

10-23-2002

Atty. Dkt. No. 081104-0101C

FORM PTO-1594 (modified)

(Rev 03/01)



102258467

COVER SHEET
S ONLY

U.S. DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

To the Director of the United States Patent and Trademark Office: Please record the attached original documents or copies thereof.

1. Name of conveying party(ies):
Sing-N-Slide Corp.

10-16-02

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

Additional conveying party(ies) NO

3. Nature of conveyance:

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

Execution Date: 04/28/1998

2. Name and address of receiving party(ies):

Playcore, Inc.
1212 Barberry Drive
Janesville, WI 53545

- 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)

B. Trademark Registration No.(s)

1,974,024

Additional number(s) attached Yes No

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

Name: Harry C. Engstrom
Internal Address: FOLEY & LARDNER
Street Address: 150 East Gilman Street
P. O. Box 1497
City: Madison State: Wisconsin Zip: 53701-1497

6. Total number of applications/patents involved: 1

7. Total fee (37 C.F.R. § 3.41): \$40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:
50-2350

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.

Harry C. Engstrom

Name of person signing

Signature

10/16/02

Date

Total number of pages including cover sheet, attachments, and document: 24

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AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
NEWCO HOLDINGS, INC.

Newco Holdings, Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The name of the corporation is Newco Holdings, Inc. The original Certificate of Incorporation of the corporation was filed with the Secretary of the State of Delaware on January 10, 1992, a Certificate of Amendment of the Certificate of Incorporation was filed on January 30, 1992 and an Amended and Restated Certificate of Incorporation was filed on March 30, 1992.

2. Pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware, this Amended and Restated Certificate of Incorporation restates and integrates and further amends the provisions of the Certificate of Incorporation of the corporation, as heretofore amended and restated.

3. The text of the Certificate of Incorporation as heretofore amended and restated is hereby amended and restated to read in its entirety as follows:

ARTICLE FIRST: The name of the corporation is: Swing-N-Slide Corp.

ARTICLE SECOND: The address of its registered office in the State of Delaware is 32 Loockerman Square, Suite L-100, in the City of Dover, County of Kent, Delaware 19901. The name of its registered agent at such address is The Prentice-Hall Corporation System, Inc.

ARTICLE THIRD: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware as the same may be amended from time to time (the "GCL").

ARTICLE FOURTH: A. The total number of shares of all classes of capital stock which the corporation shall have the authority to issue is Thirty One Million Seven Hundred Fifty Thousand (31,750,000) shares, divided into three classes as follows: Twenty Five Million (25,000,000) shares, par value \$.01 per share, shall be designated Common Stock (the "Common Stock"); One Million Seven Hundred Fifty Thousand (1,750,000) shares, par value \$.01 per share, shall be designated Class B Common Stock (the "Class B Common Stock" and together with the Common Stock, the "common stock"); and Five Million (5,000,000) shares, par value \$.01 per share, shall be designated as Preferred Stock (the "Preferred Stock").

B. The shares of Common Stock and Class B Common Stock shall have the powers, preferences and rights and qualifications, limitations and restrictions thereof set forth in this Article Fourth.

(1) General. The powers, preferences and rights, and qualifications, limitations and restrictions of the Common Stock and Class B Common Stock shall be identical in all respects except as expressly provided for in this Paragraph B.

(2) Voting Rights. Except as otherwise set forth herein or required by applicable law, holders of Common Stock shall be entitled to one vote per share on all matters to be voted on by the stockholders of the Corporation, and holders of Class B Common Stock shall have no right to vote on any matters to be voted on by the stockholders of the Corporation.

(3) Dividends. As and when dividends are declared or paid on common stock, whether in cash, property or securities of the Corporation, holders of Common Stock and holders of Class B Common Stock shall be entitled to participate in such dividends ratably on a per share basis; provided that (i) if dividends are declared which are payable in shares of common stock, or options, warrants, or rights to acquire shares of common stock, or securities convertible or exchangeable for shares of such common stock, such dividends shall be payable to holders of Common Stock in shares of, or options, warrants, or rights to acquire, or securities convertible or exchangeable for, shares of Common Stock and to holders of Class B Common Stock in shares of, or options, warrants, or rights to acquire, or securities convertible or exchangeable for, shares of Class B Common Stock, as the case may be; and (ii) if dividends are declared which are payable in voting securities of the Corporation other than common stock, or options, warrants, or rights to acquire voting securities of the Corporation other than common stock, or securities convertible or exchangeable for voting securities of the Corporation other than common stock, the Corporation shall make available to each holder of Class B Common Stock, at such holder's request, dividends consisting of, as the case may be, non-voting securities of the Corporation or options, warrants, or rights to acquire, or securities convertible or exchangeable for (on the same terms as shares of Class B Common Stock are convertible for shares of Common Stock), non-voting securities of the Corporation, which are otherwise identical to such voting securities, or such options, warrants, or rights to acquire, or securities convertible or exchangeable for, such voting securities of the Corporation and which are convertible into or exchangeable for such voting securities, or options, warrants or rights to acquire, or securities convertible into or exchangeable for, such voting securities, on the same terms as shares of Class B Common Stock are convertible into shares of Common Stock.

