

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
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NATURE OF CONVEYANCE:	MERGER
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CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Thermage, Inc.		08/31/2001	CORPORATION: CALIFORNIA

RECEIVING PARTY DATA	
Name:	Thermage, Inc.
Street Address:	4058 Point Eden Way
City:	Hayward
State/Country:	CALIFORNIA
Postal Code:	94545
Entity Type:	CORPORATION: DELAWARE

PROPERTY NUMBERS Total: 1		
Property Type	Number	Word Mark
Registration Number:	2534746	THERMAGE

CORRESPONDENCE DATA	
Fax Number:	(650)493-6811
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	650-493-9300
Email:	trademarks@wsgr.com
Correspondent Name:	Wilson Sonsini Goodrich & Rosati
Address Line 1:	650 Page Mill Road
Address Line 4:	Palo Alto, CALIFORNIA 94304

ATTORNEY DOCKET NUMBER:	16904-TM1002
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NAME OF SUBMITTER:	Frank Chen
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State of Delaware
Office of the Secretary of State

PAGE

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

1
SEP 10 2001

BILL JONES, Secretary of State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"THERMAGE", A CALIFORNIA CORPORATION,

WITH AND INTO "THERMAGE, INC." UNDER THE NAME OF "THERMAGE, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE FIFTH DAY OF SEPTEMBER, A.D. 2001, AT 8 O'CLOCK P.M.

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



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

3098369 8100M

AUTHENTICATION: 1330933

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DATE: 09-06-01
TRADEMARK

REEL: 002932 FRAME: 0029

**AGREEMENT AND PLAN OF MERGER OF
 THERMAGE, INC., A DELAWARE CORPORATION
 AND
 THERMAGE, A CALIFORNIA CORPORATION**

THIS AGREEMENT AND PLAN OF MERGER dated as of August 31, 2001 (the "Agreement") is between Thermage, Inc., a Delaware corporation ("Thermage Delaware"), and Thermage, a California corporation ("Thermage California"). Thermage Delaware and Thermage California are sometimes referred to herein as the "Constituent Corporations."

RECITALS

A. Thermage Delaware is a corporation duly organized and existing under the laws of the State of Delaware and has an authorized capital of 27,700,000 shares, 15,000,000 of which are designated "Common Stock," \$0.001 par value, and 12,700,000 of which are designated "Preferred Stock," \$0.001 par value. Of such authorized shares of Preferred Stock, 1,100,000 shares are designated "Series A Preferred Stock," 1,100,000 shares are designated "Series A-1 Preferred Stock," 2,000,000 shares are designated "Series B Preferred Stock," 2,000,000 shares are designated "Series B-1 Preferred Stock," 3,250,000 shares are designated "Series C Preferred Stock" and 3,250,000 shares are designated "Series C-1 Preferred Stock." As of the date of this Agreement, 100 shares of Common Stock were issued and outstanding, all of which were held by Thermage California, and no shares of Preferred Stock were outstanding.

B. Thermage California is a corporation duly organized and existing under the laws of the State of California and has an authorized capital of 27,700,000 shares, 15,000,000 of which are designated "Common Stock," no par value, and 12,700,000 of which are designated "Preferred Stock," no par value. Of such authorized shares of Preferred Stock, 1,100,000 shares are designated "Series A Preferred Stock," 1,100,000 shares are designated "Series A-1 Preferred Stock," 2,000,000 shares are designated "Series B Preferred Stock", 2,000,000 shares are designated "Series B-1 Preferred Stock," 3,250,000 shares are designated Series C Preferred Stock and 3,250,000 shares are designated "Series C-1 Preferred Stock." As of the date of this Agreement, 1,824,386 shares of Common Stock, 1,100,000 shares of Series A Preferred Stock, no shares of Series A-1 Preferred Stock, 1,886,792 shares of Series B Preferred Stock, no shares of Series B-1 Preferred Stock, 3,111,108 shares of Series C Preferred Stock and no shares of Series C-1 Preferred Stock were issued and outstanding.

