

RECORDATION FOR  
**TRADEMARK**

12-21-1998

DEPARTMENT OF COMMERCE  
Patent and Trademark Office



100924822

*MWD 12-14-98*

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

1. Name of conveying party(ies):  
Frawley Enterprises, Inc.

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

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

2. Name and address of receiving party(ies):  
Name: Frawley Corporation  
Internal Address: \_\_\_\_\_  
Street Address: 28720 Roadside Drive, Suite 128  
City: Agoura Hills State: CA ZIP: 91301-3317

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: June 16, 1977

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

A. Trademark Application No.(s)  
\_\_\_\_\_

B. Trademark Registration No.(s)  
784,847

Additional numbers attached?  Yes  No

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

Name: David W. Grace  
Internal Address: Loeb & Loeb LLP  
\_\_\_\_\_  
Street Address: 1000 Wilshire Boulevard, Suite 1800  
\_\_\_\_\_  
City: Los Angeles State: CA ZIP: 90017

6. Total number of applications and registrations involved: ..... | 1 |

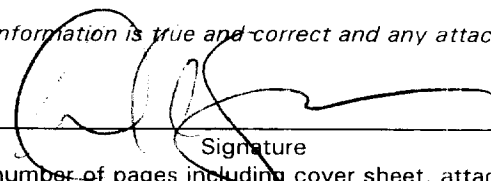
7. Total fee (37 CFR 3.41) ..... \$ 40.00  
 Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number:  
12-1820  
(Attach duplicate copy of this page if paying by deposit account)

12/16/1998 VERBUN 00000034 784847  
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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.*

David W. Grace                                            10 DEC 98  
Name of Person Signing                      Signature                      Date

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

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

**TRADEMARK**  
**REEL: 1827 FRAME: 0304**

*State of Delaware*  
**Office of the Secretary of State** PAGE 1

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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 AGREEMENT OF MERGER, WHICH MERGES:  
"FRAWLEY CORPORATION", A DELAWARE CORPORATION,  
WITH AND INTO "FRAWLEY ENTERPRISES, INC." UNDER THE NAME OF "FRAWLEY CORPORATION", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-FOURTH DAY OF JUNE, A.D. 1977, AT 10 O' CLOCK A.M.



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A handwritten signature in cursive script, reading "Edward J. Freel".

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Edward J. Freel, Secretary of State

AUTHENTICATION: 9412961

DATE: 11-18-98

TRADEMARK  
REEL: 1827 FRAME: 0305

## MERGER AGREEMENT

THIS MERGER AGREEMENT (hereinafter called the "Agreement"), dated as of the 22nd day of April, 1977 (although to become effective on a later date, as specified in Section 3.02 herein), by and between FRAWLEY ENTERPRISES, INC., a Delaware corporation (hereinafter sometimes called "Frawley"), and FRAWLEY CORPORATION, a Delaware corporation (hereinafter sometimes called "Disappearing Company"), said two corporations being hereinafter collectively called the "Constituent Corporations".

### WITNESSETH

WHEREAS, Frawley is a corporation organized and existing under the laws of the State of Delaware with an authorized capitalization consisting of 1,000,000 shares of Preferred Stock, par value \$1 per share, of which none has been issued, and 6,000,000 shares of Common Stock, par value \$1 per share, of which 1,431,091 shares have been issued (including 50,131 shares held in its treasury), and

WHEREAS, Disappearing Company is a corporation organized and existing under the laws of the State of Delaware with an authorized capitalization consisting of 500 shares of Preferred Stock, par value \$1 per share, of which none has been issued, and 500 shares of Common Stock, par value \$1 per share, of which none has been issued, and

WHEREAS, each of the Constituent Corporations has, subject to adoption by the stockholders of Frawley as more fully set forth hereinafter, adopted the Plan of Reorganization embodied in this Agreement, and the Constituent Corporations and their respective Boards of Directors deem it advisable and to the advantage of the Constituent Corporations and the stockholders of Frawley that Disappearing Company merge with and into Frawley,

NOW, THEREFORE, the Constituent Corporations do hereby agree to merge on the terms and conditions herein provided, as follows:

### ARTICLE I

1.01 *Merger.* Frawley and Disappearing Company shall merge with each other and Frawley shall be the surviving corporation upon the merger and shall be governed by the laws of the State of Delaware.

1.02 *Certificate of Incorporation and Amendment Thereof.* On the Effective Date of the merger, the certificate of incorporation of Frawley shall be amended so that the name of Frawley set forth in Article FIRST thereof shall be changed to and shall be and become FRAWLEY CORPORATION, and, as so amended, the certificate of incorporation of Frawley shall be the certificate of incorporation of the surviving corporation in said merger.