(4) Liquidation. After payment or provision for payment of all debts and other liabilities of the Corporation, and subject to the rights of any other class of capital stock of the Corporation which may exist from time to time, holders of all outstanding shares of Common Stock and Class B Common Stock shall be entitled to participate ratably on a per share basis in the remaining net assets of the Corporation upon any voluntary or

involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

(5) Conversion of Common Stock.

(i) Subject to and upon compliance with the provisions of this Subsection 5, each Regulated Stockholder (as hereinafter defined) shall be entitled, at its option, to exchange at any time, and from time to time, any and all of such Regulated Stockholder's Common Stock into the same number of shares of Class B Common Stock.

(ii) Subject to and upon compliance with the provisions of this Subsection 5, each holder of Class B Common Stock shall be entitled, at its option, to exchange at any time and from time to time any and all of the shares of such holder's Class B Common Stock into the same number of shares of Common Stock in any of the following circumstances:

a. For immediate public sale or immediate sale to an underwriter in connection with a public offering of securities of the Corporation in either case, reasonably determined by such holder to result in a broad distribution, including a public offering registered under the Securities Act of 1933, as amended, and a sale pursuant to Rule 144 thereunder or any similar rule then in force.

b. For immediate sale or other immediate disposition to a person or group of persons (within the meaning of the Securities Exchange Act of 1934, as amended (the "1934 Act")) if, after such sale or other disposition, such person or group of persons in the aggregate would own or control securities which possess in the aggregate the ordinary voting power to elect a majority of the Corporation's directors (provided that such sale or other disposition has been approved by the Corporation's Board of Directors or a committee thereof).

c. For immediate sale or other immediate disposition to a person or group of persons (within the meaning of the 1934 Act) if, after such sale or other disposition, such person or group of persons in the aggregate would own or control securities of the Corporation (excluding any common stock being converted and disposed of in connection with such sale or other disposition) which possess in the aggregate the ordinary voting power to elect a majority of the Corporation's directors.

d. For immediate sale or other immediate disposition to a person or group or persons (within the meaning of the 1934 Act) if, after such conversion and such sale or other disposition, such person or group of persons would not, in the aggregate, own, control or have the right to acquire the beneficial ownership of more than three percent (3%) of the outstanding securities of any class of voting securities of the Corporation.

e. For immediate transfer, exchange or conversion in connection with a merger, consolidation or similar transaction involving the Corporation if, after such transaction, a person or group of persons (within the meaning of the 1934 Act) in the aggregate would own or control securities which possess in the aggregate the ordinary voting power to elect a majority of the surviving corporation's directors (provided that the transaction has been approved by the Corporation's Board of Directors or a committee thereof).

f. For immediate sale or other immediate disposition in a transaction approved by the Board of Directors of the Corporation or a committee thereof.

g. By any holder of shares of Class B Common Stock so long as (x) such conversion will not cause such holder to be in violation of applicable law and (y) neither such conversion nor the potential to convert under this Subsection 5(ii)(g) would cause the person who transferred shares of Class B Common Stock to such holder to be in violation of applicable law.

(iii) Any shares of common stock of one class which are converted into shares of common stock of the other class shall be retired and shall be restored to the status of authorized but unissued shares of common stock.

(iv) The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of issuance upon the conversion of shares of Class B Common Stock into shares of Common Stock, such number of shares of Common Stock as are issuable upon the conversion of all outstanding shares of Class B Common Stock. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class B Common Stock solely for the purpose of issuance upon the conversion of shares of Common Stock held by a Regulated Stockholder (as hereinafter defined), such number of shares of Class B Common Stock as are issuable upon the conversion of all outstanding shares of Common Stock held by Regulated Stockholders.