C. The Board of Directors of Thermage California has determined that, for the purpose of effecting the reincorporation of Thermage California in the State of Delaware, it is advisable and in the best interests of Thermage California that Thermage California merge with and into Thermage Delaware upon the terms and conditions herein provided.

D. The respective Boards of Directors of Thermage Delaware and Thermage California have approved this Agreement and have directed that this Agreement be submitted to a vote of their respective shareholders and executed by the undersigned officers.

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, Thermage Delaware and Thermage California hereby agree, subject to the terms and conditions hereinafter set forth, as follows:

I. MERGER

1.1 Merger. In accordance with the provisions of this Agreement, the Delaware General Corporation Law and the California Corporations Code, Thermage California shall be merged with and into Thermage Delaware (the "Merger"), the separate existence of Thermage California shall cease and Thermage Delaware shall be, and is herein sometimes referred to as, the "Surviving Corporation," and the name of the Surviving Corporation shall be Thermage, Inc.

1.2 Filing and Effectiveness. The Merger shall become effective when the following actions shall have been completed:

(a) This Agreement and the Merger shall have been adopted and approved by the shareholders of each Constituent Corporation in accordance with the requirements of the Delaware General Corporation Law and the California Corporations Code;

(b) All of the conditions precedent to the consummation of the Merger specified in this Agreement shall have been satisfied or duly waived by the party entitled to satisfaction thereof; and

(c) An executed Agreement and Plan of Merger meeting the requirements of the Delaware General Corporation Law shall have been filed with the Secretary of State of the State of Delaware.

(d) An executed Agreement and Plan of Merger meeting the requirements of the California Corporations Code shall have been filed with the Secretary of State of the State of California.

The date and time when the Merger shall become effective, as aforesaid, is herein called the "Effective Date of the Merger."

1.3 Effect of the Merger. Upon the Effective Date of the Merger, the separate existence of Thermage California shall cease and Thermage Delaware, as the Surviving Corporation, (i) shall continue to possess all of its assets, rights, powers and property as constituted immediately prior to the Effective Date of the Merger, (ii) shall be subject to all actions previously taken by the respective Boards of Directors of the Constituent Corporations, (iii) shall succeed, without other transfer, to all of the assets, rights, powers and property of Thermage California in the manner more fully set forth in Section 259 of the Delaware General Corporation Law, (iv) shall continue to be subject to all of the debts, liabilities and obligations of Thermage Delaware as constituted immediately prior to the Effective Date of the Merger, and (v) shall succeed, without other transfer, to all of the debts, liabilities and obligations of Thermage California in the same manner as if Thermage Delaware had itself incurred them, all as more fully provided under the applicable provisions of the Delaware General Corporation Law and the California Corporations Code.

II. CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

2.1 Certificate of Incorporation. The Certificate of Incorporation of Thermage Delaware as in effect immediately prior to the Effective Date of the Merger shall continue in full force and effect as the Certificate of Incorporation of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

2.2 Bylaws. The Bylaws of Thermage Delaware as in effect immediately prior to the Effective Date of the Merger shall continue in full force and effect as the Bylaws of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

2.3 Directors and Officers. The directors and officers of Thermage California immediately prior to the Effective Date of the Merger shall be the directors and officers of the Surviving Corporation until their successors shall have been duly elected and qualified or as otherwise provided by law, the Certificate of Incorporation of the Surviving Corporation or the Bylaws of the Surviving Corporation.

III. MANNER OF CONVERSION OF STOCK

3.1 Thermage California Common Shares. Upon the Effective Date of the Merger, each share of Thermage California Common Stock, no par value, issued and outstanding immediately prior thereto shall by virtue of the Merger and without any action by the Constituent Corporations, by the holder of such shares or by any other person, be converted

into and exchanged for one fully paid and nonassessable share of Common Stock, \$0.001 par value, of the Surviving Corporation. No fractional share interests of the Surviving Corporation's Common Stock shall be issued. In lieu thereof, any fractional share interests to which a holder would otherwise be entitled shall be aggregated.

