

09-25-2001

Form PTO-1594 (Rev. 6-93) OMB No. 0651-0011 (exp. 4/94) Tab settings => => =>

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

101854256

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

1. Name of conveying party(ies): OmegaTech Inc. 09/20/01
Individual(s) Association
General Partnership Limited Partnership
[x] Corporation - State Colorado
Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies):
Name: OmegaTech, Inc.
Internal Address:
Street Address: 4909 Nautilus Court N., Suite 208
City: Boulder State: CO ZIP: 80301-3242
Individual(s) citizenship
Association
General Partnership
Limited Partnership
[x] 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) & addresses attached? Yes No

3. Nature of conveyance
Assignment Merger
Security Agreement Change of Name
Other
Effective Date: July 31, 2001

4. Application number(s) or registration number(s):
Trademark Application No.(s) 75/382,956; 75/527,883; 75/662,207; 76/130,653 and 76/297,344
Additional numbers attached? Yes No

B. Trademark Registration No.(s) 2,047,242; 2,234,342; 2,363,329; 1,971,571; 2,233,959; 2,398,157; 1,967,146; 1,971,572; and 2,297,860
Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Miriam Drickman Trudell, Esq.
Internal Address: SHERIDAN ROSS P.C.
Street Address: 1560 Broadway, Suite 1200
City: Denver State: CO ZIP: 80202-5141

6. Total number of applications and registrations involved. 14
7. Total fee (37 CFR 3.41): \$ 365.00
Enclosed
Authorized to be charged to deposit account.
8. Deposit account number: 19-1970
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

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01 FC:461 40.00 OP
02 FB:468 Statement and signature. 325.00 OP

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.

Miriam Drickman Trudell
Name of person signing

Signature

September 17, 2001
Date

Total number of pages including cover sheet, attachments and document: 10

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
Box Assignments
Washington, DC 20231

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR PATENTS AND TRADEMARKS, BOX ASSIGNMENTS, WASHINGTON, DC 20231 ON September 17, 2001.

SHERIDAN ROSS P.C.
BY: [Signature]

TRADEMARK
REEL: 002372 FRAME: 0496

FILED
DONETTA DAVIDSON
COLORADO SECRETARY OF STATE

ARTICLES OF MERGER

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\$ 110.00

SECRETARY OF STATE

07-31-2001 14:18:23

OF
DPC 1987133292 N065
OMEGATECH, INC., a Colorado Corporation

AND

OMEGATECH, INC., a Delaware Corporation *NQ*
(*SURVIVOR*)

To the Secretary of State
State of Colorado

Pursuant to the provisions of the Colorado Business Corporation Act, the domestic business corporation and the foreign business corporation herein named do hereby submit the following Articles of Merger.

1. The attached Exhibit A annexed hereto and made a part hereof is the Agreement of Merger for merging Omegatech, Inc., a Colorado corporation ("Merging Corporation") with and into Omegatech, Inc., a Delaware corporation ("Survivor Corporation") as approved by resolution adopted at a meeting by the Board of Directors of the Merging Corporation on April 26, 2001 and by resolution adopted at a meeting by the Board of Directors of the Survivor Corporation on April 26, 2001.
2. The number of votes cast for the Plan of Merger by each voting group of the Merging Corporation entitled to vote separately on the merger was sufficient for approval by that voting group.
3. The merger herein provided for is permitted by the laws of the jurisdiction of organization of the Survivor Corporation and is in compliance with said laws.
4. The address, wherever located, of the principal office of the surviving corporation is 4909 Nautilus Court N., Suite 208, Boulder, Colorado 80301-3242.
5. The date in the State of Colorado of the merger herein provided for shall be July 31, 2001.