(v) Each conversion of shares of common stock of the Corporation into shares of another class of common stock of the Corporation shall be effected by the surrender of the certificate or certificates representing the shares to be converted (the "Converting Shares") at the principal office of the Corporation (or such other office or agency of the Corporation as the Corporation may designate by written notice to the holders of common stock) at any time during its usual business hours, together with written notice by the holder of such Converting Shares, stating that such holder desires to convert the Converting Shares, or a stated number of shares represented by such certificate or certificates, into an equal number of shares of the class into which such shares may be converted (the "Converted Shares"). Such notice shall also state the name or names (with addresses) and denominations in which the certificate or certificates for Converted

Shares are to be issued and shall include instructions for the delivery thereof. The Corporation shall promptly notify each Regulated Stockholder of its receipt of such notice. Promptly after such surrender and the receipt of such written notice, the Corporation shall issue and deliver in accordance with the surrendering holder's instructions the certificate or certificates evidencing the Converted Shares issuable upon such conversion, and the Corporation shall deliver to the converting holder a certificate (which shall contain such legends as were set forth on the surrendered certificate or certificates) representing any shares which were represented by the certificate or certificates that were delivered to the Corporation in connection with such conversion, but which were not converted; provided, however, that if such conversion is subject to Subsection 5(vi), below, the Corporation shall not issue such certificate or certificates until the expiration of the Deferral Period referred to therein. Such conversion, to the extent permitted by law, shall be deemed to have been effected as of the close of business on the date on which such certificate or certificates shall have been surrendered and such notice shall have been received by the Corporation, and at such time the rights of the holder of the Converting Shares as such holder shall cease (except that, in the case of a conversion subject to Subsection 5(vi) below, the conversion shall be deemed effective upon the expiration of the Deferral Period referred to therein), and the person or persons in whose name or names the certificate or certificates for the Converted Shares are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the Converted Shares. Upon issuance of shares in accordance with this Subsection 5, such Converted Shares shall be deemed to be duly authorized, validly issued, fully paid and non-assessable.

(vi) The Corporation shall not convert or directly or indirectly redeem, purchase or otherwise acquire any shares of any class of capital stock of the Corporation or take any action affecting the voting rights of such shares, if such action shall increase the percentage of any class of outstanding voting securities owned or controlled by any Regulated Stockholder (other than any such stockholder which requested that the Corporation take such action, or which otherwise waives in writing its rights under this Subsection 5(vi)), unless the Corporation gives written notice (the "Deferral Notice") of such action to each Regulated Stockholder. The Corporation shall defer making any such conversion, redemption, purchase or other acquisition, or taking any such other action for a period of 30 days (the "Deferral Period") after giving the Deferral Notice in order to allow each Regulated Stockholder to determine whether it wishes to convert or take any other action with respect to the common stock it owns, controls or has the power to vote, and if any such Regulated Stockholder then elects to convert any shares of common stock, it shall notify the Corporation in writing within 20 days after the issuance of the Deferral Notice, in which case the Corporation shall (i) defer taking the pending action until the end of the Deferral Period and (ii) effect the conversions requested by all Regulated Stockholders in response to the notices issued pursuant to this Subsection 5(vi) at the end of the Deferral Period. The Corporation shall not directly or indirectly redeem, purchase, acquire or take any other action affecting outstanding equity securities if such action shall increase above 24.9% the percentage of outstanding equity securities of the Corporation

owned or controlled by any Regulated Stockholder and its Affiliates (other than a stockholder which waives in writing its rights under this Subsection 5).

(vii) Stock Splits; Adjustments. If the Corporation shall in any manner subdivide (by stock split, stock dividend or otherwise) or combine (by reverse stock split or otherwise), the outstanding shares of the Common Stock or the Class B Common Stock, the outstanding shares of the other series of common stock shall be subdivided or combined, as the case may be, to the same extent, share and share alike, and effective provision shall be made for the protection of the conversion rights hereunder.

(viii) No Charge. The issuance of certificates for shares of any class of common stock upon conversion of shares of common stock shall be made without charge to the holders of such shares for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of common stock; provided, however, that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of common stock converted.

(6) Definitions. As used herein, the following terms shall have the meanings shown below:

(i) "Affiliate" shall mean with respect to any Person, any other Person, directly or indirectly controlling, controlled by or under common control with such Person. For the purpose of the above definition, the term "control" (including with correlative meaning, the term "controlling", "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

(ii) "Person" shall mean an individual, a partnership, a corporation, a trust, a joint venture, an unincorporated organization or a government or any department or agency thereof.