### ARTICLE II

The effect of the merger on the shares of the Constituent Corporations shall be as follows:

2.01 *Shares of Disappearing Company Stock.* No shares of Disappearing Company's capital stock have been issued, but if any shares of Disappearing Company's capital stock are issued prior to the Effective Date of the merger all such shares shall be held by Frawley and shall, on the Effective Date of the Merger, be cancelled and retired and no shares or other securities or cash or property shall be issuable therefor.

**2.02 Shares of Frawley Common Stock.** On the Effective Date of the merger, each share of Common Stock, par value \$1 per share, of Frawley issued and outstanding (including shares held by Frawley in its treasury) shall by virtue of the merger be converted into and become, without action on the part of the holder thereof, one-twentieth (1/20) of a share of the Common Stock, par value \$1 per share, of Frawley, subject to the provisions of Section 2.05 hereof with respect to the handling of fractional interests.

**2.03 Exchange of Stock Certificates.** As promptly as practicable after the merger has become effective, the holders of the shares of Frawley outstanding immediately before the Effective Date of the merger shall surrender the stock certificates representing said shares to Frawley or to the Exchange Agent identified below, and shall be entitled to receive in exchange certificates representing the number of whole shares of stock of Frawley into which the shares theretofore represented by the surrendered certificates shall have been converted as aforesaid. For these purposes, the Exchange Agent for the stockholders of Frawley shall be Bank of America National Trust and Savings Association, San Francisco, California. The Board of Directors of Frawley may appoint other Exchange Agents, in lieu of or in addition to the Exchange Agent set forth above.

**2.04 Unexchanged Stock Certificates.** Until surrendered for exchange as provided in Section 2.03, each stock certificate which immediately before the Effective Date of the merger represented outstanding shares of Frawley shall upon such Effective Date be deemed for all corporate purposes to represent the number and kind of whole shares of Frawley into which the shares evidenced by said certificate have been so converted. Unless and until such outstanding stock certificates representing shares of Frawley prior to the merger are so surrendered, no dividend or other distribution payable to stockholders of Frawley of record as of any date subsequent to the Effective Date of the merger shall be paid to the holders of such outstanding certificates in respect thereof. Upon surrender of such outstanding certificates, however, there shall be paid to the record holders of the new certificates of stock of Frawley issued in exchange therefor the amount of any dividend or other distribution which theretofore became payable with respect to the whole shares of Frawley evidenced by such new certificates, without interest upon the dividends or distributions so payable.

**2.05 Fractional Interests.** Certificates representing fractional interests in shares of stock of Frawley will not be issued. However, each holder of shares of Frawley whose aggregate certificates of Frawley immediately before the Effective Date of the merger evidence a number of Frawley shares which does not yield an integral number when divided by twenty (20) shall be entitled to receive, upon surrender of such stock certificates, in addition to certificates for whole shares in accordance with Section 2.03 above, a scrip certificate, entitling the holder at his option (1) upon surrender thereof prior to the close of business in Los Angeles, California, on September 9, 1977, at the office of Frawley or of its agent named therein, together with any similar scrip certificates representing in the aggregate one or more whole shares as constituted on the date of such surrender, to receive a certificate or certificates of stock representing the number of whole shares of Common Stock of Frawley represented by scrip certificates so surrendered, or (2) upon surrender thereof prior to the close of business in Los Angeles, California, on June 30, 1983, to receive cash (payable by check) in the amount of the Market Value (defined below) of the interests represented by scrip certificates so surrendered. The holder of such a scrip certificate shall have no rights of a stockholder as to dividends, distributions in liquidation or otherwise, or subscription rights with respect to such scrip certificate, and shall have no voting rights with respect thereto; but the number or fraction of shares for which such scrip certificate is exchangeable shall be subject to proportionate adjustments for (a) any stock split or reverse stock split affecting the outstanding shares of the Common Stock of Frawley and occurring after the Effective Date of the Merger and prior to September 10, 1977, and (b) any dividend or distribution in shares of such Common Stock declared upon outstanding shares of such Common Stock and payable to stockholders of record as of any record date after the Effective Date of the merger and before September 10, 1977. No such adjustment shall have any effect on the amount or rate of cash payable in exchange for such scrip certificates, but shall affect only the number of shares for which they may be exchanged until September 9, 1977, as aforesaid.

