

10-09-2002



102244956

Case: LANTR-102T/106T/109T/116T

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

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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): 10-7-02 LIGHTWAVE COMMUNICATIONS, INC. [] Individual(s) [] Association [] General Partnership [] Limited Partnership [x] Corporation-State [] Other Additional name(s) of conveying party(ies) attached? [] Yes [x] No

2. Name and address of receiving party(ies) Name: LANTRONIX, INC. Internal Address: 15353 Barranca Pkwy. Street Address: City: Irvine State: CA Zip: 92618 [] 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 [x] No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? [] Yes [x] No

3. Nature of conveyance [] Assignment [x] Merger (See below) [] Security Agreement [] Change of Name [] Other and Plan for Reorganization pertaining to merger documents. Execution Date: June 7, 2002

4. Application number(s) or registration number(s): A. Trademark Application No.(s) 75/811,718 76/211,560 B. Trademark Registration No.(s) 1,876,401 2,360,150 Additional number(s) attached [] Yes [x] No

6. Total number of applications and registrations involved: 4

5. Name and address of party to whom correspondence concerning document should be mailed: Name: William J. Brucker, Esq. Internal Address: Street Address: STETINA BRUNDA GARRED & BRUCKER 75 Enterprise, Suite 250 City: Aliso Viejo State: CA Zip: 92656

7. Total fee (37 CFR 3.41) \$ 115.00 [x] Enclosed [] Authorized to be charged to deposit account *Please charge any additional fees to: 8. Deposit account number: 19-4330

9. Signature. William J. Brucker Name of Person Signing

[Signature] Signature

September 27, 2002 Date

Total number of pages including cover sheet, attachments, and document: 8

OFFICE OF PUBLIC RECORDS 2002 OCT - 7 AM 8:30 FINANCE SECTION

10/08/2002 LMUELLER 00000048 75811718

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

01 FC:481 40.00 OP 02 FC:482 75.00 OP

TRADEMARK REEL: 002595 FRAME: 0107

THIS AGREEMENT AND PLAN OF REORGANIZATION (the "Agreement") is made and entered into as of June 7, 2001 by and among Lantronix, Inc., a Delaware corporation ("Parent"), LWC Acquisition Corporation, a Connecticut corporation and a wholly-owned subsidiary of Parent ("Sub"), Lightwave Communications, Inc., a Connecticut corporation (the "Company"), David B. Cheever, Peter T. Henderson, Ross D. Capen, Kevin F. Keefe and Michael L. Canestri (each, a "Stockholder," and collectively the "Stockholders"), and with respect to Article VII and Article IX hereof, David B. Cheever (the "Stockholder Representative").

RECITALS

A. The Boards of Directors of each of Parent, Sub and the Company believe it is in the best interests of each company and its respective stockholders that Parent acquire the Company through the statutory merger of the Company with and into Sub pursuant to the terms hereof (the "Merger") and, in furtherance thereof, have approved the Merger.

B. Pursuant to the Merger, among other things, (i) all of the capital stock of the Company shall be converted into the consideration set forth herein, and (ii) all issued and outstanding options to purchase capital stock of the Company shall be assumed by Parent and converted into options to purchase common stock of Parent.

C. A portion of the cash consideration otherwise payable by Parent in connection with the Merger shall be either (at Parent's option) retained by Parent (and shall accrue interest as provided herein) or placed in escrow as security for the indemnification obligations set forth in this Agreement. A portion of stock otherwise payable by Parent in connection with the Merger shall be placed in escrow by Parent as security for the indemnification obligations set forth in this Agreement.

D. The Company and the Stockholders, on the one hand, and Parent and Sub, on the other hand, desire to make certain representations, warranties, covenants and other agreements in connection with the Merger.