3.2 Thermage California Preferred Shares.

(a) Upon the Effective Date of the Merger, each share of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock of Thermage California, no par value, issued and outstanding immediately prior to the Merger, which shares are convertible into such number of shares of Thermage California Common Stock as set forth in the Thermage California Articles of Incorporation, as amended, shall, by virtue of the Merger and without any action by the Constituent Corporations, by the holder of such shares or by any other person, be converted into or exchanged for one fully paid and nonassessable share of Series A Preferred Stock, Series B Preferred Stock or Series C Preferred Stock, \$0.001 par value, of the Surviving Corporation, respectively, having such rights, preferences and privileges as set forth in the Certificate of Incorporation of the Surviving Corporation, which share of Preferred Stock shall be convertible into the same number of shares of the Surviving Corporation's Common Stock, \$0.001 par value, as such share of Thermage California Preferred Stock was so convertible into immediately prior to the Effective Date of the Merger, subject to adjustment pursuant to the terms of the Certificate of Incorporation of the Surviving Corporation.

3.3 Thermage California Options, Warrants, Stock Purchase Rights and Convertible Securities.

(a) Upon the Effective Date of the Merger, the Surviving Corporation shall assume the obligations of Thermage California under, and continue, the 1997 Stock Option Plan and all other employee benefit plans of Thermage California, and shall also assume the obligations of Thermage California under outstanding warrants exercisable for Thermage California Common Stock. Each outstanding and unexercised option or other right to purchase, or security convertible into, Thermage California Common Stock or Thermage California Preferred Stock (a "Right") shall become, subject to the provisions in paragraph (c) hereof, an option, right to purchase or a security convertible into the Surviving Corporation's Common Stock or Preferred Stock, respectively, on the basis of one share of the Surviving Corporation's Common Stock or Preferred Stock, as the case may be, for each share of Thermage California Common Stock or Preferred Stock, as the case may be, issuable pursuant to any such Right, on the same terms and conditions and at an exercise price equal to the exercise price applicable to any such Thermage California Right at the Effective Date of the Merger. This paragraph 3.3(a) shall not apply to Thermage California Common Stock or Preferred Stock. Such Common Stock and Preferred Stock are subject to paragraphs 3.1 and 3.2, respectively, hereof.

(b) A number of shares of the Surviving Corporation's Common Stock and Preferred Stock shall be reserved for issuance upon the exercise of options, stock purchase rights, warrants and convertible securities equal to the number of shares of Thermage California Common Stock and Thermage California Preferred Stock so reserved immediately prior to the Effective Date of the Merger.

(c) The assumed Rights shall not entitle any holder thereof to a fractional share upon exercise or conversion (unless the holder was entitled to a fractional interest immediately prior to the Merger). In lieu thereof, any fractional share interests to which a holder of an assumed Right (other than an option issued pursuant to Thermage California's 1997 Stock Option Plan) would otherwise be entitled upon exercise or conversion shall be aggregated (but only with other similar Rights which have the same per share terms). To the extent that after such aggregation the holder would still be entitled to a fractional share with respect thereto upon exercise or conversion, the holder shall be entitled upon the exercise or conversion of all such assumed Rights pursuant to their terms (as modified herein) to one full share of Common Stock or Preferred Stock, as the case may be, in lieu of such fractional share. With respect to each class of such similar Rights, no holder will be entitled to more than one full share in lieu of a fractional share upon exercise or conversion.

Notwithstanding the foregoing, with respect to options issued under the Thermage California 1997 Stock Option Plan, that are assumed in the Merger, the number of shares of Common Stock to which the holder would be otherwise entitled upon exercise of each such assumed option following the Merger shall be rounded down to the nearest whole number and the exercise price shall be rounded up to the nearest whole cent. In addition, no "additional benefits" (within the meaning of Section 424(a)(2) of the Internal Revenue Code of 1986, as amended) shall be accorded to the optionees pursuant to the assumption of their options.

