

TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Fishnet.com, Inc.		12/29/1999	CORPORATION: MINNESOTA

RECEIVING PARTY DATA

Name:	Eschelon Telecom, Inc.
Composed Of:	Advanced Telecommunications, Inc. and Fishnet Acquisition Corp. and Fishnet.Com, Inc.
Street Address:	730 2nd Ave. South
Internal Address:	Suite 1200
City:	Minneapolis
State/Country:	MINNESOTA
Postal Code:	55402
Entity Type:	CORPORATION: DELAWARE

Name:	Eschelon Telecom, Inc.
Composed Of:	Advanced Telecommunications, Inc. and Fishnet Acquisition Corp. and Fishnet.Com, Inc.
Street Address:	730 2nd Ave. South
Internal Address:	Suite 1200
City:	Minneapolis
State/Country:	MINNESOTA
Postal Code:	55402
Entity Type:	CORPORATION: DELAWARE

PROPERTY NUMBERS Total: 1

Property Type	Number
Serial Number:	75211750

OP \$40.00 75211750

CORRESPONDENCE DATA

Fax Number: (612)436-6349

Correspondence will be sent via US Mail when the fax attempt is unsuccessful.

Phone: 612-436-6249

Email: ddahlers@eshelon.com

Correspondent Name: Dennis D. Ahlers

Address Line 1: 730 2nd Ave. South

Address Line 2: Suite 1200

Address Line 4: Minneapolis, MINNESOTA 55402

NAME OF SUBMITTER:

Dennis D. Ahlers

Total Attachments: 11

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**AGREEMENT AND PLAN
OF
MERGER**

BY AND AMONG

ADVANCED TELECOMMUNICATIONS, INC.

FISHNET ACQUISITION CORP.

AND

FISHNET.COM, INC.

AND

STEVEN S. SOLBRACK, STEVEN M. HOLLAND, STEVEN G. KOLAR

DECEMBER 23, 1999

TABLE OF CONTENTS

Section	<u>Page</u>
 ARTICLE 1	
The Merger	1
1.1 The Merger	1
1.2 Effects of the Merger	2
1.3 Effective Time	2
1.4 Purchase Price	2
1.5 Additional Purchase Price (Earnout)	2
1.6 Conversion of Shares in the Merger	4
1.7 Terms of Exchange	5
1.8 No Further Rights in Company Capital Stock	5
1.9 No Fractional Shares	5
1.10 Stock Options, Warrants, Rights or Other Agreements	5
1.12 Holdback	6
 ARTICLE 2	
The Closing	6
2.1 Closing and Closing Date	6
2.2 Closing Deliveries	6
 ARTICLE 3	
Pre-Closing Deliveries and Filings	8
3.1 Company Deliveries	8
3.2 Other Filings	8
 ARTICLE 4	
Pre-Closing Covenants	9
4.1 Pending Closing	9
4.2 Interim Financial Information	10
4.3 Access to Information	10
4.4 Reasonable Best Efforts	10
4.5 Notification of Certain Matters	10

Section	<u>Page</u>
4.6 No Solicitation	10
4.7 Public Disclosure	11
4.8 Shareholders' Approval	11

ARTICLE 5

Warranties and Representations of the Company and the Key Shareholders	11
5.1 Duly Organized	11
5.2 Qualification	11
5.3 Investments	11
5.4 Capital Stock	11
5.5 Due Authorization	12
5.6 No Conflicts	12
5.7 Good Title	13
5.8 Real Property	13
5.9 Litigation	13
5.10 Compliance with Laws	13
5.11 Labor Matters	13
5.12 Financial Statements	14
5.13 Undisclosed Balance Sheet Liabilities	14
5.14 Changes Since Balance Sheet Date	14
5.15 Contracts	15
5.16 Intellectual Property	15
5.17 Taxes	16
5.18 Employee Plans	16
5.19 Insurance	17
5.20 Restrictions on Subsequent Dispositions	17
5.21 Condition of Assets	17
5.22 Transactions with Affiliates	17
5.23 Warranties	18
5.24 Employees	18
5.25 Compliance with Environmental Laws	18
5.26 Licenses; Permits	19
5.27 Customers; Suppliers	19
5.28 Accounts; Safe Deposit Boxes	20
5.29 Year 2000	20
5.30 Warranties True and Correct	20
5.31 Definition	20

