

09-06-2001

(Rev. 6-93)  
OMB No. 0651-0011 (exp. 4/94)

Patent and Trademark Office



To the Honorable Commission

101835009

original documents or copy thereof.

1. Name of conveying party(ies):  
LACROIX BEVERAGES, INC.

8-31-01

Individual(s)       Association  
 General Partnership       Limited Partnership  
 Corporation-State Florida  
 Other \_\_\_\_\_

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

2. Name and address of receiving party(ies)

Name: EVERFRESH BEVERAGES, INC.

Internal Address: \_\_\_\_\_

Street Address: One North University Drive

City: Fort Lauderdale      State: Florida      ZIP: 33324

3. Nature of conveyance:

Assignment       Merger  
 Security Agreement       Change of Name  
 Other \_\_\_\_\_

Execution Date: June 1, 1999

Individual(s) citizenship \_\_\_\_\_  
 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  
 (Designations must be a separate document from assignment)  
 Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or patent number(s): \_\_\_\_\_

A. Trademark Application No.(s)  
\_\_\_\_\_  
\_\_\_\_\_

Additional numbers attached?  Yes  No

B. Trademark Registration No.(s)  
1,177,538

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

Name: Kenneth R. Glaser

Internal Address: Akin Gump Strauss Hauer & Feld, LLP

Street Address: P.O. Box 688

City: Dallas      State: Texas      ZIP: 75313-0688

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:  
\_\_\_\_\_

(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.

Kenneth R. Glaser  
Name of Person Signing

[Signature]  
Signature

8/24/01  
Date

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

09/05/2001 LNUELLER 00000217 1177538  
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Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments  
Washington, D.C. 20231

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Merger, filed on June 1, 1999, for EVERFRESH BEVERAGES, INC., the surviving Delaware corporation not authorized to transact business in Florida, as shown by the records of this office.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Second day of June, 1999



CR2EO22 (1-99)

*Katherine Harris*

Katherine Harris  
Secretary of State

**ARTICLES OF MERGER**  
of  
**LACROIX BEVERAGES, INC.,**  
a Florida corporation  
into  
**EVERFRESH BEVERAGES, INC.,**  
a Delaware corporation

99 JUN -1 PM 1:22  
FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

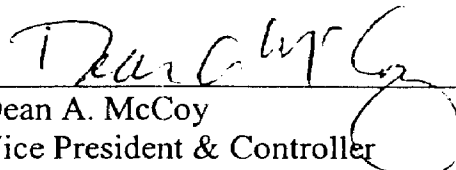
Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act (the "Act"), LaCROIX Beverages, Inc., a Florida corporation, and Everfresh Beverages, Inc., a Delaware corporation, do hereby adopt the following Articles of Merger:

- FIRST:** The names of the corporations which are parties to the merger contemplated by these Articles of Merger (the "Merger") are LaCROIX Beverages, Inc., a Florida corporation ("LaCROIX"), and Everfresh Beverages, Inc., a Delaware corporation ("Everfresh"). Everfresh is the surviving corporation in the Merger.
- SECOND:** A copy of the Agreement and Plan of Merger is attached hereto and made a part hereof by reference as if fully set forth herein.
- THIRD:** The Agreement and Plan of Merger was adopted by the sole shareholder of LaCROIX as of April 30, 1999, by written consent in lieu of holding a special meeting.
- FOURTH:** The Agreement and Plan of Merger was adopted by the sole shareholder of Everfresh as of April 30, 1999, by written consent in lieu of holding a special meeting.


**IN WITNESS WHEREOF**, the parties have caused these Articles of Merger to be executed

as of this 30th day of April, 1999.

**LACROIX BEVERAGES, INC.,  
a Florida corporation**

By:   
\_\_\_\_\_  
Dean A. McCoy  
Vice President & Controller

**EVERFRESH BEVERAGES, INC.,  
a Delaware Corporation**

By:   
\_\_\_\_\_  
George R. Bracken  
Vice President

**AGREEMENT AND PLAN OF MERGER**

**OF**

**LACROIX BEVERAGES, INC.,  
a Florida corporation**

**AND**

**EVERFRESH BEVERAGES, INC.,  
a Delaware corporation**

This agreement and plan of merger is entered into as of April 30, 1999 between LaCROIX Beverages, Inc., a business corporation of the State of Florida ("LaCROIX"), and Everfresh Beverages, Inc., a business corporation of the State of Delaware ("Everfresh").