As used above, the "Market Value" of the interests represented by such scrip certificates shall mean, for each one-twentieth (1/20) of a share of Frawley Common Stock, as constituted immediately upon the Effective Date of the merger, for which such scrip certificate is exchangeable immediately upon the Effective Date of the merger, the greater of (i) \$8.00, or (ii) the average, rounded up to the next full cent, of the closing prices reported per share of Frawley Common Stock on the Pacific Stock Exchange for those of the ten (10) trading days on such Exchange next preceding (but not including) the Effective Date of the merger on which trading in such shares is reported, and if no trading in such shares is reported on any of such days, the last closing price reported for such stock on said Exchange preceding said ten (10) trading days, rounded up to the next full cent.

For the purposes of this Section 2.05, a holder of Frawley shares is deemed to be the holder of the aggregate number of such shares evidenced by all stock certificates of which he is the registered owner immediately before the Effective Date of the merger.

2.06 *Certificate Legends.* If and to the extent any of the certificates for outstanding shares of Frawley to be surrendered shall have set forth thereon any legend restricting, inhibiting or otherwise qualifying the free transferability of the shares evidenced thereby pursuant to or as the result of any instrument to which Frawley or any predecessor corporation of Frawley is or was a party, such legend, with such modifications thereon as Frawley may direct, shall also be set forth upon the new certificate or certificates evidencing the shares of Frawley which are issued in exchange for such legended certificates.

#### ARTICLE III

3.01 *Effect of Merger.* Frawley shall on the Effective Date of the merger succeed to all the interests and obligations of Disappearing Company as set forth in Section 259 of the General Corporation Law of the State of Delaware.

3.02 *Effective Date of Merger.* The "Effective Date" of the merger shall be, and such term as used in this Agreement means, the close of business in Dover, Delaware, on June 30, 1977, which is the date upon which it is intended that this instrument shall become effective; provided that if this instrument shall not have been filed with the Secretary of State of the State of Delaware prior to July 1, 1977, such "Effective Date" of the merger shall be such later date on which this Agreement and the merger contemplated hereby shall have become effective under Section 251 (c) and 103 (d) of the General Corporation Law of the State of Delaware.

#### ARTICLE IV

4.01 *Conditions to Merger.* The obligations of the Constituent Corporations to consummate and effect the merger hereunder shall be subject to the following conditions:

(a) The holders of at least a majority of the outstanding Common Stock of Frawley shall have voted for the adoption of this Agreement. No vote of stockholders of Disappearing Company is necessary under Section 251 (f) of the Delaware General Corporation Law, inasmuch as no shares of stock of Disappearing Company have been issued prior to the adoption by the board of directors of Disappearing Company of the resolution approving this Agreement.

(b) There shall be no judgment or order issued by any court or other governmental agency which restrains or prohibits the consummation of the merger contemplated hereby.

(c) Immediately before the Effective Date of the merger, Frawley shall be the registered holder of all of the then outstanding shares of Disappearing Company's capital stock, if any such shares are then issued and outstanding.

#### ARTICLE V

5.01 *Filing and Recording.* The Constituent Corporations agree that after the adoption of this Agreement by the stockholders of Frawley, counterparts of this Agreement, properly executed and acknowledged and accompanied by such other certificates or documents as may be required by law, shall (if not terminated or abandoned pursuant to the provisions of Article VI hereof) be filed in the office of the Secretary of State of the State of Delaware, and promptly thereafter all other filings and recordings, if any, as may be required by the General Corporation Law of the State of Delaware shall be made.

#### ARTICLE VI

6.01 *Termination and Abandonment.* Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated and the merger abandoned at any time prior to the Effective Date of the merger under any of the following circumstances:

- (a) by decision of Frawley and Disappearing Company; or
- (b) by either Frawley or Disappearing Company, if any of the conditions set forth in Article IV hereof have not been met.

6.02 *Exercise of Rights.* In exercising their rights under Section 6.01, each of the Constituent Corporations may act by its Board of Directors, and such rights may be so exercised notwithstanding the prior adoption of this Agreement by the stockholders of either or both of the Constituent Corporations.

6.03 *Liabilities Upon Termination or Abandonment.* In the event this Agreement is terminated or abandoned pursuant to the provisions of Section 6.01, neither of the Constituent Corporations shall be liable to the other by reason of this Agreement, nor for expenses, costs, damages, counsel or other professional fees of the other, or otherwise in any manner, and in such event each of the Constituent Corporations will bear its own costs and expenses relating to the merger, whether incurred before or after the date of this Agreement.

