and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if the merger had not taken place, or the surviving corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by the merger.

If at any time the surviving corporation, AVT, Inc. shall consider or be advised that any further assignment or assurances in law are necessary or desirable to vest or to perfect or confirm of record in the surviving corporation the title to any property or rights of the absorbed or disappearing corporation or to otherwise carry out the provisions hereof, the proper officers and directors

of the absorbed or disappearing corporation as of the effective date of the merger shall execute and deliver any and all proper assignments and assurances in law, and do all things necessary or proper to vest, perfect, or confirm title to such property or rights in the surviving corporation and to otherwise carry out the provisions hereof.

### SECTION THREE

#### CONVERSION OF SHARES

The manner and basis of converting the shares of the absorbed or disappearing corporation into shares of the surviving corporation is as follows:

(A) Each share of the common stock of Avonite, Inc. issued and outstanding on the effective date of the merger shall be converted into 99/100ths shares of the common stock of AVT, Inc., which shares of common stock of the surviving corporation shall thereupon be issued and outstanding.

(B) After the effective date of the merger, each holder of certificates for shares of common stock in the absorbed or disappearing corporation shall surrender them to the surviving corporation or to its duly appointed agent, in such manner as the surviving corporation shall legally require. On receipt of such share certificates, the surviving corporation shall issue and exchange therefor certificates for shares of common stock in the

surviving corporation, representing the number of shares of such stock to which such holder is entitled as provided above.

#### SECTION FOUR

##### PRINCIPAL OFFICE

The principal office of AVT, Inc., the surviving corporation shall remain the principal office of the corporation following this merger which shall be as follows: 1945 Highway 304, Belen, New Mexico 87002.

#### SECTION FIVE

##### OBJECTS AND PURPOSES

The nature of the business and the objects and purposes proposed to be transacted, promoted, and carried on by the surviving corporation following the merger, are as follows:

To manufacture, construct, fabricate, assemble, produce, research, develop, store, handle, distribute, transport, sell, buy, export, import or otherwise deal in or with plastic materials, components and products, and to research, develop, patent, copyright, or otherwise protect and exploit new materials, components and products; and

To acquire, develop, construct, redevelop, own, hold, sell, lease, convey, mortgage, pledge, hypothecate, and otherwise deal in or with real estate, manufacturing facilities and equipment, and any other related property;

To conduct and carry on its business or any branch thereof in any state or territory of the United States or in any foreign county in conformity with the laws of such state, territory, or foreign country, and to have and maintain in any state, territory, or foreign country a business office, plant, store, or other facility;

To carry on all other business incident thereto or connected therewith; and

To perform any of the above or any other lawful act or purpose individually or jointly as a partner in a partnership, joint venturer in a joint venture, or in any other lawful capacity or manner.

## SECTION SIX

### ARTICLES OF INCORPORATION

The articles of incorporation of the surviving corporation shall continue to be its articles of incorporation following the effective date of the merger subject to the following amendment: The surviving corporation AVT, Inc. shall amend its Articles of Incorporation changing its name to Avonite, Inc., a New Mexico corporation, as soon as that name becomes available in New Mexico for use due to the cessation of the existence of Avonite, Inc., a California corporation, by reason of this merger.

## SECTION SEVEN

### BY-LAWS

The by-laws of the surviving corporation shall continue to be its by-laws following the effective date of the merger, until altered, amended or repealed as therein provided.

## SECTION EIGHT

### DIRECTORS AND OFFICERS

The directors and officers of the surviving corporation on the effective date of this merger shall continue as the directors and officers of the surviving corporation for the full unexpired terms of their offices and until their successors have been elected or appointed and qualified.

## SECTION NINE

### DIVIDENDS PRIOR TO MERGER

Until this agreement of merger becomes effective or is abandoned the constituent corporations may pay dividends on their shares of stock of any class or series at their respective regular times and rates.

## SECTION TEN

### EXTRAORDINARY TRANSACTIONS

Neither corporation shall, prior to the effective date of the merger, engage in any activity or transaction other than in the



ordinary course of business, except as contemplated by this agreement.

