

06-27-2002

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



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

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

1. Name of conveying party(ies):

Novell Enterprises, Inc. 6-24-02

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: December 4, 1996

2. Name and address of receiving party(ies)

Name: Novell Enterprises, Inc.

Internal Address:

Street Address: 129 Chestnut Street

City: Roselle State: NJ Zip: 07203

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State New Jersey 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)

2,092,470 2,106,172

Additional number(s) attached Yes No

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

Name: Richard C. Woodbridge, Esq.

Internal Address: Woodbridge & Associates, P.C.

Street Address: P.O. Box 592

City: Princeton State: NJ Zip: 08542

6. Total number of applications and registrations involved:

2

7. Total fee (37 CFR 3.41).....\$ 65.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

23-3040

(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.

Richard C. Woodbridge, Esq.

Name of Person Signing

Signature

Date June 17, 2002

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

14

06/26/2002 6TON11 00000259 2092470

01 FC:481 02 FC:482

40.00 09 25.00 09

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

TRADEMARK REEL: 002531 FRAME: 0668

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CERTIFICATE OF MERGER
of
Novell Enterprises Inc.
and
Novell Enterprises Inc.
into
Novell Enterprises Inc.

Under Section 907 of the Business Corporation Law, we the undersigned, Victor Novogrodzky and Bruce Pucciarello, being respectively the President and Secretary of Novell Enterprises Inc., a domestic corporation and Victor Novogrodzky and Bruce Pucciarello, being respectively the President and Secretary of Novell Enterprises Inc., a corporation organized under the laws of New Jersey, hereby certify:

The plan of merger was adopted by the board of directors of each constituent corporation.

1. The name of the surviving corporation is Novell Enterprises Inc. (the New Jersey corporation), and the name of the constituent corporation to be merged is Novell Enterprises Inc. (the domestic corporation).

2. The designations and number of outstanding shares of each class of Novell Enterprises Inc., the surviving corporation, is 100 common shares, and the number of such shares of each class entitled to vote is 100 common shares. The designations and number of outstanding shares of Novell Enterprises Inc., the corporation to be merged, and the number of each class or series entitled to vote and to vote as a class is 100 common shares.

3. The merger was authorized by unanimous vote of the holders of the outstanding shares of Novell Enterprises Inc. (the domestic corporation) entitled to vote by unanimous written consent of shareholders, and by the shareholders of Novell Enterprises Inc. (the New Jersey Corporation), in compliance with the applicable provisions of the law of New Jersey. The laws of New Jersey permit the merger herein effected.

4. The certificate of incorporation of Novell Enterprises Inc. (the domestic corporation), was filed by the Department of State on the 23rd day of February, 1987, and Novell Enterprises Inc. (the surviving corporation), was incorporated under the laws of the State of New Jersey on the 21st day of March, 1996. Novell Enterprises Inc. (the surviving corporation) has not filed an application for authority to do business in New York. It will not do business in New York until such certificate is filed with the Dept. of State.

5. Novell Enterprises Inc., the surviving corporation, agrees that it may be served with process in New York in any action or special proceeding for the enforcement of any liability or obligation of any constituent corporation, previously amenable to suit in New York, and for the enforcement under the Business Corporation Law of the right of shareholders of any constituent domestic corporation to receive payment for their shares against the surviving

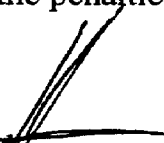



corporation.

6. Novell Enterprises Inc., the surviving corporation, agrees that, subject to the provisions of Section 623 of the Business Corporation Law, it will promptly pay to the shareholders of each constituent New York corporation the amount, if any, to which they shall be entitled under the provisions of the Business Corporation Law, relating to the right of the shareholders to receive payment for their shares.


7. The Secretary of State is designated by the surviving corporation as its agent upon whom process against it may be served in any action or special proceeding described in Paragraph (5) of this certificate. The post-office address to which the Secretary of State shall mail a copy of such process is Novell Enterprises Inc., 129 Chestnut Street, Roselle, New Jersey 07203.


In Witness Whereof, this certificate of merger has been signed and the statements made herein affirmed as true under the penalties of perjury by the undersigned this 4th day of December, 1996.