**WHEREAS**, LaCROIX is a business corporation of the State of Florida with its principal office therein located at 1 North University Drive, City of Plantation, County of Broward; and

**WHEREAS**, the total number of shares of stock which LaCROIX has authority to issue is 2,500, all of which are of one class and of a par value of \$ .01 each; and

**WHEREAS**, Everfresh is a business corporation of the State of Delaware with its registered office therein located at 32 Loockerman Square, Suite L-100, City of Dover, County of Kent; and

**WHEREAS**, the total number of shares of stock which Everfresh has authority to issue is 2,500, all of which are of one class and of a par value of \$.01 each; and

**WHEREAS**, the Florida Business Corporation Act permits a merger of a business corporation of the State of Florida with and into a business corporation of another jurisdiction; and

**WHEREAS**, the General Corporation Law of the State of Delaware permits the merger of a business corporation of another jurisdiction with and into a business corporation of the State of Delaware; and

**WHEREAS**, LaCROIX and Everfresh and the respective Sole Director and shareholders thereof declare it advisable and to the advantage, welfare, and best interest of said corporations and their respective shareholders to merge LaCROIX with and into Everfresh pursuant to the provisions of the Florida Business Corporation Act and pursuant to the provisions of the General Corporation Law of the State of Delaware upon the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the premises and of the mutual agreement of the parties hereto, being thereunto duly entered into by LaCROIX and approved by a resolution adopted by its Sole Director and a resolution adopted by its sole shareholder and being thereunto duly entered into by Everfresh and approved by a resolution adopted by its Sole Director and a resolution adopted

by its sole shareholder, the Agreement and Plan of Merger and the terms and conditions thereof and the mode of carrying the same into effect, together with any provisions required or permitted to be set forth therein, are hereby determined and agreed upon as hereinafter in this Agreement and Plan set forth.

1. LaCROIX and Everfresh shall, pursuant to the provisions of the Florida Business Corporation Act and the provisions of the General Corporation Law of the State of Delaware, be merged with and into a single corporation, to wit, Everfresh, which shall be the surviving corporation from and after the Effective Time (as defined below), and which is sometimes hereinafter referred to as the "surviving corporation", and which shall continue to exist as said surviving corporation under its present name pursuant to the provisions of the General Corporation Law of the State of Delaware. The separate existence of LaCROIX, which is sometimes hereinafter referred to as the "terminating corporation", shall cease at the Effective Time in accordance with the provisions of the Florida Business Corporation Act.

2. The Certificate of Incorporation of the surviving corporation as in force and effect immediately prior to the Effective Time shall be the Certificate of Incorporation of the surviving corporation, and shall continue to be the Certificate of Incorporation of said surviving corporation until amended and changed pursuant to the provisions of the General Corporation Law of the State of Delaware.

3. The present By-laws of the surviving corporation will be the by-laws of said surviving corporation and will continue in full force and effect until changed, altered or amended as therein provided and in the manner prescribed by the provisions of the General Corporation Law of the State of Delaware.

4. The director and officers in office of the surviving corporation at the Effective Time of the merger shall be the director and the officers of the surviving corporation, all of whom shall hold their directorships and offices until the election and qualification of their respective successors or until their tenure is otherwise terminated in accordance with the by-laws of the surviving corporation.

5. Each issued share of the terminating corporation shall, at the effective time of the merger, be cancelled. The issued shares of the surviving corporation shall not be converted or exchanged in any manner, but each said share which is issued as of the effective date of the merger shall continue to represent one issued share of the surviving corporation.

6. In the event that this Agreement and Plan of Merger shall have been fully approved and adopted on behalf of the terminating corporation in accordance with the provisions of the Florida Business Corporation Act and on behalf of the surviving corporation in accordance with the provisions of the General Corporation Law of the State of Delaware, then said corporations agree that they will cause to be executed and filed and recorded any document or documents prescribed by the laws of the State of Florida and by the laws of the State of Delaware, and that they will cause to be performed all necessary acts within the State of Florida and the State of Delaware and elsewhere to effectuate the merger herein provided for.