E. The parties intend, by executing this Agreement, to adopt a plan of reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"). The parties intend for the Merger to be accounted for as a purchase.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and other premises set forth herein, the mutual benefits to be gained by the performance thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the parties hereby agree as follows:

ARTICLE I

THE MERGER

1.1 The Merger. At the Effective Time (as defined in Section 1.2 hereof) and subject to and upon the terms and conditions of this Agreement and the applicable provisions of the General

Corporation Law of the State of Connecticut ("Connecticut Law"), the Company shall be merged with and into Sub, the separate corporate existence of the Company shall cease, and Sub shall continue as the surviving corporation and as a wholly-owned subsidiary of Parent. The surviving corporation after the Merger is sometimes referred to hereinafter as the "Surviving Corporation."

1.2 Effective Time. Unless this Agreement is earlier terminated pursuant to Section 8.1 hereof, the closing of the Merger (the "Closing") will take place as promptly as practicable after the execution and delivery hereof by the parties hereto, but no later than five (5) business days following satisfaction or waiver of the conditions set forth in Article VI hereof, at the offices of Wilson Sonsini Goodrich & Rosati, Professional Corporation, 650 Page Mill Road, Palo Alto, California, at 10 a.m. Palo Alto time unless another time and/or place is mutually agreed upon in writing by Parent and the Company. The date upon which the Closing actually occurs shall be referred to herein as the "Closing Date." On the Closing Date, the parties hereto shall cause the Merger to be consummated by filing a Certificate of Merger in substantially the form attached hereto as Exhibit A, with the Secretary of State of the State of Connecticut (the "Certificate of Merger"), in accordance with the applicable provisions of Connecticut Law (the time of such filing shall be referred to herein as the "Effective Time").

1.3 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of Connecticut Law. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, except as otherwise agreed to pursuant to the terms of this Agreement, all the property, rights, privileges, powers and franchises of the Company and Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Sub shall become the debts, liabilities and duties of the Surviving Corporation.

1.4 Certificate of Incorporation and Bylaws.

(a) Unless otherwise determined by Parent prior to the Effective Time, the certificate of incorporation of the Surviving Corporation shall be identical to the certificate of incorporation of Sub as in effect immediately prior to the Effective Time, until thereafter amended in accordance with Connecticut Law and as provided in such certificate of incorporation; *provided, however*, that at the Effective Time, Article I of the Certificate of Incorporation of the Surviving Corporation shall be amended and restated in its entirety to read as follows: "The name of the corporation is Lightwave Communications, Inc."

(b) Unless otherwise determined by Parent prior to the Effective Time, the bylaws of Sub, as in effect immediately prior to the Effective Time, shall be the bylaws of the Surviving Corporation at the Effective Time until thereafter amended in accordance with Connecticut Law and as provided in the certificate of incorporation of the Surviving Corporation and such bylaws.

1.5 Directors and Officers.

(a) Directors. Unless otherwise determined by Parent prior to the Effective Time, the directors of Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation immediately after the Effective Time, each to hold the office of a director of the Surviving Corporation in accordance with the provisions of Connecticut Law and the certificate of

(e) All material items of equipment with a value of \$15,000 or more (the "Equipment") owned or leased by the Company are (i) adequate for the conduct of the business of the Company as currently conducted, and (ii) in reasonable operating condition, regularly and properly maintained, subject to normal wear and tear.

(f) Except as provided in Section 2.12 of the Disclosure Schedule, the Company has sole and exclusive ownership, free and clear of any Liens, of all customer lists, customer contact information, customer correspondence and customer licensing and purchasing histories relating to its current and former customers (the "Customer Information"). No person other than the Company possesses any claims or rights with respect to use of the Customer Information.

2.13 Intellectual Property.

(a) Definitions. For all purposes of this Agreement, the following terms shall have the following respective meanings:

"Intellectual Property" shall mean any or all of the following (i) works of authorship including, without limitation, computer programs, source code, and executable code, whether embodied in software, firmware or otherwise, documentation, designs, files, records, data and mask works, (ii) inventions (whether or not patentable), improvements, and technology, (iii) proprietary and confidential information, trade secrets and know how, (iv) databases, data compilations and collections and technical data, (v) logos, trade names, trade dress, trademarks and service marks, (vi) domain names, web addresses and sites, (vii) tools, methods and processes, and (viii) any and all instantiations of the foregoing in any form and embodied in any media.

