

11-24-2000



COVER SHEET  
(S ONLY)

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

2 \$

To the Hon:

101527381

Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Sterling-U.S.A., Inc.

- Individual(s)
- General Partnership
- Corporation-Connecticut
- Other
- Association
- Limited Partnership



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

3. Nature of conveyance:

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

Execution Date: August 11, 2000

MRD 10.24.00

2. Name and address of receiving party(ies):

Name: **Super-Max Corporation**

Address: **4395 Diplomacy Road**

City: **Fort Worth** State: **TX** Zip: **76155**

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-Texas
- 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

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

A. Trademark Applications

Mark

Serial No.

SEE ATTACHED SCHEDULE A

B. Trademark Registrations

Mark

Reg. No.

SEE ATTACHED SCHEDULE A

EXPRESS MAIL  
Date: 10/24/00  
628223565-48  
I hereby certify that the enclosed documents were deposited in this cover or the will of the United States Patent & Trademark Office and that it was not altered, tampered with, or otherwise damaged in transit.  
U.S. Patent & Trademark Office  
Express Mail®  
Name (Print): A. Diullo / A. Diullo

Additional numbers attached?  Yes  No

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

Name: Darby & Darby P.C.

Street Address: 805 Third Avenue, 27th Floor

City: New York State: New York Zip: 10022-7513

6. Total number of applications and registrations involved:

10

7. Total fee (37 CFR 3.41):.....\$265.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: 04-0100

(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.

Randi S. Miller  
Name of Person Signing

Randi S. Miller  
Signature

October 24, 2000

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

17

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

TRADEMARK  
REEL: 002181 FRAME: 0366



2318/8D088

SCHEDULE A

INTENT-TO-USE TRADEMARK APPLICATIONS:

<u>MARK</u>	<u>SERIAL NO.</u>	<u>FILED</u>
THE FAMILY BRAND	76/033,116	04/24/00
COMFORTGRIP	75/791,033	09/02/99
SUPER-MAX	75/416,465	01/12/98

TRADEMARK APPLICATIONS

<u>MARK</u>	<u>SERIAL NO.</u>	<u>FILED</u>
THE PERFORMANCE DISPOSABLE	76/068,896	06/12/00
NATURESTRIP	76/064,969	06/06/00

TRADEMARK REGISTRATIONS

<u>MARK</u>	<u>REGISTRATION NO.</u>	<u>REGISTERED</u>
Design Only	2,316,154	02/08/00
THE LEADING EDGE	2,311,404	01/25/00
ZORRIK	2,299,898	12/14/99
SUPER-MAX	2,213,029	12/22/98
LADY-MAX	2,167,352	06/23/98



**CERTIFICATE OF MERGER OF  
STERLING-U.S.A., INC., a Connecticut corporation and  
SUPER-MAX CORPORATION, a Texas corporation**

1. The name of the surviving corporation in the merger is **SUPER-MAX CORPORATION**, a corporation organized and existing under the laws of the State of Texas.
2. The Plan of Merger is as follows: See enclosed Exhibit A.
3. The Plan of Merger was adopted by the merging corporations in the following manner:
  - (a) The Plan was approved by resolution adopted by the board of directors of each merging corporation.
  - (b) As to the approval of the Plan by the shareholders of each of the undersigned corporations, the designation, number of outstanding shares and number of votes entitled to be cast by each voting group entitled to vote separately on the Plan, and the total number of votes cast for and against the Plan by each voting group entitled to vote separately thereon is as follows:

<u>Designation</u>	<u>No. of outstanding</u>	<u>No. of votes entitled to be cast</u>	<u>No. of votes cast for</u>	<u>No. of votes cast against</u>
Sterling-U.S.A. Group, Incorporated, a Connecticut corporation	200	<u>200</u>	<u>200</u>	0
Super-Max Corporation, a Texas corporation	200	200	200	0

4. With respect to each of **STERLING-U.S.A., INC.**, a Connecticut corporation, and **SUPER-MAX CORPORATION**, a Texas corporation, the approval plan of merger was duly authorized by all action required by the laws under which it was incorporated or organized and by its constituent documents.

DATED as of the 11 day of August, 2000.

SUPER-MAX CORPORATION, a Texas corporation

By: *Lester Campbell*  
Name: *Lester Campbell*  
Title: *Secretary*

**AGREEMENT AND PLAN OF MERGER  
OF  
STERLING-U.S.A., INC., a Connecticut corporation  
into  
SUPER-MAX CORPORATION, a Texas corporation**

THIS AGREEMENT AND PLAN OF MERGER ("Merger Agreement"), dated as of August 11, 2000, is made by and between **STERLING-U.S.A., INC.**, a Connecticut corporation ("Sterling"), and **SUPER-MAX CORPORATION**, a Texas corporation ("Super-Max"). Sterling and Super-Max are sometimes collectively referred to herein as the "Constituent Corporations".

