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

Tab settings

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

1. Name of conveying party(ies): AuctionGate Interactive, Inc.

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

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

2. Name and address of receiving party(ies)

Name: CNET, Inc. Internal Address:

Street Address: 235 Second Street, 4th Floor City: San Francisco State: CA Zip: 94105

- 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

3. Nature of conveyance:

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

Execution Date: February 19, 1999

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 2,335,404; 2,335,405; and 2,335,406

Additional number(s) attached Yes No

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

Name: Kimberly G. Russell

Internal Address: Steinhart & Falconer LLP

Street Address: 333 Market Street, Suite 3200

City: San Francisco State: CA Zip: 94105

6. Total number of applications and registrations involved: 3

7. Total fee (37 CFR 3.41).....\$ 90.00

- Enclosed, Authorized to be charged to deposit account

8. Deposit account number:

19-4215

(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.

Kimberly G. Russell

Handwritten signature of Kimberly G. Russell

October 8, 2003

Name of Person Signing

Signature

Date

10/16/2003 LMULLER 00000048 194215 2335404

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

01 FC:0521 40.00 DA 02 FC:0522 50.00 DA

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

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STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 09:00 AM 02/22/1999  
991068416 - 2318920

**AGREEMENT AND PLAN OF MERGER**

**By and Among**

**CNET, INC.**

**AUCTIONGATE INTERACTIVE, INC.**

**and**

**THE STOCKHOLDERS OF  
AUCTIONGATE INTERACTIVE, INC.**

**February 19, 1999**

## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, dated as of February 19, 1999 (this "Agreement"), is by and among CNET, Inc., a Delaware corporation ("Buyer"), AuctionGate Interactive, Inc., a California corporation (the "Company"), and Nihad Hafiz and Denny Chittick, the sole stockholders of the Company (the "Stockholders").

WHEREAS, Buyer and the Company have determined that the merger of the Company with and into Buyer ("Merger"), with Buyer surviving, and conversion of the issued and outstanding shares of common stock of the Company (the "Company Common Stock") into the right to receive shares of common stock, \$0.0001 par value, of Buyer (the "Buyer Common Stock"), on the terms and subject to the conditions of this Agreement and in accordance with the General Corporation Law of the State of California ("California Law") and the Section 252 of the General Corporation Law of the State of Delaware ("Delaware Law") would be advantageous and beneficial to their respective corporations and stockholders;

WHEREAS, for federal income tax purposes, it is intended that the Merger qualify as a reorganization under the provisions of section 368(a) of the United States Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Merger is intended to be treated as a "pooling of interests" for financial accounting purposes;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth in this Agreement, the parties hereto agree as follows:

### ARTICLE I THE MERGER

SECTION 1.01. *The Merger.* On the terms and subject to the conditions set forth in this Agreement, and in accordance with applicable federal and state law, at the Effective Time (as defined in Section 1.02), the Company shall be merged with and into Buyer. As a result of the Merger, the separate corporate existence of the Company shall cease and Buyer shall continue as the surviving corporation of the Merger (the "Surviving Corporation"). Certain terms used in this Agreement are defined in Section 10.02.

SECTION 1.02. *Closing; Closing Date; Effective Time.* Unless this Agreement is terminated pursuant to Section 8.01, and subject to the satisfaction or waiver of the conditions set forth in Article VI, the consummation of the Merger and the closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Buyer as soon as practicable (but in any event within five business days) after the satisfaction or waiver of the conditions set forth in Article VI, or at such other date, time and place as Buyer and the Company may agree; provided, that the conditions set forth in Article VI shall have been satisfied or waived at or prior to such time. The date on which the Closing takes place is referred to herein

advertising, promotion, consulting or services agreements pursuant to which the Company earns revenue; (ii) any licensing, supply, or services agreements pursuant which the Company is entitled or obligated to acquire any assets or services from any person; (iii) any insurance policies; (iv) any employment, consulting, non-competition, separation, collective bargaining, union or labor agreements or arrangements; (v) any agreement evidencing, securing, guarantying or otherwise relating to any indebtedness for which the Company has any Liability, (vi) any agreement with or for the benefit of any Stockholder of the Company, or any affiliate or family member thereof (which agreements are specifically identified as such in Schedule 3.16); (vii) any capital or operating leases or conditional sales agreements relating to vehicles or equipment; and (viii) any other agreement or arrangement pursuant to which the Company could be required to make or be entitled to receive aggregate payments in excess of \$50,000.

(b) The Company has performed in all material respects all of its obligations under each Material Contract and there exists no breach or default (or event that with notice or lapse of time would constitute a breach or default) under any Material Contract.