(iii) "Regulated Stockholder" shall mean (i) any stockholder that is (and has given the Corporation notice that it is) subject to the provisions of Regulation Y of the Board of Governors of the Federal Reserve System (12 C.F.R. part 225) or any successor to such regulation ("Regulation Y") and that holds shares of Common Stock or Class B Common Stock of the Corporation originally issued pursuant to the Investor Shareholders Agreement dated as of January 31, 1992 by and among the Corporation and the other parties listed on the signature pages thereto (the "Investor Shareholders Agreement"), or shares issued upon the conversion of any such shares (any such shares issued pursuant to the Investor Shareholders Agreement, or upon the conversion of any such shares, hereinafter sometimes referred to as the "Regulated Shares") so long as such stockholder shall hold and only with respect to, Regulated Shares, (ii) any Affiliate of any such

Regulated Stockholder that is a transferee of Regulated Shares, so long as such Affiliate shall hold, and only with respect to, Regulated Shares and (iii) any Person to which such Regulated Stockholder or any of its Affiliates has transferred Regulated Shares, so long as such transferee shall hold, and only with respect to, Regulated Shares but only if such Person (or any Affiliate of such Person) is subject to the provisions of Regulation Y.

(7) Amendment and Waiver. In addition to any other vote or written consent required by law or hereunder, the affirmative vote or written consent of the holders of a majority of the then outstanding shares of Class B Common Stock, voting as a separate class, shall be required for any alteration, amendment or repeal of any provision of this Paragraph B.

C. Preferred Stock.

(1) Shares of Preferred Stock may be issued from time to time in one or more series and the Board of Directors is authorized to provide for the issuance of the shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions thereof.

(2) The authority of the Board of Directors with respect to each series shall include, but not be limited to, determination of the following:

(i) The number of shares constituting that series and the distinctive designation of that series;

(ii) The dividend rate on the shares of that series, whether dividends shall be cumulative, and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on shares of that series;

(iii) Whether that series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights;

(iv) Whether that series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provision for adjustment of the conversion rate in such events as the Board of Directors shall determine;

(v) Whether or not the shares of that series shall be redeemable, and, if so, the terms and conditions of such redemption, including the date or date upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(vi) Whether that series shall have a sinking fund for the redemption or purchase of shares of that series, and, if so, the terms and amount of such sinking fund;

(vii) The rights of the shares of that series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation, and the relative rights of priority, if any, of payment of shares of that series; and

(viii) Any other relative rights, preferences and limitations of that series.

ARTICLE FIFTH: A. Number, Election and Terms. The business and affairs of the Corporation shall be managed by a Board of Directors which, subject to any rights of the Preferred Stock (whether with respect to one or more series of Preferred Stock) then outstanding to elect additional directors under specified circumstances, shall consist of not less than one (1) nor more than ten (10) persons. The exact number of directors within the minimum and maximum limitations specified in the preceding sentence shall be fixed from time to time by the Board of Directors. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director. The directors shall be elected at the annual meeting of the stockholders, except as provided in Paragraph C of this Article, and each director elected shall hold office until his successor is elected and qualified or until his earlier resignation or removal.

B. Shareholder Nomination of Director Candidates. Advance notice of shareholder nominations for the election of directors shall be given in the manner provided in the By-Laws.

C. Newly Created Directorships and Vacancies. Subject to the rights of the Preferred Stock (whether with respect to one or more series of Preferred Stock) then outstanding, newly created directorships resulting from any increase in the authorized number of directors and any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause may be filled by a majority vote of the directors then in office even though less than a quorum, or by a sole remaining director.

ARTICLE SIXTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized, subject to the right of the stockholders entitled to vote with respect thereto, to adopt, alter, amend and repeal By-Laws made by the Board of Directors.

ARTICLE SEVENTH: The election of directors shall be by written ballot.

ARTICLE EIGHTH: A. Obligations to Indemnify. To the fullest extent authorized by the GCL, as of the date hereof or as it may hereafter be amended, the Corporation shall indemnify and hold harmless and advance expenses to, each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (herein referred to sometimes as a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, heir, or assign, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation (or any predecessor corporation) as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, against all expense, liability and loss (including, without limitation, attorneys fees, judgments, fines, ERISA excise

taxes or penalties and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such person in connection therewith. Such indemnification and advancement of expenses shall continue as to a person who has ceased to be an officer, director, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators. Provided, however, that notwithstanding anything contained in the foregoing, except as provided in Paragraph C of this Article EIGHTH, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred by this Article EIGHTH shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the GCL requires, the payment of such expenses incurred by a director or officer of the Corporation in his or her capacity as a director or officer of the Corporation (and not in any other capacity in which service was rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of an undertaking by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Article or otherwise.