**RECITALS:**

A. The respective Boards of Directors of Sterling and Super-Max deem it to be in the best interests of each such corporation, and have resolved, that Sterling be merged with and into Super-Max (the "Merger") under and pursuant to the laws of the State of Connecticut and the State of Texas in accordance with the terms and provisions of this Merger Agreement and the Articles of Merger and the Certificate of Merger (the "Articles of Merger"), substantially in the form of Exhibit "A" attached hereto;

B. Sterling was incorporated in the State of Connecticut on April 2, 1993, and Super-Max was incorporated in the State of Texas on June 23, 2000;

C. Sterling authorized capital stock consists of 200 shares of common stock, without par value. On the date hereof, 200 shares are issued and outstanding;

D. Super-Max authorized capital stock consists of 200 shares of common stock, without par value per share. On the date hereof, 200 shares are issued and outstanding;

E. The parties intend that the Merger shall qualify as a plan of reorganization within the provisions of Section 368(a)(1)(B) of the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, including the foregoing Recitals, the Constituent Corporations agree as follows:

Exhibit "A"

ARTICLE

THE MERGER

Section 1.1 Merger. At the Effective Time (as hereinafter defined) of the Merger, Sterling shall merge with and into Super-Max. Super-Max shall be the surviving corporation (the "Surviving Corporation") in the Merger and shall continue its corporate existence under the laws of the State of Texas.

Section 1.2 Effective Time of the Merger. The Merger shall become effective upon the filing of the properly executed Articles of Merger with the Texas Secretary of State pursuant to Article 5.04 of the Texas Business Corporations Act (the "Effective Time") and Certificate of Merger with the Secretary of State of the State of Connecticut pursuant to the provisions of the Connecticut Stock Corporation Act. Subject to the provisions of Section 5.1 herein, such filing shall be made at such time on or after the Closing Date (as hereinafter defined) as shall be determined by the Board of Directors of the Surviving Corporation, which Closing Date shall be the date on which the stockholders of Sterling have approved this Merger Agreement in the manner provided by the laws of the State of Connecticut and its articles of incorporation and bylaws (the "Closing Date").

Section 1.3 Effect of the Merger. At the Effective Time, (a) the separate existence of Sterling shall cease, and it shall be merged with and into the Surviving Corporation which shall possess all the rights, privileges, powers, and franchises of a public as well as of a private nature, and be subject to all the restrictions, disabilities, and duties of each of the Constituent Corporations; and all and singular, the rights, privileges, powers, and franchises of the Constituent Corporations, and all property, real, personal, and mixed, and all debts due to the Constituent Corporations on whatever account, as well as stock subscriptions and all other things in action or belonging to such Constituent Corporations, shall be vested in the Surviving Corporation; and all property, rights, privileges, powers, and franchises, and all and every other interest shall be thereafter the property of the Surviving Corporation as they were of the Constituent Corporations, and the title to any real estate vested by deed or otherwise, under the laws of any jurisdiction, in any of the Constituent Corporations, shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of any of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities, and duties of the Constituent Corporations shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it. At any time, or from time to time, after the Effective Time, the last acting officers of Sterling, or the corresponding officers of the Surviving Corporation, may, in the name of Sterling, execute and deliver all such proper deeds, assignments, and other instruments and take or cause to be taken all such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest, perfect, or confirm in the Surviving Corporation title to and possession of all of the Constituent Corporations' property, rights, privileges, powers, franchises, immunities, and interests and otherwise to carry out the purposes of this Merger Agreement.

Section 1.4 Status and Conversion of Capital Stock at Effective Time. At the Effective Time each share of common stock of Sterling issued and outstanding immediately before the Effective Time shall, by virtue of the Merger, be converted into 1 share of fully paid common stock of Super-Max which shall be issued by Super-Max.

Section 1.5 Surrender of Certificates by Shareholders of Sterling. At the Effective Time, certificates evidencing outstanding shares of common stock of Sterling shall evidence the right of the holder thereof to receive certificates for 1 share of fully paid shares of common stock of Super-Max for each share of Sterling then held. At the Effective Time, each holder of certificates evidencing outstanding shares of common stock of Sterling shall surrender such certificates to the Secretary of Super-Max, who shall act as the transfer agent for such shares to effect the exchange of certificates, and shall be entitled upon such surrender to receive in exchange therefor a certificate or certificates, dated the date of the Effective Time, representing 1 share of fully paid shares of common stock of Super-Max for each share of Sterling then held. If any certificate for shares of common stock of Super-Max is to be issued in a name other than that in which the certificate representing shares of Sterling surrendered in exchange therefor is registered, it shall be a condition of the issuance thereof that the certificate so surrendered shall be properly endorsed and otherwise be in proper form for transfer and that the person requesting such exchange pay to the transfer agent any transfer or other taxes required by reason of the issuance of a certificate for shares of Super-Max in any name other than that of the registered holder of the certificate surrendered or establish to the satisfaction of the transfer agent that such tax has been paid or is not payable.