ARTICLE 6

AGREEMENT AND PLAN OF MERGER

This Agreement is made as of December 23, 1999, by and among Advanced Telecommunications, Inc., a Delaware corporation ("Purchaser"), Fishnet Acquisition Corp., a Minnesota corporation ("Acquisition Sub"), Fishnet.Com, Inc., a Minnesota corporation (the "Company"), and Steven S. Solbrack, Steven M. Holland and Steven G. Kolar (collectively, the "Key Shareholders").

RECITALS

A. The issued and outstanding capital stock of the Company as of the date of this Agreement is reflected on Exhibit A ("Company Capital Stock") as held by those shareholders listed on Exhibit A (collectively, the "Shareholders").

B. Acquisition Sub is an indirect, wholly-owned subsidiary of Purchaser.

C. The Key Shareholders own approximately 78% of the issued and outstanding Company Capital Stock.

D. As a condition and inducement to Purchaser and Acquisition Sub entering into this Agreement, concurrently with the execution and delivery of this Agreement, the Key Shareholders have entered into an Agreement to Facilitate Merger with the Purchaser.

E. Purchaser, Acquisition Sub, the Company and the Key Shareholders desire to have the Company merge with and into Acquisition Sub pursuant to a transaction in which the separate existence of the Company will cease and Acquisition Sub shall continue as the surviving corporation. Each share of Company Capital Stock will be exchanged for 1.756 shares of Purchaser's common stock and the parties intend that the transaction qualify as a partially tax free reorganization under Section 368(a) of the Internal Revenue Code of 1986 (the "Code").

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, Purchaser, Acquisition Sub, the Company and the Key Shareholders hereby agree as follows:

ARTICLE 1

The Merger

1.1 **The Merger.** Upon the terms and subject to the conditions of this Agreement, at the Effective Time in accordance with the Minnesota Business Corporation Act ("MBCA"), Acquisition Sub shall be merged with and into the Company in accordance with this Agreement (the

“Merger”). The Acquisition Sub shall be the surviving corporation in the Merger as a wholly-owned subsidiary of Purchaser (Acquisition Sub is hereinafter sometimes referred to as the **“Surviving Corporation”**). The parties shall prepare, execute or file an appropriate certificate of merger (the **“Plan of Merger”**) substantially in the form of **Exhibit B** attached hereto to comply with the requirements of the MBCA and the separate existence of the Company shall thereupon cease.

1.2 Effects of the Merger. The Merger shall have the effects set forth in Section 302A.641 of the MBCA.

1.3 Effective Time. The Merger shall become effective at the time of the filing of the Articles of Merger with the Secretary of State of the State of Minnesota in accordance with the applicable provisions of the MBCA, or at such later time as may be specified in the Articles of Merger. The Articles of Merger shall be filed as soon as practicable after all of the conditions set forth in this Agreement have been satisfied or waived by the party or parties entitled to the benefit of the same. The time when the Merger shall become effective is herein referred to as the **“Effective Time”**.

1.4 Purchase Price.

(a) The aggregate purchase price for Company Common Stock is \$5,490,000 payable as follows:

(i)	Cash	\$2,075,000
(ii)	Purchaser Common Stock	\$3,415,000 (569,166 shares)

(b) The cash portion of the consideration payable by Purchaser to the Shareholders pursuant to Section 1.4(a) shall be paid in immediately available funds or by wire transfer on the Closing Date to a bank account designated by the Shareholders in the respective amounts set forth on **Exhibit C**.

(c) The Purchaser Common Stock portion of the consideration payable by Purchaser to the Shareholders pursuant to Section 1.4(a) shall be delivered to the Shareholders on the Closing Date in the respective amounts set forth on **Exhibit C**.