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Exhibit A

AGREEMENT OF MERGER

AGREEMENT OF MERGER (this "Merger Agreement") made and entered into this ____ day of _____, 2001 by and between OmegaTech, Inc., a Colorado corporation ("OmegaTech Colorado"), and Omega Delaware, Inc., a Delaware corporation ("Omega Delaware");

WITNESSETH:

WHEREAS, Omega Delaware is a corporation duly organized and existing under the laws of the State of Delaware;

WHEREAS, OmegaTech Colorado is a corporation duly organized and existing under the laws of the State of Colorado;

WHEREAS, on the date of this Merger Agreement, Omega Delaware has authority to issue (i) 50,000,000 shares of common stock, par value \$.001 per share (which class of shares is herein called the "Delaware Common Stock"), of which 1,000 shares are issued and outstanding and held by OmegaTech Colorado, and (ii) 10,000,000 shares of preferred stock, par value \$.001 per share (which class of shares is herein called the "Delaware Preferred Stock"), of which none are issued and outstanding;

WHEREAS, on the date of this Merger Agreement, OmegaTech Colorado has authority to issue (i) 1,000,000 shares of common stock, no par value (the "Colorado Common Stock"), of which 781,700 are issued and outstanding, and (ii) 1,000,000 shares of preferred stock, no par value (the "Colorado Preferred Stock"), of which none are issued and outstanding;

WHEREAS, the respective boards of directors of Omega Delaware and OmegaTech Colorado have determined that, for the purpose of effecting the reincorporation of OmegaTech Colorado in the State of Delaware, it is advisable and to the advantage of said two corporations and their shareholders that OmegaTech Colorado merge with and into Omega Delaware upon the terms and conditions herein provided; and

WHEREAS, the respective boards of directors of Omega Delaware and OmegaTech Colorado have approved this Merger Agreement and the board of directors of OmegaTech Colorado and Omega Delaware have directed that this Merger Agreement be submitted to a vote of their shareholders;

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, OmegaTech Colorado and Omega Delaware hereby agree to merge as follows:

1.A/645146.1

(1) Merger. OmegaTech Colorado shall be merged with and into Omega Delaware, and Omega Delaware shall survive the merger ("Merger"), effective upon the date when this Merger Agreement is made effective in accordance with the Delaware General Corporation Law (the "Effective Date").

(2) Directors and Officers and Governing Documents. The directors and officers of Omega Delaware shall be the directors and officers of OmegaTech Colorado, holding such positions upon the Effective Date. The Certificate of Incorporation of Omega Delaware, attached hereto as Exhibit A, shall be the Certificate of Incorporation of Omega Delaware as the surviving corporation without change or amendment until further amended in accordance with the provisions thereof and applicable laws. The bylaws of Omega Delaware, as in effect on the Effective Date, shall continue to be the bylaws of Omega Delaware as the surviving corporation without change or amendment until further amended in accordance with the provisions thereof and applicable laws.

(3) Succession. On the Effective Date, Omega Delaware shall succeed to OmegaTech Colorado in the manner of and as more fully set forth in Section 259 of the General Corporation Law of the State of Delaware and Section 7-111-107 of the Colorado Business Corporations Act.

(4) Further Assurances. From time to time, as and when required by Omega Delaware or by its successors and assigns, there shall be executed and delivered on behalf of OmegaTech Colorado such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other action, as shall be appropriate or necessary in order to vest, perfect or confirm, of record or otherwise, in Omega Delaware the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of OmegaTech Colorado, and otherwise to carry out the purposes of this Merger Agreement, and the officers and directors of Omega Delaware are fully authorized in the name and on behalf of OmegaTech Colorado or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

(5) Conversion of Stock of OmegaTech Colorado and Cancellation of Stock of Omega Delaware.

(a) Common Stock of OmegaTech Colorado. Upon the Effective Date, by virtue of the Merger and without any action on the part of the holder thereof, each share of the Colorado Common Stock outstanding immediately prior

(6) Stock Certificates. On and after the Effective Date, all of the outstanding certificates which prior to that time represented shares of Colorado Common Stock shall for all purposes evidence ownership of and represent the shares of Delaware Common Stock into which the shares of Colorado Common Stock represented by such certificates have been converted as herein provided. The registered owner on the books and records of Omega Delaware or its transfer agent of any such outstanding stock certificate shall, until such certificate shall have been surrendered for transfer or otherwise accounted for to Omega Delaware or its transfer agent, have and be entitled to exercise any voting and other rights with respect to and to receive any dividend and other distributions upon the shares of Delaware Common Stock evidenced by such outstanding certificate as above provided.

(7) Stock Options and Warrants.