B. Construction and Presumption Favoring Indemnification. In connection with each claim for indemnification, this Article EIGHTH shall be liberally construed in favor of indemnification and there shall be a rebuttable presumption that the Corporation shall bear the burden of proving by a preponderance of the evidence that the claimant is not so entitled to indemnification.

C. Right of Claimant to Bring Suit. If a claim under this Article EIGHTH is not paid in full by the Corporation within thirty (30) days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall also be entitled to be paid for any and all expenses incurred in prosecuting such claim.

D. Defense to Enforcement. It shall be a defense to any action by a claimant for its rights of indemnification hereunder that the claimant has not met the standards of conduct which make it permissible for the Corporation to indemnify the claimant for the amount claimed. The burden of proving such defense shall be on the Corporation. Nevertheless, neither of the following shall be a defense to any action by a claimant or create a presumption that the claimant has not met the applicable standard of conduct:

(1) the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper; or

(2) an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant was not entitled to indemnification.

The defense referred to in the first sentence of this subsection d shall not be available in any action brought to enforce a claim for expense incurred in defending any proceeding in advance

of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation.

E. Confidentiality. Any finding by the Board of Directors, independent legal counsel, or the stockholders, that a person asserting a claim for indemnification pursuant to this Article EIGHTH is not entitled to such indemnification, and any information which may support such finding, shall be held by the Board of Directors, independent legal counsel and the stockholders in confidence to the extent permitted by law and shall not be disclosed to any third party. If the Corporation, the Board of Directors or the stockholders are requested or required (by questions, interrogatories, subpoena, civil investigative demand or other process) to disclose any such confidential information, the person or entity so requested or required shall provide the claimant with prompt notice of each such request and shall use its best efforts to lawfully not disclose any such confidential information, including without limitation, seeking a protective order at the Corporation's expense.

F. Contract Right. The foregoing provisions of this Article EIGHTH shall be deemed to be a contract between the Corporation and each director and officer who serves in such capacity at any time while this Article EIGHTH is in effect. Any repeal or modification of this Article EIGHTH shall not impair or otherwise affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

G. Indemnity of Others. The Board of Directors in its discretion shall have the power on behalf of the Corporation to enter into agreements to indemnify any person made a party to any action, suit or proceeding by reason of the fact that he or she or his or her testate or intestate personal representative, legatees or heirs is or was a director, officer, employee, agent or otherwise acting on behalf of the Corporation or a predecessor of the Corporation or serving at the request of the Corporation or its predecessor, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

H. Non-Exclusivity. The rights of indemnification and advancement of expenses provided by this Article EIGHTH shall not be deemed exclusive of any rights not provided by this Article EIGHTH to which any director or officer may otherwise be entitled.

I. Severability. Whenever possible each provision of this Article EIGHTH shall be interpreted in such a manner to be enforceable and valid under applicable law but, if for any reason a provision of this Article EIGHTH shall be deemed invalid or unenforceable, such provision shall be ineffective to the extent of such unenforceability or invalidity the Corporation shall remain obligated to indemnify and advance expenses pursuant to all those provisions of this Article EIGHTH which are valid and enforceable.

J. Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another Corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the GCL.

ARTICLE NINTH: No director of the Corporation shall be 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 GCL or (iv) for any transaction from which the director derived an improper personal benefit.

ARTICLE TENTH: Any action required or permitted to be taken by the stockholders of the Corporation after the closing of a public offering of Common Stock of the Corporation pursuant to a registration statement under the Securities Act of 1933, must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders. Except as otherwise required by law and subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, special meetings of stockholders of the Corporation may be called by, but only by, (i) the Chairman of the Board of Directors or the President of the Corporation, (ii) the Board of Directors pursuant to a resolution approved by a majority of the entire Board of Directors or (iii) holders of a majority of the shares of Common Stock.

ARTICLE ELEVENTH: The Corporation expressly elects not to be governed by Section 203 of the GCL.