Signed 
Victor Novogrodzky (President)

Signed 
Bruce Pucciarello (Secretary)

of Novell Enterprises Inc. (NY)

Signed 
Victor Novogrodzky (President)

Signed 
Bruce Pucciarello (Secretary)

of Novell Enterprises Inc. (NJ)



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FILED

**CERTIFICATE OF MERGER OF
NOVELL ENTERPRISES INC. AND
NOVELL ENTERPRISES INC. INTO
NOVELL ENTERPRISES INC.**

**Under Sections 907 of the
Business Corporation Law**

Stults & Balber, P.C.
1370 Avenue of the Americas
New York, New York 10019
(212) 246-2400
Telecopier: (212) 765-4212

Attorneys for Plaintiff

JW

NIS

4-cc

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED DEC 30 1996

TAXES 0
BY JW

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961230000255

TRADEMARK

REEL: 002531 FRAME: 0671

F I L E D

DEC 30 1996

LONNA R. HOOKS
Secretary of State

**CERTIFICATE OF MERGER
OF
NOVELL ENTERPRISES INC.
INTO
NOVELL ENTERPRISES INC.**

**TO: THE SECRETARY OF STATE
STATE OF NEW JERSEY**

Pursuant to the provisions of Sections 14A:10-4.1 and 14A:10-7 of the New Jersey Business Corporation Act, the undersigned corporations hereby execute the following Certificate of Merger.

1. Novell Enterprises Inc., a corporation organized and existing under the laws of the State of New York ("Novell-NY"), shall be merged into Novell Enterprises Inc., a corporation organized and existing under the laws of the State of New Jersey ("Novell-NJ") which is hereinafter designated as the surviving corporation.

2. The laws of the State of New York, the State under which Novell-NY is organized, permit such merger, and the applicable provisions of the laws of said jurisdiction have been, or upon compliance with filing and recording requirements will have been, complied with.

3. The name of the surviving corporation shall be Novell Enterprises Inc., and it shall be governed by the laws of the State of New Jersey.

4. The address of the surviving corporation's registered office is 129 Chestnut Street, Roselle, New Jersey 07203, and the name of its registered agent at such address is Victor Novogrodsky.

5. The total authorized capital stock of the surviving corporation shall be 1000 shares of common stock, no par value per share.

6. The Plan of Merger annexed hereto and made a part hereof as Exhibit A was approved by the shareholders of Novell-NJ in the manner prescribed

prescribed by Sections 14A:10-1, 14A:10-3, and 14A:10-7 of the New Jersey Business Corporation Act and was approved by Novell-NY in the manner prescribed by the laws of the State of New York.

7. As to each corporation whose shareholders are entitled to vote, the number of shares entitled to vote, and the number and designation of the shares of any class or series entitled to vote as a class, are as follows:


Name of Corporation Entitled	Total Number of Shares Entitled to Vote	Designation of Each Class or Series Entitled to Vote Class (if any)	Number of Shares to Vote of Each Such Class or Series (if any)
Novell-NY	100	Common	100
Novell-NJ	100	Common	100

8. As to each corporation whose shareholders are entitled to vote, the number of shares voted for and against, the Plan of Merger, respectively, and the number of shares of any class entitled to vote as a class that voted for and against the Plan of Merger, respectively, are as follows:

Name of Corporation	Total Shares Voted For	Total Shares Voted Against
Novell-NY	100	-0-
Novell-NJ	100	-0-

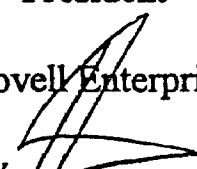
IN WITNESS, WHEREOF, each of the undersigned corporations has caused this Certificate of Merger to be executed in its name by its respective President as of the 4th day of December, 1996.

Novell Enterprises Inc. (Novell-NY)

By 

Victor Novogrodzky
President

Novell Enterprises Inc. (Novell-NJ)

By 

Victor Novogrodzky
President

AGREEMENT OF MERGER AND PLAN OF REORGANIZATION.

Agreement of Merger and Plan of Reorganization dated October 10, 1996 by and between **NOVELL ENTERPRISES INC.**, a New York corporation (hereinafter called "Novell-NY") and **NOVELL ENTERPRISES INC.**, a New Jersey corporation (hereinafter called "The Surviving Corporation").