7. The Sole Director and the proper officers of the terminating corporation and of the surviving corporation are hereby authorized, empowered, and directed to do any and all acts and things, and to make, execute, deliver, file, and record any and all instruments, papers, and documents which shall be or become necessary, proper, or convenient to carry out or put into effect any of the provisions of this Agreement and Plan of Merger or of the merger herein provided for.


8. The effective time of this Agreement and Plan of Merger shall be April 30, 1999 (the "Effective Time").

**IN WITNESS WHEREOF**, this Agreement and Plan of Merger is hereby executed upon behalf of each of the constituent corporations parties thereto as of the date first written above.

**LACROIX BEVERAGES, INC.,**  
a Florida corporation

By:   
\_\_\_\_\_  
Dean A. McCoy  
Vice President & Controller

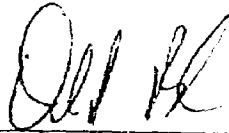
**EVERFRESH BEVERAGES, INC.,**  
a Delaware Corporation

By:   
\_\_\_\_\_  
George R. Bracken  
Vice President

**CERTIFICATE OF ASSISTANT SECRETARY OF EVERFRESH BEVERAGES, INC.**

The undersigned, being the Assistant Secretary of Everfresh Beverages, Inc., does hereby certify that written consent has been given to the adoption of the foregoing Agreement and Plan of Merger by the holder of all of the outstanding stock of said corporation, in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware.

Dated: *April 30, 1997*



Name: *David J. Tolson*  
Assistant Secretary of Everfresh Beverages, Inc.



*State of Delaware*  
*Office of the Secretary of State*      PAGE 1

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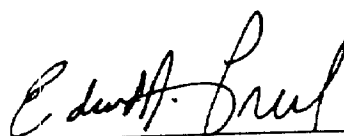
I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AGREEMENT OF MERGER, WHICH MERGES:

"LACROIX BEVERAGES, INC.", A FLORIDA CORPORATION,

WITH AND INTO "EVERFRESH BEVERAGES, INC." UNDER THE NAME OF "EVERFRESH BEVERAGES, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE FIRST DAY OF JUNE, A.D. 1999, AT 9 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.



  
\_\_\_\_\_  
Edward J. Freel, Secretary of State

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991216959

AUTHENTICATION: 9778583  
DATE: 06-02-99

**TRADEMARK**  
**REEL: 002362 FRAME: 0176**

**AGREEMENT AND PLAN OF MERGER**

**OF**

**LACROIX BEVERAGES, INC.,  
a Florida corporation**

**AND**

**EVERFRESH BEVERAGES, INC.,  
a Delaware corporation**

This agreement and plan of merger is entered into as of April 30, 1999 between LaCROIX Beverages, Inc., a business corporation of the State of Florida ("LaCROIX"), and Everfresh Beverages, Inc., a business corporation of the State of Delaware ("Everfresh").

**WHEREAS**, LaCROIX is a business corporation of the State of Florida with its principal office therein located at 1 North University Drive, City of Plantation, County of Broward; and

**WHEREAS**, the total number of shares of stock which LaCROIX has authority to issue is 2,500, all of which are of one class and of a par value of \$ .01 each; and

**WHEREAS**, Everfresh is a business corporation of the State of Delaware with its registered office therein located at 32 Loockerman Square, Suite L-100, City of Dover, County of Kent; and

**WHEREAS**, the total number of shares of stock which Everfresh has authority to issue is 2,500, all of which are of one class and of a par value of \$.01 each; and

**WHEREAS**, the Florida Business Corporation Act permits a merger of a business corporation of the State of Florida with and into a business corporation of another jurisdiction; and

**WHEREAS**, the General Corporation Law of the State of Delaware permits the merger of a business corporation of another jurisdiction with and into a business corporation of the State of Delaware; and

**WHEREAS**, LaCROIX and Everfresh and the respective Sole Director and shareholders thereof declare it advisable and to the advantage, welfare, and best interest of said corporations and their respective shareholders to merge LaCROIX with and into Everfresh pursuant to the provisions of the Florida Business Corporation Act and pursuant to the provisions of the General Corporation Law of the State of Delaware upon the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the premises and of the mutual agreement of the parties hereto, being thereunto duly entered into by LaCROIX and approved by a resolution adopted by its Sole Director and a resolution adopted by its sole shareholder and being thereunto duly entered into by Everfresh and approved by a resolution adopted by its Sole Director and a resolution adopted

by its sole shareholder, the Agreement and Plan of Merger and the terms and conditions thereof and the mode of carrying the same into effect, together with any provisions required or permitted to be set forth therein, are hereby determined and agreed upon as hereinafter in this Agreement and Plan set forth.