3.4 Thermage Delaware Common Stock. Upon the Effective Date of the Merger, each share of Common Stock, \$0.001 par value, of Thermage Delaware issued and outstanding immediately prior thereto shall, by virtue of the Merger and without any action by Thermage Delaware, the holder of such shares or any other person, be canceled and returned to the status of authorized but unissued shares.

3.5 Exchange of Certificates. After the Effective Date of the Merger, each holder of an outstanding certificate representing shares of Thermage California Common Stock or Preferred Stock may be asked to surrender the same for cancellation to an exchange agent, whose name will be delivered to such holders prior to any requested exchange (the "Exchange Agent"), and each such holder shall be entitled to receive in exchange therefor a certificate or certificates representing the number of shares of the Surviving Corporation's Common Stock or Preferred Stock, as the case may be, into which the surrendered shares were converted as herein provided. Until so surrendered, each outstanding certificate theretofore representing shares of Thermage California Common Stock or Preferred Stock shall be deemed for all purposes to represent the number of shares of the Surviving Corporation's Common Stock or

Preferred Stock, respectively, into which such shares of Thermage California Common Stock or Preferred Stock, as the case may be, were converted in the Merger.

The registered owner on the books and records of the Surviving Corporation or the Exchange Agent of any such outstanding certificate shall, until such certificate shall have been surrendered for transfer or conversion or otherwise accounted for to the Surviving Corporation or the Exchange Agent, have and be entitled to exercise any voting and other rights with respect to and to receive dividends and other distributions upon the shares of Common Stock or Preferred Stock of the Surviving Corporation represented by such outstanding certificate as provided above.

Each certificate representing Common Stock or Preferred Stock of the Surviving Corporation so issued in the Merger shall bear the same legends, if any, with respect to the restrictions on transferability as the certificates of Thermage California so converted and given in exchange therefor, unless otherwise determined by the Board of Directors of the Surviving Corporation in compliance with applicable laws.

If any certificate for shares of the Surviving Corporation's stock is to be issued in a name other than that in which the certificate surrendered in exchange therefor is registered, it shall be a condition of issuance thereof that the certificate so surrendered shall be properly endorsed and otherwise in proper form for transfer, that such transfer otherwise be proper and comply with applicable securities laws and that the person requesting such transfer pay to the Exchange Agent any transfer or other taxes payable by reason of issuance of such new certificate in a name other than that of the registered holder of the certificate surrendered or establish to the satisfaction of the Surviving Corporation that such tax has been paid or is not payable.

IV. GENERAL

4.1 Covenants of Thermage Delaware. Thermage Delaware covenants and agrees that it will, on or before the Effective Date of the Merger:

(a) Qualify to do business as a foreign corporation in the State of California and, in connection therewith, irrevocably appoint an agent for service of process as required under the provisions of Section 2105 of the California Corporations Code.

(b) File any and all documents with the California Franchise Tax Board necessary for the assumption by Thermage Delaware of all of the franchise tax liabilities of Thermage California.

(c) Take such other actions as may be required by the California Corporations Code.

4.2 Further Assurances. From time to time, as and when required by Thermage Delaware or by its successors or assigns, there shall be executed and delivered on behalf of Thermage California such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other actions as shall be appropriate or necessary in order to vest or perfect in or conform of record or otherwise by Thermage Delaware the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Thermage California and otherwise to carry out the purposes of this Agreement, and the officers and directors of Thermage Delaware are fully authorized in the name and on behalf of Thermage California or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

4.3 Abandonment. At any time before the Effective Date of the Merger, this Agreement may be terminated and the Merger may be abandoned for any reason whatsoever by the Board of Directors of either Thermage California or of Thermage Delaware, or of both, notwithstanding the approval of this Agreement by the shareholders of Thermage California or by the sole stockholder of Thermage Delaware, or by both.