ARTICLE TWELFTH: The Corporation reserves the right at any time and from time to time to amend, alter, change or repeal any provision contained in this Certificate of Incorporation (except as otherwise provided herein with respect to Article EIGHTH hereof) and any other provision authorized by the laws of the State of Delaware at the time in force may be added or inserted (except as otherwise provided herein with respect to Article EIGHTH hereof) in the manner now or hereafter prescribed by law; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Amended and Restated Certificate of Incorporation, in its present form or as hereafter amended, are granted (except as otherwise provided herein with respect to Article EIGHTH hereof) subject to the right reserved in this Article TWELFTH.

ARTICLE THIRTEENTH: Notwithstanding any other provisions of the Certificate of Incorporation or the By-Laws of the Corporation (and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the By-Laws of the Corporation), the affirmative vote of the holders of at least a majority of the voting power of the shares of the then outstanding voting stock of the Corporation, voting together as a single class, shall be required to amend or repeal, or adopt any provisions inconsistent with, Articles FIFTH, EIGHTH, NINTH, TENTH or this Article THIRTEENTH of this Certificate of Incorporation. Any amendment or repeal of, or adoption of any provision inconsistent with, any provision of Article EIGHTH of this Certificate of Incorporation shall not adversely effect any right or claim of any director or officer of the Corporation existing at the time of such amendment, repeal or adoption.

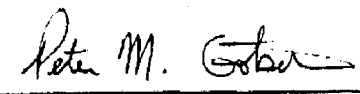
IN WITNESS WHEREOF, this Amended and Restated Certificate of
Incorporation has been signed this 17th day of June, 1992.

NEWCO HOLDINGS, INC.



Andrew W. Code, Chairman

ATTEST:



Peter M. Gotsch, Assistant Secretary

SWING-N-SLIDE CORP.

**CERTIFICATE OF AMENDMENT
OF
AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION**

1. The name of the corporation is Swing-N-Slide Corp. (the "Corporation").

2. The Corporation hereby amends ARTICLE FIRST of its Amended and Restated Certificate of Incorporation filed June 18, 1992 in the Office of the Delaware Secretary of State in its entirety to read as follows:

ARTICLE FIRST: The name of the corporation is PlayCore, Inc.

3. The aforesaid amendment has been duly adopted in accordance with the applicable provisions of Section 242 of the Delaware General Corporation Law (the "DGCL"), and a majority of the stockholders of the Corporation has approved the aforesaid amendment at a special meeting of the stockholders called and held in accordance with Section 222 of the DGCL.

IN WITNESS WHEREOF, the undersigned has caused this certificate to be executed on behalf of the Corporation as of this 28th day of April, 1998.

By: _____


Richard E. Ruegger, Vice President

CERTIFICATE OF OWNERSHIP AND MERGER

merging

JASDREW ACQUISITION CORP.

with and into

PLAYCORE, INC.

Jasdrew Acquisition Corp., a Delaware corporation (the "Corporation"), desiring to merge with and into PlayCore, Inc., a Delaware corporation ("PlayCore"), pursuant to the provisions of Section 253 of the General Corporation Law of the State of Delaware ("DGCL"), **DOES HEREBY CERTIFY:**

FIRST: That the Corporation is a corporation organized and validly existing under the laws of the State of Delaware, the provisions of which permit the merger of a parent corporation organized and existing under the laws of the State of Delaware with and into a subsidiary corporation organized and existing under the laws of said State.

SECOND: That PlayCore is a corporation organized and validly existing under the laws of the State of Delaware.

THIRD: That the Corporation is the owner of at least 90% of the outstanding shares of common stock, par value \$0.01 per share, of PlayCore, and that there is no class of stock outstanding other than said common stock.

FOURTH: That the Board of Directors of the Corporation, on May 19, 2000, determined to merge the Corporation with and into PlayCore, with PlayCore as the surviving corporation, pursuant to the following resolutions:

The undersigned, being all of the members of the Board of Directors (the "Board") of Jasdrew Acquisition Corp., a Delaware corporation (the "Corporation") who would be entitled to vote upon the resolutions hereinafter set forth at an actual meeting of the Board held for the purpose of acting upon such resolutions, hereby consent, pursuant to the provisions of Section 141 of the General Corporation Law of the State of Delaware (the "DGCL"), to the adoption of the following resolutions, which are to be filed with the minutes of the Corporation:

Authorization of Merger With and Into Subsidiary.