## SECTION ELEVEN

### SUBMISSION TO STOCKHOLDERS; EFFECTIVE DATE

This Agreement shall be submitted to the stockholders of the constituent corporations in the manner provided by Section 53-14-3 NMSA 1978 and West's Ann. Cal. Corp. Code, Sections 1101 and 1103, and if the votes of stockholders of each such corporation representing a majority of shares of its capital stock shall be in favor of the adoption of this Agreement, it shall, subject to the provisions of Section 13 of this Agreement, take effect as the agreement of merger of the constituent corporations on the date on which it is filed in the office of the Corporation Commission of the State of New Mexico, together with evidence of its adoption as required by law.

## SECTION TWELVE

### ARTICLES OF MERGER

Upon receiving the approvals required by Sections 53-14-3 and 53-14-7 NMSA 1978, articles of merger shall be prepared in accordance with the requirements of Sections 53-14-4 and 53-14-7 NMSA 1978, and same shall be executed in duplicate by each corporation by its chairman of the board, president or a vice president and by its secretary or an assistant secretary and verified by one of the officers of each corporation signing the

articles; said articles of merger shall then be submitted to the Corporation Commission of the State of New Mexico for the issuance of a certificate of merger.

Once the certificate of merger is issued, the surviving corporation shall cause a copy of the articles of merger, which shall include a copy of this Agreement, to be certified as a true copy by the appropriate official with the said Corporation Commission of the original document on file with said Corporation Commission. Thereupon, the certified copy of the articles of merger, including this Agreement, shall be filed with the Secretary of State or other proper official for the State of California on behalf of the absorbed or disappearing corporation together with any required certificate of satisfaction issued by the Franchise Tax Board that all taxes imposed upon the absorbed or disappearing corporation have been paid.

### SECTION THIRTEEN

#### ABANDONMENT OF MERGER

This agreement of merger may be abandoned by action of the board of directors of either the surviving or the absorbed or disappearing corporation at any time prior to the effective date on the happening of either of the following events:

(a) If the merger is not approved by the shareholders of either the surviving or the absorbed or disappearing corporation on or before June 30, 1993; or

(b) If, in the judgment of the board of directors of either the surviving or the absorbed or disappearing corporation, the merger would be impracticable due to the number of dissenting shareholders asserting appraisal rights under applicable state law.

#### SECTION FOURTEEN

##### APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

If and only as required by the statutes of the State of California with respect to any domestic absorbed or disappearing corporation, the surviving corporation, AVT, Inc., agrees to appoint, or is hereby deemed to appoint if so required by statute, such official or person as designated by any said statute for the receipt of service of process for and upon the absorbed or disappearing domestic corporation Avonite, Inc. with respect to any claims or proceedings being brought against the absorbed or disappearing corporation Avonite, Inc.

#### SECTION FIFTEEN

##### COMPLIANCE WITH STATE LAW

The terms and provisions of this Agreement providing for the merger of Avonite, Inc., a California corporation, into AVT, Inc., a New Mexico corporation, and the surviving corporation, is in compliance with the laws of the State of California and the State of New Mexico and the acts of the constituent corporations are authorized acts of said corporations under each corporation's state statutes.

**SECTION SIXTEEN**

**EFFECTIVE DATE**

The effective date of this merger shall be the date when a certificate of merger is issued by the Corporation Commission of the State of New Mexico.

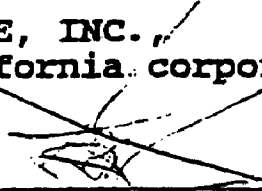
**SECTION SEVENTEEN**

**EXECUTION OF AGREEMENT**


This agreement of merger may be executed in any number of counterparts, and each such counterpart shall constitute an original instrument.

Executed as of the date first above written on behalf of the parties by their officers, and sealed with their corporation seals, respectively, pursuant to the authorization of their respective boards of directors.

**AVONITE, INC.**  
a California corporation

By:   
\_\_\_\_\_  
**GEORGE H. ROSS**  
Chairman of the Board of Directors

**AVT, INC.,**  
a New Mexico corporation

By:   
\_\_\_\_\_  
**LOUIS GIOVANNINI**  
President