WHEREAS:

1. The Boards of Directors of Novell-NY and the Surviving Corporation have resolved that Novell-NY be merged and pursuant to the New York Business Corporation Law and the New Jersey Business Corporation Act into a single corporation existing under the laws of the State of New Jersey, namely The Surviving Corporation, which shall be the surviving corporation in a transaction qualifying as a reorganization within the meaning of Section 368(a)(1)(F) of the Internal Revenue Code;
2. The authorized capital stock of Novell-NY consists of 200 shares of Common Stock with no par value per share (hereinafter called "Novell-NY Common Stock"), of which 100 shares are issued and outstanding;
3. The authorized capital stock of The Surviving Corporation consists of 1,000 shares of Common Stock with no par value per share (hereinafter called "The Surviving Corporation Common Stock"), 100 shares of which are issued and outstanding; and
4. The respective Boards of Directors of Novell-NY and The Surviving Corporation have approved the merger upon the terms and conditions hereinafter set forth and have approved this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual agreements, provisions, and covenants herein contained, the parties hereto hereby agree in accordance with the New York Business Corporation Law and the New Jersey Business Corporation Act that Novell-NY shall be, at the Effective Date (as hereinafter defined), merged (hereinafter called "Merger") into a single corporation existing under the laws of the State of New Jersey, namely, The Surviving Corporation, which shall be the Surviving Corporation, and the parties hereto adopt and agree to the following agreements, terms, and conditions relating to the Merger and the mode of carrying the same into effect.

1. **Stockholders' Meetings; Filings; Effects of Merger**

1.1 **Novell-NY Stockholders' Meeting.** Novell-NY shall call a meeting of its stockholders to be held in accordance with the New York Business Corporation Law at the earliest practicable date, upon due notice thereof to its stockholders to consider and vote upon, among other matters, adoption of this Agreement.

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1.2 The Surviving Corporation Stockholders' Meeting. The Surviving Corporation shall call a meeting of its stockholders to be held in accordance with the New Jersey Business Corporation Act at the earliest practicable date, upon due notice thereof to its stockholders to consider and vote upon, among other matters, adoption of this Agreement.

1.3 Filing of Certificate of Merger; Effective Date. If (a) this Agreement is adopted by the stockholders of Novell-NY in accordance with the New York Business Corporation Law, (b) this Agreement has been adopted by the stockholders of The Surviving Corporation, in accordance with the New Jersey Business Corporation Act, and (c) this Agreement is not thereafter, and has not theretofore been, terminated or abandoned as permitted by the provisions hereof, then a Certificate of Merger shall be filed and recorded in accordance with the New York Business Corporation Law and a Certificate of Merger shall be filed and recorded in accordance with the New Jersey Business Corporation Act. Such filings shall be made on the same day. The Merger shall become effective at 9:00 A.M. on the calendar day following the day of such filing in New Jersey, which date and time are herein referred to as the "Effective Date."

1.4 Certain Effects of Merger. On the Effective Date, the separate existence of Novell-NY shall cease, and Novell-NY shall be merged into The Surviving Corporation which, as the Surviving Corporation, shall possess all the rights, privileges, powers, and franchises, of a public as well as of a private nature, and be subject to all the restrictions, disabilities, and duties of Novell-NY; and all and singular, the rights, privileges, powers, and franchises of Novell-NY, and all property, real, personal, and mixed, and all debts due to Novell-NY on whatever account, as well for stock subscriptions and all other things in action or belonging to Novell-NY, shall be vested in the Surviving Corporation; and all property, rights, privileges, powers, and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of Novell-NY, and the title to any real estate vested by deed or otherwise, under the laws of New York or New Jersey or any other jurisdiction, in Novell-NY, shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of Novell-NY shall be preserved unimpaired, and all debts, liabilities, and duties of Novell-NY shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it. At any time, or from time to time, after the Effective Date, the last acting officers of Novell-NY or the corresponding officers of the Surviving Corporation, may, in the name of Novell-NY, execute and deliver all such proper deeds, assignments, and other instruments and take or cause to be taken all such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest, perfect, or confirm in the Surviving Corporation title to and possession of all Novell-NY's property, rights, privileges, powers, franchises, immunities, and interests and otherwise to carry out the purposes of this Agreement.

2. Name of Surviving Corporation; Certificate of Incorporation; By-Laws

2.1 Name of surviving Corporation. The name of the Surviving Corporation shall be Novell Enterprises Inc.

2.2 Certificate of Incorporation. The Certificate of Incorporation of The Surviving Corporation as in effect on the date hereof shall from and after the Effective Date be, and continue to be, the Certificate of Incorporation of the Surviving Corporation until changed or amended as provided by law.

2.3 By-Laws. The By-Laws of Novell-NJ, as in effect immediately before the Effective Date, shall from and after the Effective Date be, and continue to be, the By-Laws of the Surviving Corporation until amended as provided therein.