#### ARTICLE VII

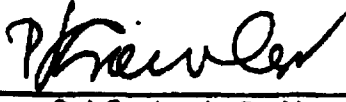
7.01 *Amendments.* At any time before or after its approval and adoption by the respective stockholders of either or both of the Constituent Corporations, this Agreement may be amended in matters of form or supplemented by additional agreements as may be determined in the judgment of the Boards of Directors of the Constituent Corporations to be necessary, desirable or expedient, to clarify the intention of the parties hereto or to effect or facilitate the filing, recording or official approval of this Agreement and the consummation of the merger provided for herein.

7.02 *Counterparts.* This Agreement may be executed in any number of counterparts, all of which taken together shall constitute only one Agreement.

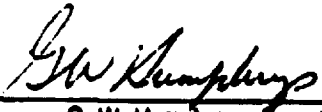
7.03 *Headings.* The headings in this Agreement are for convenience of reference only and do not limit, extend or otherwise affect the meaning of any section, subsection or paragraph.

IN WITNESS WHEREOF, this Agreement, having first been duly approved by resolutions of the Board of Directors of each of the Constituent Corporations, is hereby executed on behalf of each of the Constituent Corporations by their respective officers thereunto duly authorized.

FRAWLEY ENTERPRISES, INC.

By   
P. J. Frawley, Jr., President

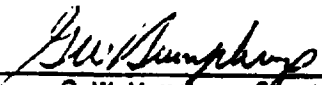
ATTEST:

  
G. W. Humphreys, Secretary

FRAWLEY CORPORATION

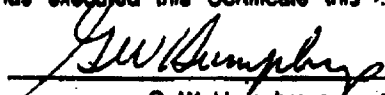
By   
P. J. Frawley, Jr., President

ATTEST:

  
G. W. Humphreys, Secretary

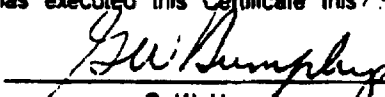
The undersigned, G. W. Humphreys, hereby certifies that he is the duly elected and acting Secretary of Frawley Enterprises, Inc., and, as such Secretary, further certifies that at an annual meeting of stockholders of Frawley Enterprises, Inc. held on June 16, 1977 pursuant to written notice as provided by Section 251 of the Delaware General Corporation Law, this Agreement was adopted by the holders of at least a majority of the outstanding stock of Frawley Enterprises, Inc. entitled to vote thereon, to wit, the holders of at least a majority of its outstanding Common Stock.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this 16<sup>th</sup> day of June, 1977.

  
G. W. Humphreys  
Secretary of Frawley Enterprises, Inc.

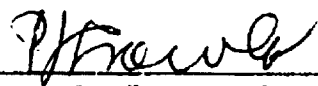
The undersigned, G. W. Humphreys, hereby certifies that he is the duly elected and acting Secretary of Frawley Corporation, and, as such Secretary, further certifies that this Agreement has been adopted by said corporation pursuant to Section 251(f) of the Delaware General Corporation Law, and that as of the date of this certificate the outstanding shares of said corporation were such as to render said subsection 251(f) applicable, in that no shares of the stock of Frawley Corporation have been issued prior to the adoption by the Board of Directors of said corporation of the resolution approving this Agreement or prior to the date of this certificate.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this 16<sup>th</sup> day of June, 1977.

  
G. W. Humphreys  
Secretary of Frawley Corporation

IN WITNESS WHEREOF, this Agreement, after having first been duly approved by resolutions of the Boards of Directors of each of the Constituent Corporations and adopted by the requisite vote of the stockholders of Frawley Enterprises, Inc., which adoption by stockholders has been certified by the Secretary of Frawley Enterprises, Inc. (no vote of stockholders of Frawley Corporation being necessary for the reasons stated in the certificate of the Secretary of Frawley Corporation set forth above), is hereby executed on behalf of the Constituent Corporations by their respective Presidents and attested by their respective Secretaries as the respective act, deed and agreement of said two corporations this 16<sup>th</sup> day of June, 1977.

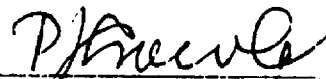
FRAWLEY ENTERPRISES, INC.

By   
P. J. Frawley, Jr., President

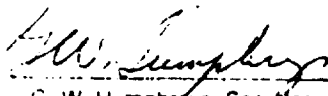
ATTEST

  
G. W. Humphreys

FRAWLEY CORPORATION

By   
P. J. Frawley, Jr., President

ATTEST

  
G. W. Humphreys, Secretary