1.5 Additional Purchase Price (Earnout). In addition to the purchase price set forth in **Section 1.4** hereof, cash not exceeding \$1,340,000 (the **“Earnout Proceeds”**), shall be paid by Purchaser to the Shareholders as provided herein if the Business Revenues (as defined below) achieve certain specified levels of gross revenues. The Earnout Proceeds shall carry an interest rate of six percent (6%) per annum (1.5% per quarter). (Purchaser’s obligation to pay all or a portion of the Earnout Proceeds to Shareholders is hereinafter referred to as the **“Earnout”**). The Earnout will be based on the Business Revenues over the twelve-month period ending on December 31, 2000 (the **“Earnout Period”**).

- (e) damage, destruction or loss (whether or not covered by insurance) materially adversely affecting the properties or business of the Company;
- (f) loan by the Company to any Person or guaranty by the Company of any loan, other than routine advances to employees in the ordinary course of business;
- (g) amendment of the Articles of Incorporation or By-Laws of the Company; or
- (h) agreement by the Company to do any of the foregoing.

5.15 Contracts.

(a) All contracts and agreements which are material to the financial condition or operations of the Company (collectively, "Contracts") are described on Schedule 5.15, except for the following contracts and agreements which are not required to be set forth on Schedule 5.15: (i) normal purchase and sale commitments heretofore or hereafter entered into in the ordinary course of business; (ii) any Contract that involves an aggregate commitment by the Company of less than \$10,000; and (iii) any Contract which is terminable by the Company by notice of not more than 30 days for a cost of less than \$10,000.

(b) Each Contract listed on Schedule 5.15 is in full force and effect. The Company has performed in all material respects all obligations required to be performed by it to date under the Contracts and it is not (with or without the lapse of time or the giving of notice, or both) in breach or default thereunder.

5.16 Intellectual Property.

(a) Schedule 5.16 sets forth all patents, trade names, service marks, copyrights and web domain names (the "Intellectual Property") (whether or not the Intellectual Property is registered), and all pending applications therefor, owned by the Company, or in which the Company has any interest, which are material to the business of the Company.

(b) Except as set forth on Schedule 5.16, there is not any claimed or actual infringement or misappropriation by the Company of any Intellectual Property which relates to the business of the Company and which is owned by any third party, and which will have a material adverse effect on the financial condition or operations of the Company.

(c) Except as set forth on Schedule 5.16, there is no pending or threatened claim asserted in writing by the Company against others for infringement or misappropriation of any Intellectual Property owned by the Company.

(d) Except as set forth on Schedule 5.16, all applications to register Intellectual Property which have been filed by or on behalf of the Company, and any resulting

registrations are owned by the Company, free and clear of any security interest, lien, encumbrance or any interest of any nature of any third party.

5.17 Taxes. The Company has timely filed without extensions or will file all foreign, federal, state and local tax returns and estimates for all years and periods (and portions thereof) through the Closing Date for which any such returns, reports or estimates were due or will be due and any and all amounts shown on such returns and reports to be due and payable through the Closing Date have been or will be paid in full, and since the Balance Sheet Date, the Company has not incurred any liability with respect to any taxes based on income, gross revenues, gross receipts, purchases, sales, business, capital stock or surplus, properties or assets of the Company except in the ordinary course of business. The federal income tax returns of the Company have never been examined by the Internal Revenue Service. Except as set forth on Schedule 5.17, there are no pending audits, investigations or examinations, by any federal, state, local or foreign taxing authority of any payment, return or report made or filed by the Company nor has there been any claim made against the Company alleging a failure to pay or report any kind of tax which may be assessed by any such taxing authority against the Company. Schedule 5.17 sets forth the states in which the Company has made sales during the past three years.

5.18 Employee Plans.

(a) For the purposes of this Section 5.18, the term "Employee Plan" includes all pension, retirement, disability, medical, dental or other health insurance plans, life insurance or other death benefit plans, profit sharing, deferred compensation, stock option, bonus or other incentive plans, vacation benefit plans, severance plans, or other employee benefit plans or arrangements, including, without limitation, any pension plan as defined in Section 3(2) of The Employee Retirement Income Security Act of 1974 ("ERISA") and any welfare plan as defined in Section 3(1) of ERISA, whether or not funded, to which the Company is a party.

