

03-12-2002



OFFICE OF PUBLIC RELATIONS 102010671

Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

RECORDATION FORM COVER SHEET

TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Tab settings

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

1. Name of conveying party(ies):

ML Acquisition Corp. 2-21-02

- Individual(s)
- General Partnership
- Corporation-State Delaware
- Other
- Association
- Limited Partnership

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

3. Nature of conveyance:

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

Execution Date: Feb. 23, 2001

2. Name and address of receiving party(ies)

Name: Swift Telecommunications, Inc.

Internal

Address:

Street Address: 399 Thornall Street

City: Edison State: NJ Zip: 08837

- 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 registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1461347

Additional number(s) attached  Yes  No

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

Name: Maria Politis Moutsatsos

Internal Address: EasyLink Services Corporation

Street Address: 399 Thornall Street

City: Edison State: NJ Zip: 08837

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:

DO NOT USE THIS SPACE

9. Signature.

Maria Politis Moutsatsos

Name of Person Signing

M Moutsatsos

Signature

2/15/02

Date

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

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

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Office of the Secretary of State

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I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"SWIFT TELECOMMUNICATIONS, INC.", A NEW YORK CORPORATION, WITH AND INTO "ML ACQUISITION CORP." UNDER THE NAME OF "SWIFT TELECOMMUNICATIONS, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-THIRD DAY OF FEBRUARY, A.D. 2001, AT 2:30 O'CLOCK P.M.

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



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 0988197

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010090924

DATE: 02-23-01

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CERTIFICATE OF MERGER

OF

SWIFT TELECOMMUNICATIONS, INC.

AND

ML ACQUISITION CORP.

It is hereby certified that:

1. The constituent business corporations participating in the merger herein certified are:

- (i) Swift Telecommunications, Inc., which is incorporated under the laws of the State of New York; and
- (ii) ML Acquisition Corp., which is incorporated under the laws of the State of Delaware.

2. An Agreement of Merger has been approved, adopted, certified, executed, and acknowledged by each of the aforesaid constituent corporations in accordance with the provisions of subsection (c) of Section 252 of the General Corporation Law of the State of Delaware, to wit, by Swift Telecommunications, Inc. in accordance with the laws of the State of its incorporation and by ML Acquisition Corp. in the same manner as is provided in Section 251 of the General Corporation Law of the State of Delaware.

3. The name of the surviving corporation in the merger herein certified is ML Acquisition Corp., which shall herewith be changed to Swift Telecommunications, Inc., a Delaware corporation (the "Surviving Corporation").

4. The Certificate of Incorporation of ML Acquisition Corp. as in effect immediately prior to the merger shall be amended as set forth in Exhibit A hereto and, as so amended, shall be the Certificate of Incorporation of the Surviving Corporation.

5. The executed Agreement of Merger between the aforesaid constituent corporations is on file at an office of the aforesaid surviving corporation, the address of which is as follows:

11 Broadway, Sixth Floor  
New York, New York 10004

6. A copy of the aforesaid Agreement of Merger will be furnished by the aforesaid surviving corporation, on request, and without cost, to any stockholder of each of the aforesaid constituent corporations.

7. The authorized capital stock of Swift Telecommunications, Inc. consists of 200 shares of voting common stock without par value.

8. The Agreement of Merger between the aforesaid constituent corporations provides that the merger herein certified shall be effective upon the filing of the certificates of merger with the Department of State of the State of New York and the Secretary of State of the State of Delaware, respectively.

Dated: February 23, 2001.

ML ACQUISITION CORP.

By: Thomas Murawski  
Name: Thomas Murawski  
Title: Chief Executive Officer

CERTIFICATE OF INCORPORATION  
OF  
SWIFT TELECOMMUNICATIONS, INC.

ARTICLE I

The name of the Corporation is Swift Telecommunications, Inc. (the "Corporation").

ARTICLE II

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, City of Wilmington, County of New Castle 19801. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware.

ARTICLE IV

The Corporation shall have the authority to issue one class of stock to be designated as "Common Stock." The total number of shares of Common Stock which the Corporation is authorized to issue is 100,000,000 shares, each such share having a par value of \$0.01 per share. Each share of Common Stock shall have one (1) vote per share.

ARTICLE V

The Board of Directors of the Corporation is expressly authorized to make, alter or repeal the By-Laws of the Corporation, but the stockholders may make additional By-Laws and may alter or repeal any By-Law whether adopted by them or otherwise.

ARTICLE VI

Each person who is or was or had agreed to become a director or officer of the Corporation, or each such person who is or was serving or who had agreed to serve at the request of the Board of Directors or an officer of the Corporation as an employee or agent of the Corporation or as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including the heirs, executors, administrators or estate of such person), shall be indemnified by the Corporation, in accordance with the By-Laws of the Corporation, to the full extent permitted from time to time by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) or any other applicable laws as presently or hereinafter in effect. Without limiting the generality or the effect of the foregoing, the Corporation may enter into one or more

agreements with any person that provide for indemnification greater or different than that provided in this Article VIII and the Corporation may purchase and maintain insurance on behalf of any director or officer to the extent provided by Section 145 of the General Corporation Law of the State of Delaware. Any amendment or repeal of this Article VIII shall not adversely affect any right or protection existing hereunder immediately prior to such amendment or repeal.

#### ARTICLE VII

A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware or (iv) for any transaction from which the director derived an improper personal benefit. Any amendment or repeal of this Article IX shall not adversely affect any right or protection of a director of the Corporation existing immediately prior to such amendment or repeal. The liability of a director shall be further eliminated or limited to the full extent permitted by Delaware law, as it may hereafter be amended.