1. LaCROIX and Everfresh shall, pursuant to the provisions of the Florida Business Corporation Act and the provisions of the General Corporation Law of the State of Delaware, be merged with and into a single corporation, to wit, Everfresh, which shall be the surviving corporation from and after the Effective Time (as defined below), and which is sometimes hereinafter referred to as the "surviving corporation", and which shall continue to exist as said surviving corporation under its present name pursuant to the provisions of the General Corporation Law of the State of Delaware. The separate existence of LaCROIX, which is sometimes hereinafter referred to as the "terminating corporation", shall cease at the Effective Time in accordance with the provisions of the Florida Business Corporation Act.

2. The Certificate of Incorporation of the surviving corporation as in force and effect immediately prior to the Effective Time shall be the Certificate of Incorporation of the surviving corporation, and shall continue to be the Certificate of Incorporation of said surviving corporation until amended and changed pursuant to the provisions of the General Corporation Law of the State of Delaware.

3. The present By-laws of the surviving corporation will be the by-laws of said surviving corporation and will continue in full force and effect until changed, altered or amended as therein provided and in the manner prescribed by the provisions of the General Corporation Law of the State of Delaware.

4. The director and officers in office of the surviving corporation at the Effective Time of the merger shall be the director and the officers of the surviving corporation, all of whom shall hold their directorships and offices until the election and qualification of their respective successors or until their tenure is otherwise terminated in accordance with the by-laws of the surviving corporation.

5. Each issued share of the terminating corporation shall, at the effective time of the merger, be cancelled. The issued shares of the surviving corporation shall not be converted or exchanged in any manner, but each said share which is issued as of the effective date of the merger shall continue to represent one issued share of the surviving corporation.

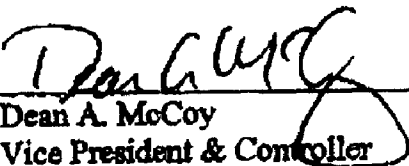
6. In the event that this Agreement and Plan of Merger shall have been fully approved and adopted on behalf of the terminating corporation in accordance with the provisions of the Florida Business Corporation Act and on behalf of the surviving corporation in accordance with the provisions of the General Corporation Law of the State of Delaware, then said corporations agree that they will cause to be executed and filed and recorded any document or documents prescribed by the laws of the State of Florida and by the laws of the State of Delaware, and that they will cause to be performed all necessary acts within the State of Florida and the State of Delaware and elsewhere to effectuate the merger herein provided for.

7. The Sole Director and the proper officers of the terminating corporation and of the surviving corporation are hereby authorized, empowered, and directed to do any and all acts and things, and to make, execute, deliver, file, and record any and all instruments, papers, and documents which shall be or become necessary, proper, or convenient to carry out or put into effect any of the provisions of this Agreement and Plan of Merger or of the merger herein provided for.


8. The effective time of this Agreement and Plan of Merger shall be April 30, 1999 (the "Effective Time").

IN WITNESS WHEREOF, this Agreement and Plan of Merger is hereby executed upon behalf of each of the constituent corporations parties thereto as of the date first written above.

**LACROIX BEVERAGES, INC.,**  
a Florida corporation

By:   
\_\_\_\_\_  
Dean A. McCoy  
Vice President & Controller

**EVERFRESH BEVERAGES, INC.,**  
a Delaware Corporation

By:   
\_\_\_\_\_  
George R. Bracken  
Vice President

**CERTIFICATE OF ASSISTANT SECRETARY OF EVERFRESH BEVERAGES, INC.**

The undersigned, being the Assistant Secretary of Everfresh Beverages, Inc., does hereby certify that written consent has been given to the adoption of the foregoing Agreement and Plan of Merger by the holder of all of the outstanding stock of said corporation, in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware.

Dated: *April 30, 1997*



Name: *David V. Linder*  
Assistant Secretary of Everfresh Beverages, Inc.