(c) Each Material Contract is valid, binding and in full force and effect and enforceable in accordance with its respective terms. There has been no termination or, to the Company's knowledge, threatened termination or notice of default under any Material Contract. The Company has delivered to Buyer a copy of each written Material Contract and a written summary of the material terms of each oral Material Contract.

**SECTION 3.17. *Principal Customers and Suppliers; Competing Interests.*** Since January 1, 1998, no such supplier or customer of the Company has notified the Company that it has canceled or otherwise terminated, or, to the Company's knowledge, threatened to cancel or otherwise terminate, its relationship with the Company, and there has not been any material dispute with any such customer or supplier. None of the Stockholders, the Company, nor, to the Company's knowledge, any director or officer of the Company owns, directly or indirectly, an interest in any entity that is a competitor, customer or supplier of the Company or that otherwise has material business dealings with the Company, provided that the foregoing will not apply to any investment in publicly traded securities constituting less than 1% of the outstanding securities in such class.

**SECTION 3.18. *Intellectual Property Rights.***

(a) For purposes of this Agreement, "Intellectual Property" means all (i) patents, copyrights and copyrightable works, trademarks, service marks, trade names, service names, brand names, logos, trade dress, Internet domain names and all goodwill symbolized thereby and appurtenant thereto; (ii) trade secrets, inventions, technology, know-how, proprietary information, research material, specifications, surveys, designs, drawings and processes; (iii) computer software and related documentation, including without limitation operating software, network software, firmware, middleware, design software, design tools, management information systems, systems documentation and instructions, databases and the tangible objects in which the foregoing rights are embodied (collectively, "Software"); (iv) artwork, photographs, editorial copy and materials, formats and designs, including without limitation all content

currently or previously displayed through Internet sites operated by the Company; (v) customer, partner, prospect and marketing lists, market research data, sales data and traffic and user data; (vi) registrations, applications, recordings, common law rights, "moral" rights of authors, licenses (to or from the Company) and other agreements relating to any of the foregoing; (vii) rights to obtain renewals, reissues, extensions, continuations, divisions or equivalent extensions of legal protection pertaining to the foregoing; and (viii) claims, causes of action or other rights at law or in equity arising out of or relating to any infringement, misappropriation, distortion, dilution or other unauthorized use or conduct in derogation of the foregoing occurring prior to the Closing.

(b) There are no registrations or applications for registration of any Intellectual Property or any licenses (to or from the Company) with respect to any registered Intellectual Property.

(c) The Company owns or has the right to use pursuant to Material Contracts all Intellectual Property used by the Company in connection with or necessary to the operation of its business, without infringing on or otherwise acting adversely to the rights or claimed rights of any person. The Company is not obligated to pay any royalty or other consideration to any person in connection with the use of any such Intellectual Property.

(d) No claim has been asserted against the Company to the effect that the use of any Intellectual Property by the Company infringes the rights of any person. To the Company's knowledge, no other person is currently infringing upon the rights of the Company with respect to the Company's Intellectual Property.

#### SECTION 3.19. *Investor Representations.*

(a) The Company and the Stockholders understand that the Buyer Common Stock to be issued to them in the Merger will constitute "restricted securities" under the Securities Act of 1933, as amended (the "Securities Act"). Consequently, the Stockholders will be able to resell such Buyer Common Stock only (i) pursuant to an effective registration statement covering such resale or (ii) pursuant to an exemption from registration, such as the exemption provided under rule 144 under the Securities Act ("Rule 144").

(b) Each Stockholder (i) has a preexisting personal or business relationship with the Company and (ii) by reason of such Stockholder's business or financial experience or the business or financial experience of such Stockholder's professional advisors who are unaffiliated with and who are not compensated by Buyer or any affiliate or selling agent of Buyer, directly or indirectly, could be reasonably assumed to have the capacity to protect such Stockholder's interests in connection with this Agreement.

(c) The Stockholders acknowledge receipt of the SEC Documents (as defined in Section 4.04) and acknowledge that they have been given the opportunity to ask questions of representatives of Buyer and to receive reasonable additional information to the extent requested in connection with their evaluation of an investment in the Buyer Common Stock.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be signed as of the date first written above by their respective officers thereunto duly authorized.

CNET, INC.

By: [Signature]  
Name: Halbey Minor  
Title: CEO

AUCTIONGATE INTERACTIVE, INC.

By: [Signature]  
Name: Nihad Hafiz  
Title: CEO

STOCKHOLDERS:

[Signature]  
Nihad Hafiz  
[Signature]  
Denny Chittick

I, DAVID OVERMYER, Assistant Secretary of CNET, Inc. hereby certify that this agreement has been adopted by CNET, Inc. pursuant to Section 251(f) of the Delaware General Corporation Law, and that all of the conditions specified in the first sentence of such subsection have been satisfied by CNET, Inc.

/s/ David Overmyer  
Assistant Secretary of CNET, Inc.