(a) Forthwith upon the Effective Date, each (i) outstanding option to purchase shares of Colorado Common Stock granted under the OmegaTech Colorado 1996 Stock Option Plan (the "Plan") and (ii) outstanding option to purchase one share of Colorado Common Stock not granted under the Plan, shall be converted into and become an option to purchase twenty (20) shares of Delaware Common Stock at one-twentieth ($1/20$) the option price per share as in effect on the Effective Date and, in the case of options granted under the Plan (collectively, the "Plan Options"), upon the same terms and subject to the same conditions as set forth in the Plan, and, in the case of all options not granted under the Plan (collectively, the "Non-Plan Options"), upon the same terms and subject to the same conditions as set forth in the agreements or instruments that govern the Non-Plan Options. A number of shares of Delaware Common Stock shall be reserved for purposes of the Plan and Non-Plan Options equal to twenty (20) times the number of shares of Colorado Common Stock so reserved as of the Effective Date. As of the Effective Date, Omega Delaware hereby assumes all obligations of OmegaTech Colorado under the Plan, the outstanding Plan Options or portions thereof granted pursuant to the Plan and all Non-Plan Options.

(b) Forthwith upon the Effective Date, each outstanding warrant to purchase one share of Colorado Common Stock (each, a "Warrant") shall be converted into and become a warrant to purchase twenty (20) shares of Delaware Common Stock at one-twentieth ($1/20$) the exercise price per share as in effect on the Effective Date and upon the same terms and subject to the same conditions as

(8) Other Employee Benefit Plans. As of the Effective Date, Omega Delaware hereby assumes all obligations of OmegaTech Colorado under any and all employee benefit plans in effect as of said date or with respect to which employee rights or accrued benefits are outstanding as of said date.

(9) Covenants of Omega Delaware. Omega Delaware covenants and agrees that it will, on or before the Effective Date:

(a) Qualify to do business as a foreign corporation in the State of Colorado, and in connection therewith irrevocably appoint an agent for service of process as required under the provisions of Section 7-111-107 of the Colorado Business Corporations Act.

(b) File any and all documents with the Colorado Department of Revenue necessary to the assumption by Omega Delaware of all of the franchise tax liabilities of OmegaTech Colorado.

(10) Book Entries. As of the Effective Date, entries shall be made upon the books of Omega Delaware in accordance with the following:

(a) The assets and liabilities of OmegaTech Colorado shall be recorded at the amounts at which they were carried on the books of OmegaTech Colorado immediately prior to the Effective Date.

(b) There shall be credited to the common stock account of Omega Delaware the aggregate amount of the par value of all shares of Delaware Common Stock resulting from the conversion of the outstanding Colorado Common Stock pursuant to the Merger.

(c) There shall be credited to the capital surplus account of Omega Delaware the aggregate of the amounts shown in the common stock and capital surplus accounts of OmegaTech Colorado immediately prior to the Effective Date, less the amount credited to the common stock account of Omega Delaware pursuant to Paragraph (b) above.

(d) There shall be credited to the retained earnings account of Omega Delaware an amount equal to that carried in the retained earnings account of OmegaTech Colorado immediately prior to the Effective Date.

(11) Amendment. At any time before or after approval and adoption by the shareholders of OmegaTech Colorado, this Merger Agreement may be amended in any manner (except that Paragraph (5) may not be amended without the approval of the shareholders of OmegaTech Colorado), as may be determined in the judgment of the respective boards of directors of Omega Delaware and OmegaTech Colorado to be

necessary, desirable or expedient in order to clarify the intention of the parties hereto or to effect or facilitate the purposes and intent of this Merger Agreement.

(12) Abandonment. At any time before the Effective Date, this Merger Agreement may be terminated and the Merger may be abandoned by the board of directors of either OmegaTech Colorado or Omega Delaware with the approval of the board of directors of the other corporation, notwithstanding approval of this Merger Agreement by the stockholders of Omega Delaware or the shareholders of OmegaTech Colorado or both.

(13) Counterparts. In order to facilitate the filing and recording of this Merger Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Merger Agreement, having first been duly approved by resolution of the boards of directors of OmegaTech Colorado and Omega Delaware, is hereby executed on behalf of each said two corporations by their respective officers thereunto duly authorized.

Omega Delaware, Inc.,
a Delaware corporation

By: _____
Its: _____

OmegaTech, Inc.
a Colorado corporation

By: _____
Its: _____

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