WHEREAS, the Board and the sole stockholder of the Corporation (the "Sole Stockholder") have duly approved and authorized, and the Corporation has entered into, a certain Agreement and Plan of Merger (the "Agreement"), dated as of April 13, 2000, by and among the Corporation, PlayCore, Inc., a Delaware corporation ("PlayCore"), and the Sole Stockholder;

WHEREAS, the Agreement sets forth the terms and conditions of the merger of the Corporation with and into PlayCore, and provides for consummation of the merger pursuant Section 253 of the DGCL upon the Corporation obtaining at least 90% of the outstanding shares of PlayCore;

WHEREAS, the Corporation is the owner of at least 90% of the outstanding shares of common stock, par value \$0.01 per share, of PlayCore and there is no class of stock outstanding other than said common stock; and

WHEREAS, the Corporation desires to merge itself into PlayCore pursuant to the provisions of Section 253 of the DGCL and upon the terms and conditions set forth in the Agreement.

NOW, THEREFORE, BE IT

RESOLVED, that this Corporation be merged with and into PlayCore (the "Surviving Corporation") pursuant to Section 253 of the DGCL as hereinafter provided, so that the separate existence of this Corporation shall cease as soon as the merger shall become effective, and such Surviving Corporation shall continue to exist under, and be governed by, the laws of the State of Delaware;

RESOLVED FURTHER, that the terms and conditions of the proposed merger shall be as set forth in the Agreement;

RESOLVED FURTHER, that the certificate of incorporation of PlayCore be restated and amended as set forth in the Agreement (the "Restated Charter"), and that the Restated Charter attached hereto as Exhibit A shall be the certificate of incorporation of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable law;

RESOLVED FURTHER, that these resolutions to merge be submitted to the Sole Stockholder of the Corporation for its approval as required by the DGCL and that upon proper approval by the Sole Stockholder, the proposed merger shall be deemed to be approved; and

RESOLVED FURTHER, that the proper officers of the Corporation be and they hereby are authorized and directed to make and execute a Certificate of Ownership and Merger setting forth a copy of these resolutions to merge the Corporation with and into PlayCore, and to cause the same to filed and recorded as provided by law, and to perform any and all other acts necessary or proper to effect this merger.

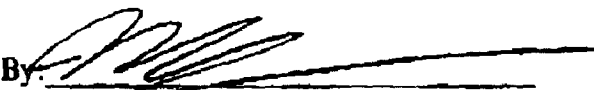
FIFTH: That the merger has been approved by the sole holder (the "Sole Stockholder") of all of the outstanding stock of the Corporation by unanimous written consent without a meeting in accordance with Section 228 of the DGCL.

SIXTH: That upon the effective date of the merger as contemplated herein, the Certificate of Incorporation of the Surviving Corporation shall be restated in its entirety as set forth on Exhibit A attached hereto.

SEVENTH: Pursuant to the requirements of subsection 253(a) of the DGCL requiring a statement regarding the pro rata issuance of stock on behalf of the stockholders of the non-surviving parent corporation, upon the effective date of the merger as contemplated herein, the Sole Stockholder of the Corporation shall receive all shares of the Surviving Corporation to be issued pursuant to the merger.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Ownership and Merger to be executed by Michael S. Shein, its authorized officer, as of this 19th day of May, 2000.

JASDREW ACQUISITION CORP.

By: 
Michael S. Shein
Vice President

**RESTATED
CERTIFICATE OF INCORPORATION
OF
PLAYCORE, INC.**

FIRST: The name of the Corporation is:

PlayCore, Inc. (the "Corporation").

SECOND: The address of the Corporation's registered office in the State of Delaware is 1013 Centre Road, Wilmington, County of New Castle, Delaware 19805. The name of its registered agent at such address is Corporation Service Company.

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

FOURTH: The total number of shares of stock which the Corporation shall have authority to issue is 1,000,000 shares of common stock, par value \$.01 per share.

FIFTH: Except as otherwise provided in the bylaws of the Corporation, the Board of Directors is expressly authorized to make, alter, amend or repeal the bylaws of the Corporation.

SIXTH: Elections of directors need not be by written ballot unless the bylaws of the Corporation shall so provide.

SEVENTH: The Corporation reserves the right to amend, alter, change or repeal any provision in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute.

EIGHTH: No director of the Corporation shall be 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.

NINTH: The Corporation shall, to the fullest extent permitted by Section 145 of the General Corporation Law of the State of Delaware, as amended from time to time, indemnify all persons whom it may indemnify pursuant thereto.

TENTH: Pursuant to Section 203(b) of the General Corporation Law of the State of Delaware, the Corporation hereby expressly elects not to be governed by Section 203 of the General Corporation Law of the State of Delaware.

