

MRD
7-23-99

07-28-1999



101103785

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
Document ID #
- Correction of PTO Error
Reel # Frame #
- Corrective Document
Reel # Frame #

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
- Merger
Effective Date
Month Day Year
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

- Individual General Partnership Limited Partnership Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

- Individual General Partnership Limited Partnership If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)
- Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

FOR OFFICE USE ONLY

07/26/1999 DNGUYEN 00000175 75647415

01 FC:401
02 FC:402

40.00 OP
275.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

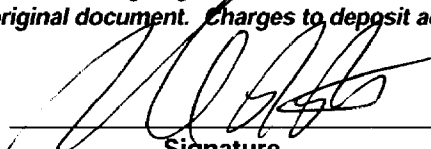
No

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. Charges to deposit account are authorized, as indicated herein.

Neal R. Platt

Name of Person Signing



Signature

July 20, 1999

Date Signed

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 OWNERSHIP, WHICH MERGES:

"MOBIUS MANAGEMENT SYSTEMS, INC.", A NEW YORK CORPORATION, WITH AND INTO "MOBIUS MANAGEMENT SYSTEMS, INC." UNDER THE NAME OF "MOBIUS MANAGEMENT SYSTEMS, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-FIRST DAY OF APRIL, A.D. 1997, AT 9 O'CLOCK A.M.



2656749 8100M

991240131

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

Edward J. Freel, Secretary of State

AUTHENTICATION: 9815708

DATE: 06-21-99

CERTIFICATE OF OWNERSHIP AND MERGER

of

MOBIUS MANAGEMENT SYSTEMS, INC.
(a New York corporation)

into

MOBIUS MANAGEMENT SYSTEMS, INC.
(a Delaware corporation)

It is hereby certified that:

1. The name of each constituent corporation is as follows: Mobius Management Systems, Inc. ("Mobius-New York"), which was incorporated in the State of New York on July 14, 1981, and Mobius Management Systems, Inc. ("Mobius-Delaware" and together with Mobius-New York, the "Constituent Corporations" and each a "Constituent Corporation"), a Delaware corporation which was incorporated on August 26, 1996.
2. Mobius-New York is a corporation of the State of New York, the laws of which permit a merger of a corporation of that jurisdiction with a corporation of another jurisdiction.
3. The name of the surviving corporation is Mobius Management Systems, Inc., a Delaware corporation. There are no amendments to be made to the Certificate of Incorporation of Mobius-Delaware in this Certificate of Merger.
4. Mobius-New York has an authorized capital stock of (i) 170,000 shares of common stock (the "Mobius-New York Common Stock"), with a par value of \$.01 per share, of which 150,000 shares are issued and outstanding, and (ii) 30,000 shares of Class A Non-Voting common stock (the "Mobius-New York Class A Stock"), with a par value of \$.01 per share, of which no shares are issued and outstanding. Mobius-Delaware has an authorized capital stock of (i) 400,000 shares of common stock (the "Mobius-Delaware Common Stock"), with a par value of \$.01 per share, of which one share is issued and outstanding, (ii) 50,000 shares of Class A Non-Voting common stock (the "Mobius-Delaware Class A Stock"), with a par value of \$.01 per share, of which no shares are issued and outstanding, and (iii) 200,000 shares of preferred stock (the "Mobius-Delaware Preferred Stock"), with a par value of \$.01 per share, of which no shares are issued and outstanding.
5. Mobius-New York, as the owner of all of the outstanding shares of the common stock of Mobius-Delaware, hereby merges itself into Mobius-Delaware.

6. The following is a copy of the resolutions adopted on the 19th day of April, 1997, by the Board of Directors and shareholders of Mobius-New York to merge Mobius-New York into Mobius-Delaware.

RESOLVED that Mobius-New York be reincorporated in the State of Delaware by merging itself into Mobius-Delaware on substantially the terms set forth in the Plan and pursuant to the laws of the State of New York and the State of Delaware as hereinafter provided, so that the separate existence of Mobius-New York shall cease as soon as the merger shall become effective, and thereupon Mobius-New York and Mobius-Delaware will become a single corporation, which shall continue to exist under, and be governed by, the laws of the State of Delaware; and it is further

RESOLVED that the terms and conditions of the proposed merger are as follows:

- a. From and after the effective time of the merger, all of the estate, property, rights, privileges, powers, and franchises of Mobius-New York shall become vested in and held by Mobius-Delaware as fully and entirely and without change or diminution as the same were before held and enjoyed by Mobius-New York, and Mobius-Delaware shall assume all the obligations of Mobius-New York.
- b. No pro rata issuance of the shares of stock of Mobius-Delaware which are owned by Mobius-New York immediately prior to the effective time of the merger shall be made, and such shares shall be surrendered and extinguished.
- c. Each share of common stock, \$. 01 par value, of Mobius-New York (the "Mobius-New York Common Stock") which shall be issued and outstanding immediately prior to the effective time of the merger shall be converted into one issued and outstanding share of common stock, \$.01 par value, of Mobius-Delaware (the "Mobius-Delaware Common Stock"), and, from and after the effective time of the merger, the holders of all of said issued and outstanding shares of Mobius-New York Common Stock shall automatically be and become holders of shares of Mobius-Delaware Common Stock upon the basis above specified, whether or not certificates representing said shares are then issued and delivered. Each authorized but unissued share of Mobius-New York Common Stock (including Mobius-New York Common Stock held in the treasury) shall automatically be cancelled and cease to be authorized.
- d. The authorized shares of Mobius-New York Class A Stock (including the Mobius-New York Class A Stock held in the treasury) immediately prior to the effective time of the merger, all of which are unissued, shall automatically be cancelled and cease to be authorized.

e. After the effective time of the merger, each holder of record of any outstanding certificate or certificates theretofore representing Mobius-New York Common Stock may surrender the same to Mobius-Delaware at its office at One Ramada Plaza, New Rochelle, New York 10801, and such holder shall be entitled upon such surrender to receive in exchange therefor a certificate or certificates representing an equal number of shares of Mobius-Delaware Common Stock. Until so surrendered, each outstanding certificate which prior to the effective time of the merger represented one or more shares of Mobius-New York Common Stock shall be deemed for all corporate purposes to evidence ownership of one or more shares of Mobius-Delaware Common Stock.

f. From and after the effective time of the merger, the Certificate of Incorporation and the By-Laws of Mobius-Delaware shall be the Certificate of Incorporation and the By-Laws of Mobius-Delaware as in effect immediately prior to such effective time and said Certificate of Incorporation shall continue in full force and effect until amended and changed in the manner prescribed by the provisions of the General Corporation Law of the State of Delaware.

g. The members of the Board of Directors and officers of Mobius-Delaware immediately after the effective time of the merger shall be the members of the Board of Directors and the corresponding officers of Mobius-Delaware immediately before the effective time of the merger.

h. From and after the effective time of the merger, the assets and liabilities of Mobius-New York and of Mobius-Delaware shall be entered on the books of Mobius-Delaware at the amounts at which they shall be carried at such time on the respective books of Mobius-New York and of Mobius-Delaware, subject to such inter-corporate adjustments or eliminations, if any, as may be required to give effect to the merger; and, subject to such action as may be taken by the Board of Directors of Mobius-Delaware, in accordance with generally accepted accounting principles, the capital and surplus of Mobius-Delaware shall be equal to the capital and surplus of Mobius-New York and of Mobius-Delaware.

RESOLVED, that the merger of Mobius-Delaware and Mobius-New York, on substantially the terms set forth in the Plan and in the resolutions above, is hereby approved, and the directors and officers of Mobius-New York are hereby authorized, empowered and directed to submit the Plan to the vote by the shareholders of Mobius-New York and upon approval of the Plan by the shareholders of Mobius-New York the proper officers of Mobius-New York are authorized, empowered and directed to execute the Plan for and on behalf of Mobius-New York; and it is further

RESOLVED, that, in the event that the proposed merger shall not be terminated, the proper officers of Mobius-New York be and they hereby are authorized and directed to make and execute a Certificate of Merger stating the adoption of these resolutions to merge itself into Mobius-Delaware and the date of adoption thereof, and to cause the same to be filed and recorded as provided by law, and to do all acts and things whatsoever, within the States of New York and Delaware or in any other appropriate jurisdiction, necessary or proper to effect this merger.

7. The proposed merger herein certified has been adopted, approved, certified, executed, and acknowledged by Mobius Management Systems, Inc., a New York corporation, in accordance with the laws under which it is organized.

8. An executed copy of the plan of merger is on file at the principal place of business of Mobius-Delaware at One Ramada Plaza, New Rochelle, New York 10801. A copy of the plan of merger will be furnished by the surviving corporation, on request and without cost, to any stockholder of either Constituent Corporation.

Signed on April 19, 1997.

MOBIUS MANAGEMENT SYSTEMS, INC.
(a New York corporation)

By: 
Name: Mitchell Gross
Title: President