(b) There are no Employee Plans other than those set forth on Schedule 5.18.

(c) Prior to the date hereof, the Company has delivered to Purchaser a copy of each Employee Plan set forth on Schedule 5.18.

(d) The Company does not maintain any "pension plans" as defined in Section 3(2) of ERISA other than those set forth on Schedule 5.18.


(e) Each Employee Plan, if any, and the administrators and fiduciaries of each Employee Plan and the Company have complied to their knowledge, in all material respects, with all applicable requirements of ERISA and of any other applicable law (including regulations and rulings thereunder) governing each Employee Plan.


(f) The Company has no obligation to contribute to a "Multi-Employer Plan," as defined in Section 3(37) of ERISA.


The parties hereto have duly executed this Agreement on the day and year first above written.


ADVANCED TELECOMMUNICATIONS, INC.

FISHNET ACQUISITION CORP.

By:  12/29/99
Cliff D. Williams
Chief Executive Officer

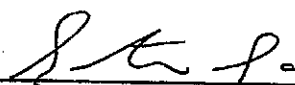
By:  12/29/99
Cliff D. Williams
Chief Executive Officer

By:  12/29/99
Richard A. Smith
Chief Financial Officer

By:  12/29/99
Richard A. Smith
Chief Financial Officer

FISHNET.COM, INC.

By: 
Steven M. Holland
Chief Executive Officer

By: 
Steven S. Solbrack
Chief Financial Officer

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "ADVANCED TELECOMMUNICATIONS, INC.", CHANGING ITS NAME FROM "ADVANCED TELECOMMUNICATIONS, INC." TO "ESCHELON TELECOM, INC.", FILED IN THIS OFFICE ON THE FOURTEENTH DAY OF APRIL, A.D. 2000, AT 6 O'CLOCK P.M.



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001328534

Handwritten signature of Edward J. Freel in cursive.

Edward J. Freel, Secretary of State

0552963

AUTHENTICATION:

DATE 07-12-00
TRADEMARK

REEL: 002667 FRAME: 0319

CERTIFICATE OF AMENDMENT
TO
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
ADVANCED TELECOMMUNICATIONS, INC.

Pursuant to Section 242
OF
The Delaware General Corporation Law

The undersigned, the Chief Executive Officer of Advanced Telecommunications, Inc., a Delaware corporation (the "Corporation"), hereby certifies that the following resolutions were duly adopted by written consent of a majority of the capital stock and a majority of the Series C Preferred Stock and the Series C1 Preferred Stock of the Corporation, acting in accordance with Section 242 of the Delaware General Corporation Law:

RESOLVED, the Article 1 of the Second Amended and Restated Certificate of Incorporation of the Corporation be amended to read in its entirety as follows:

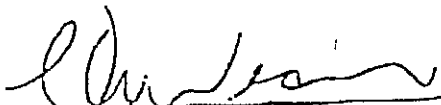
ARTICLE I

Name

The name of the Corporation is Eschelon Telecom, Inc."

RESOLVED FURTHER, that the officers of the Corporation, or any one of them, are hereby authorized and directed to prepare, execute and file with the Delaware Secretary of State, the appropriate certificate to give effect to the foregoing amendment.

Dated: April 14, 2000



Clifford D. Williams, Chief Executive Officer

AUG 11 2000 13:37 FR PIPER MARBURY RUDNICK202 822 4963 TO 10928#29401#8#16 P.02/28

State of Delaware

PAGE 1

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "ESCHELON TELECOM, INC.", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF JULY, A.D. 2000, AT 11 O'CLOCK A.M.

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



Edward J. Freel

Edward J. Freel, Secretary of State

TRADEMARK

RECORDED: 06/12/2003 BEL: 002667 FRAME: 0321 0585619