"Intellectual Property Rights" shall mean worldwide common law and statutory rights associated with (i) patents and patent applications, (ii) copyrights, copyright registrations and copyright applications, "moral" rights and mask work rights, (iii) the protection of trade and industrial secrets and confidential information, (iv) other proprietary rights relating to intangible intellectual property, (v) trademarks, trade names and service marks, (vi) analogous rights to those set forth above, and (vii) divisions, continuations, renewals, reissuances and extensions of the foregoing (as applicable).

"Company Intellectual Property" shall mean any Intellectual Property and Intellectual Property Rights that are solely owned by or exclusively licensed to the Company.

"Registered Intellectual Property" shall mean Intellectual Property and Intellectual Property Rights that have been registered, filed, certified or otherwise perfected or recorded with any state, government or other public legal authority.

(b) Section 2.13(b) of the Disclosure Schedule (i) lists all Registered Intellectual Property owned by, or filed in the name of, the Company (the "Company Registered Intellectual Property") and (ii) lists any proceedings or actions before any court, tribunal (including the United States Patent and Trademark Office (the "PTO") or equivalent authority anywhere in the world) related to any of the Company Registered Intellectual Property.

IN WITNESS WHEREOF, Parent, Sub, the Company, the Stockholders and the Stockholder Representative have caused this Agreement to be signed, all as of the date first written above.

LANTRONIX, INC.

By: 

Name: Steven V. Cotton

Title: Chief Operating Officer and Chief
Financial Officer

LIGHTWAVE COMMUNICATIONS, INC.

By: 

Name: David B. Cheever

Title: President

LWC ACQUISITION CORPORATION

By: 

Name: Steven V. Cotton

Title: Chief Financial Officer

STOCKHOLDERS' REPRESENTATIVE


David B. Cheever

SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION

TRADEMARK
REEL: 002595 FRAME: 0111

STOCKHOLDERS



David B. Cheever, an individual

Peter T. Henderson, an individual

Ross D. Capen, an individual

Kevin F. Keefe, an individual

Michael L. Canestri, an individual


SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION

STOCKHOLDERS

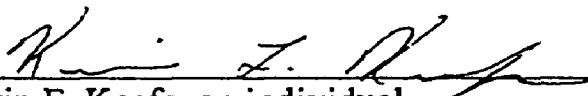
David B. Cheever, an individual




Peter T. Henderson, an individual



Ross D. Capen, an individual



Kevin F. Keefe, an individual



Michael L. Canestri, an individual

SIGNATURE PAGE TO AGREEMENT AND PLAN OF REORGANIZATION

Disclosure Schedule
Section 2.13(b)
Company Registered Intellectual Property

(a) Pending Patent Applications:

Serial Number	Filing Date	Title
421,494	10/20/99	Switch Mode for a Server Switching System
670,790	9/27/00	System for Extending Length of a Connection to a USB Peripheral

(b) Issued Patents:

Serial Number	Filing Date	Patent Number	Issue Date	Title
824,586	1/23/92	5272558	12/21/93	Two Level Fiber Optic Communication From Three-Value Electronic Signal Source
986,925	12/8/92	5410363	4/25/95	Automatic Gain Control Device...

(b) Pending Trademark Applications:

Serial Number	Filing Date	Mark
467,947	4/14/98	MATRIX-HUB
469,647	4/17/98	SERVERSWITCH
811,718	9/29/99	MATRIX-HUB and Design
211,560	2/15/01	PCFiberLynx

(c) Registered Trademarks:

Serial Number	Filing Date	Registration Number	Issue Date	Mark
418,474	7/26/93	1876401	1/31/95	VDE/200
766,975	10/30/99	2,360,150*	6/20/00	SYSTEM CONSOLE SWITCH (AND DESIGN)

*The Company has not received notification of this registration. The records of the USPTO indicate, however, that it has been registered as listed above.