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CERTIFICATE OF MERGER

merging

**PLAYCORE, INC.
a Delaware corporation**

with and into

**PLAYCORE WISCONSIN, INC.,
a Wisconsin corporation**

It is hereby certified that:

1. The constituent business corporations participating in the merger herein certified are:
(i) PlayCore, Inc., which is incorporated under the laws of the state of Delaware ("PlayCore"); and
(ii) PlayCore Wisconsin, Inc. which is incorporated under the laws of the state of Wisconsin ("PlayCore Wisconsin").

2. An Agreement and Plan 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 PlayCore, in the same manner as is provided in Section 251 of the General Corporation Law of the State of Delaware, and by PlayCore Wisconsin, in accordance with the laws of the state of Wisconsin.

3. The name of the surviving corporation in the merger herein certified is PlayCore Wisconsin, Inc. (sometimes referred to herein as the "Surviving Corporation"), which will continue its existence as said Surviving Corporation under its present name upon the effective date of the merger pursuant to the provisions of the laws of the state of Wisconsin.

4. The Articles of Incorporation of PlayCore Wisconsin, as now in force and effect, shall continue to be the Articles of Incorporation of the aforementioned Surviving Corporation and shall continue in full force and effect until amended and changed in the manner prescribed by the provisions of the laws of the state of its incorporation.

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

Riverfront Centre, Suite 204
15 West Milwaukee Street
Janesville, Wisconsin 53545

6. A copy of the aforementioned Agreement and Plan of Merger will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of each of the aforementioned constituent corporations.

7. The Surviving Corporation: (i) does hereby agree that it may be served with process in the state of Delaware in any proceeding for enforcement of any obligation of PlayCore, as well as for enforcement of any obligation of said surviving corporation arising from the merger herein certified, including any suit or other proceeding to enforce the right, if any, of any stockholder of PlayCore as determined in appraisal proceedings pursuant to the provisions of Section 262 of the General Corporation Law of the State of Delaware; (ii) does hereby irrevocably appoint the Secretary of State of the State of Delaware as its agent to accept service of process in any such suit or other proceedings; and (iii) does hereby specify the following as the address to which a copy of such process shall be mailed by the Secretary of State of the State of Delaware:

Riverfront Centre, Suite 204
15 West Milwaukee Street
Janesville, Wisconsin 53545

9. The Agreement and Plan of Merger between the aforesaid constituent corporations provides that the merger herein certified shall be effective on May 19, 2000 insofar as the General Corporation Law of the State of Delaware shall govern said effective date.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the constituent corporations herein named have caused this Certificate of Merger to be executed as of the date first set forth above.

PLAYCORE, INC.

By: Frederic L. Contino
Name: Frederic L. Contino
Title: President

Attest: Richard E. Ruegger
Name: Richard E. Ruegger
Title: Chief Financial Officer, Secretary

PLAYCORE WISCONSIN, INC.

By: Frederic L. Contino
Name: Frederic L. Contino
Title: Chief Executive Officer

Attest: Richard E. Ruegger
Name: Richard E. Ruegger
Title: Chief Financial Officer, Secretary

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS FILED FROM AND INCLUDING THE RESTATED CERTIFICATE OF "PLAYCORE, INC." AS RECEIVED AND FILED IN THIS OFFICE.

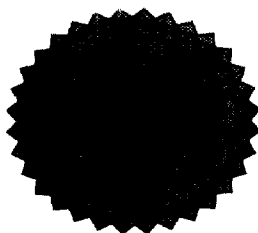
THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

RESTATED CERTIFICATE, CHANGING ITS NAME FROM "NEWCO HOLDINGS, INC." TO "SWING-N-SLIDE CORP.", FILED THE EIGHTEENTH DAY OF JUNE, A.D. 1992, AT 11:30 O'CLOCK A.M.

CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "SWING-N-SLIDE CORP." TO "PLAYCORE, INC.", FILED THE TWENTY-EIGHTH DAY OF APRIL, A.D. 1998, AT 11:15 O'CLOCK A.M.

CERTIFICATE OF OWNERSHIP, FILED THE NINETEENTH DAY OF MAY, A.D. 2000, AT 12 O'CLOCK P.M.

CERTIFICATE OF MERGER, FILED THE NINETEENTH DAY OF MAY, A.D. 2000, AT 12:01 O'CLOCK P.M.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

2284717 8100X

AUTHENTICATION: 1836269

020367812

DATE: 06-18-02

RECORDED: 10/16/2002

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