4.4 Amendment. The Boards of Directors of the Constituent Corporations may amend this Agreement at any time prior to the filing of this Agreement (or certificate in lieu thereof) with the Secretary of State of the State of Delaware, provided that an amendment made subsequent to the adoption of this Agreement by the stockholders of either Constituent Corporation shall not: (a) alter or change the amount or kind of shares, securities, cash, property and/or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such Constituent Corporation, (b) alter or change any term of the Certificate of Incorporation of the Surviving Corporation to be effected by the Merger or (c) alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of any class or series of capital stock of either Constituent Corporation.

4.5 Registered Office. The registered office of the Surviving Corporation in the State of Delaware is 1209 Orange Street, Wilmington, County of New Castle, Delaware 19801, and The Corporation Trust Company is the registered agent of the Surviving Corporation at such address.

4.6 Agreement. Executed copies of this Agreement will be on file at the principal place of business of the Surviving Corporation at 4058 Point Eden Way, Hayward, California 94545, and copies thereof will be furnished to any shareholder of either Constituent Corporation, upon request and without cost.

4.7 Governing Law. This Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of Delaware and, so far as applicable, the merger provisions of the California Corporations Code.

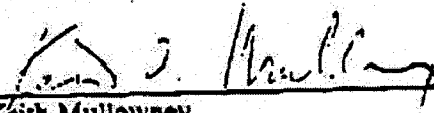
4.8 **FIRPTA Notification.** (a) On the Effective Date of the Merger, Thermage California shall deliver to Thermage Delaware, as agent for the shareholders of Thermage California, a properly executed statement (the "Statement") substantially in the form attached hereto as Exhibit A. Thermage Delaware shall retain the Statement for a period of not less than seven years and shall, upon request, provide a copy thereof to any person that was a shareholder of Thermage California immediately prior to the Merger. In consequence of the approval of the Merger by the shareholders of Thermage California, (i) such shareholders shall be considered to have requested that the Statement be delivered to Thermage Delaware as their agent and (ii) Thermage Delaware shall be considered to have received a copy of the Statement at the request of the Thermage California shareholders for purposes of satisfying Thermage Delaware's obligations under Treasury Regulation Section 1.1445-2(c)(3).

(b) Thermage California shall deliver to the Internal Revenue Service a notice regarding the Statement in accordance with the requirements of Treasury Regulation Section 1.897-2(h)(2).

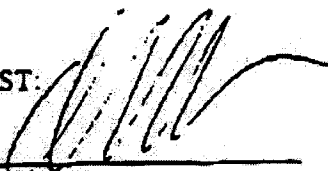
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IN WITNESS WHEREOF, this Agreement having first been approved by the Boards of Directors of Thermage Delaware and Thermage California is hereby executed on behalf of each of such two corporations and attested by their respective officers thereunto duly authorized.

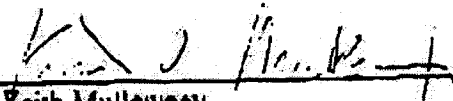
THERMAGE, INC.
a Delaware corporation

By: 
Keith Mallowney
President & Chief Executive Officer

ATTEST:


David J. Saul
Assistant Secretary

THERMAGE
a California corporation

By: 
Keith Mallowney
President & Chief Executive Officer

ATTEST:



David J. Saul
Assistant Secretary

EXHIBIT A

TO THE SHAREHOLDERS OF THERMAGE:

In connection with the reincorporation (the "Reincorporation") in Delaware of Thermage, a California corporation (the "Company"), pursuant to the Agreement and Plan of Merger (the "Agreement") dated as of Aug. 31, 2001 between the Company and Thermage, Inc., a Delaware corporation and wholly-owned subsidiary of the Company ("Thermage Delaware"), your shares of Company stock will be replaced by shares of stock in Thermage Delaware.