3. Status and Conversion of Securities

The manner and basis of converting the shares of the capital stock of Novell-NY and the nature and amount of securities of The Surviving Corporation which the holders of shares of Novell-NY Common Stock are to receive in exchange for such shares are as follows:

3.1 Novell-NY Common Stock. Each one share of Novell-NY Common Stock which shall be issued and outstanding immediately before the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Date into one fully paid share of The Surviving Corporation Common Stock, and outstanding certificates representing shares of Novell-NY Common Stock shall thereafter represent shares of The Surviving Corporation Common Stock. Such certificates may, but need not be, exchanged by the holders thereof after the merger becomes effective for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.

3.2 The Surviving Corporation Common Stock Held by Novell-NY. All issued and outstanding shares of The Surviving Corporation Common Stock held by Novell-NY immediately before the Effective Date shall, by virtue of the Merger and at the Effective Date, cease to exist and certificates representing such shares shall be canceled.

4. Miscellaneous

4.1 This Agreement of Merger may be terminated and the proposed Merger abandoned at any time before the Effective Date of the Merger, and whether before or after approval of this Agreement of Merger by the shareholders of Novell-NY or of The Surviving Corporation, if the Board of Directors of Novell-NY or of The Surviving Corporation duly adopt a resolution abandoning this Agreement of Merger.

4.2 For the convenience of the parties hereto and to facilitate the filing of this Agreement of Merger, any number of counterparts hereof may be executed; and each such counterpart shall be deemed to be an original instrument.

IN WITNESS WHEREOF, this Agreement has been executed by Novell Enterprises Inc. and Novell Enterprises Inc., all on the date first above written.

ATTEST:



Bruce Puciarello, Secretary
Puciarello

(SEAL)

NOVELL ENTERPRISES INC.

By: 

Victor Novogrodzky
President

ATTEST:



Bruce Puciarello, Secretary
Puciarello

(SEAL)

NOVELL ENTERPRISES INC.

By: 

Victor Novogrodzky
President

I, The Secretary of State of the State of
New Jersey, DO HEREBY CERTIFY that the foregoing is a true copy
of CERTIFICATE OF *MERGER*
and the endorsements thereon, as the same is taken from and
compared with the original filed in my office on the *30th*
day of *December* A.D. *1996* and now remaining on file
and of record therein.



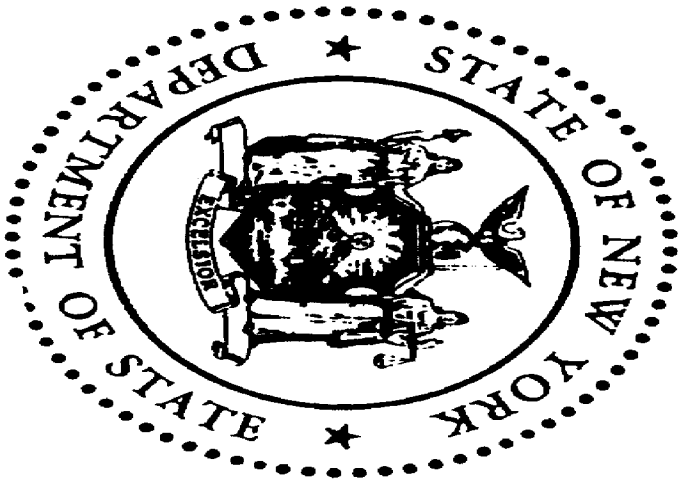
IN TESTIMONY WHEREOF, I have
hereunto set my hand and affixed my
Official Seal at Trenton, this
day of *December* A.D. *31st*
1996
SECRETARY OF STATE

Thomas R. Hooten

State of New York
Department of State } ss:

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on **JAN 02 1997**



A handwritten signature in cursive script, appearing to read "J. Clark", written over a horizontal line.

Special Deputy Secretary of State

To: Secretary of State

Date: 12/23/96

Name of Corporation	
NOVELL ENTERPRISES INC.	ID# 13-3423551 AA6

Pursuant to provisions of section 907 of the Business Corporation Law, the Commissioner of Taxation and Finance hereby consents to the Merger of the above named corporation, into NOVELL ENTERPRISES INC. (NJ) - If filed on or before 3/23/97.

Certificate and ^{7c}fee are attached.

Filed by: Stults & Balber, P.C.
1370 Avenue of the Americas
New York NY 10019

Director, Processing Division

By *Frances Ballinger*
Pink-Taxpayer

White-Department of State

/
Yellow-Department of State