In order to establish that (i) you will not be subject to tax under Section 897 of the Internal Revenue Code of 1986, as amended (the "Code"), in consequence of the Reincorporation and (ii) Thermage Delaware will not be required under Section 1445 of the Code to withhold taxes from the Thermage Delaware stock that you will receive in connection therewith, the Company hereby represents to you that, as of the date of this letter, shares of Company stock do not constitute a "United States real property interest" within the meaning of Section 897(c) of the Code and the regulations issued thereunder.

A copy of this letter will be delivered to Thermage Delaware pursuant to Section 4.8 of the Agreement.

Under penalties of perjury, the undersigned officer of the Company hereby declares that, to the best knowledge and belief of the undersigned, the facts set forth herein are true and correct.

Sincerely,

THERMAGE, a California corporation



Keith Mallowney
President and Chief Executive Officer

THERMAGE, INC.**A Delaware Corporation****OFFICERS' CERTIFICATE**

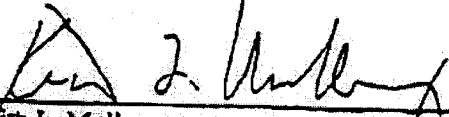
Keith L. Mallowney and J. Casey McGlynn certify that:

1. They are the President and Chief Executive Officer and the Secretary, respectively, of Thermage, Inc., a corporation organized under the laws of the State of Delaware.
2. The corporation has authorized two classes of stock, designated "Common Stock" and "Preferred Stock," respectively. There are authorized six series of Preferred Stock, designated "Series A Preferred Stock," "Series A-1 Preferred Stock," "Series B Preferred Stock," "Series B-1 Preferred Stock," "Series C Preferred Stock" and "Series C-1 Preferred Stock," respectively.
3. There are 100 shares of Common Stock outstanding and entitled to vote on the Agreement and Plan of Merger attached hereto. There are no shares of Preferred Stock outstanding.
4. The principal terms of the Agreement and Plan of Merger were approved by the Board of Directors and by the vote of a number of shares of each class and series of stock which equaled or exceeded the vote required.
5. The percentage vote required was more than 50% of the votes entitled to be cast by holders of outstanding shares of Common Stock.

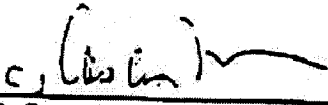
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Keith L. Mallowney and J. Casey McGlynn further declare under penalty of perjury under the laws of the States of Delaware and California that they have read the foregoing certificate and know the contents thereof and that the same is true of their own knowledge.

Executed on August 31, 2001.



Keith L. Mallowney
President and Chief Executive Officer



J. Casey McGlynn
Secretary

THERMAGE
A California Corporation
OFFICERS' CERTIFICATE

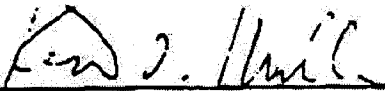
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3. There are 1,824,386 of shares of Common Stock, 1,100,000 shares of Series A Preferred Stock, 1,886,792 shares of Series B Preferred Stock and 3,111,108 shares of Series C Preferred Stock outstanding and entitled to vote on the Agreement and Plan of Merger attached hereto. There are no shares of Series A-1 Preferred Stock, Series B-1 Preferred Stock or Series C-1 Preferred Stock outstanding.
4. The principal terms of the Agreement and Plan of Merger were approved by the Board of Directors and by the vote of a number of shares of each class and series of stock which equaled or exceeded the vote required.
5. The percentage vote required was more than 50% of the votes entitled to be cast by holders of outstanding shares of Common Stock and more than 50% of the votes entitled to be cast by holders of outstanding shares of Preferred Stock.

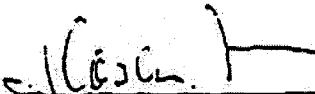
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Keith L. Mallowney and J. Casey McGlynn further declare under penalty of perjury under the laws of the States of California and Delaware that they have read the foregoing certificate and know the contents thereof and that the same is true of their own knowledge.

Executed on August 31, 2001.



Keith L. Mallowney
President and Chief Executive Officer



J. Casey McGlynn
Secretary