## ARTICLE II

### THE SURVIVING CORPORATION

Section 2.1 Certificate of Incorporation. At the Effective Time, the certificate of incorporation of Super-Max shall remain the certificate of incorporation of the Surviving Corporation until further amended as provided by law.

Section 2.2 Bylaws. At the Effective Time, the bylaws of Super-Max shall remain the bylaws of the Surviving Corporation until further amended as provided therein.

Section 2.3 Directors and Officers. At the Effective Time, Rakesh Malhotra, David Ricciardi, Sushil Khot, and Lester Ganzfried shall be the directors of the Surviving Corporation and Rakesh Malhotra shall be the President of the Surviving Corporation, David Ricciardi shall be the Vice President of the Surviving Corporation, Sushil Khot shall be the Treasurer of the Surviving Corporation, and Lester Ganzfried shall be the Secretary of the Surviving Corporation.

ARTICLE

REPRESENTATIONS AND WARRANTIES AND COVENANTS

Section 3.1 Representations and Warranties. Each of the Constituent Corporations, on its own behalf, represents and warrants to the other Constituent Corporation that:

- (a) it is a corporation, duly incorporated, validly existing and in good standing under the laws of the state of its incorporation;
- (b) its authorized and issued and outstanding shares of capital stock are as reflected in the Recitals set forth above;
- (c) it has made such inquiries and conducted such investigations with respect to the assets, liabilities, financial records, and business affairs of the other Constituent Corporation as it deems appropriate to proceed with the Merger;
- (d) all approvals of its Board of Directors required under the laws of the State of Connecticut, the State of Texas and their certificates of incorporation or articles of incorporation and bylaws, for the approval of the Merger, and, for the execution and delivery of this Merger Agreement by its officers signing this Merger Agreement, have been obtained; and
- (e) subject to its obtaining the required approval of the Merger from its stockholders and the compliance with all filing requirements of the laws of the State of Connecticut and the laws of the State of Texas, no further action on its part is required to consummate the Merger.

Section 3.2 Covenants. Each of the Constituent Corporations, on its own behalf, covenants to the other Constituent Corporation that:

- (a) it will diligently proceed to satisfy the requirements of Section 4.1 hereof; and
- (b) upon obtaining the required approval of its stockholders, it will do all acts and cause its officers to execute and deliver all documents required of it to fully comply with all filing requirements of the State of Connecticut and the State of Texas in order to consummate the Merger.

ARTICLE IV

STOCKHOLDER APPROVAL AND FILINGS

Section 4.1 Stockholder Approval. Super-Max and Sterling both shall call a meeting of the corporation to be held at the earliest practicable date, upon due notice thereof to, or upon written waiver of notice by, for their stockholders to consider and vote upon, or, in the alternative obtain the



written consent of all of their stockholders, for approval of the Merger pursuant to this Merger Agreement.

Section 4.2 Filing of Articles and Certificate of Merger. If (a) the Merger and this Merger Agreement are approved by the stockholders of Super-Max and Sterling in accordance with the laws of the State of Connecticut, the laws of the State of Texas, and their respective articles of incorporation, certificate of incorporation and bylaws, and (b) this Merger Agreement is not thereafter terminated and abandoned as permitted by Section 5.1 herein, then the Articles of Merger shall be filed with the Secretary of State of the State of Texas, and the Certificate of Merger shall be filed with the Secretary of the State of Connecticut pursuant to Section 1.2 herein and the Merger shall be consummated.

## ARTICLE V

### TERMINATION

Section 5.1 Termination. This Merger Agreement may be terminated and the Merger abandoned at any time prior to the Effective Time, whether before or after the Closing Date, by the mutual consent of the Boards of Directors of the Constituent Corporations.

## ARTICLE VI

### MISCELLANEOUS

Section 6.1 Binding Agreement. This Merger Agreement shall be binding upon and shall inure to the benefit of the Constituent Corporations and their respective successors and assigns.

Section 6.2 Entire Agreement. This Merger Agreement sets forth the entire understanding among the Constituent Corporations concerning the subject matter of this Merger Agreement and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, among them, relating to the subject matter of this Merger Agreement other than those set forth herein. No alteration, amendment, change or addition to the Merger Agreement shall be binding on either Constituent Corporation unless in writing and signed by the party to be charged.

Section 6.3 Joint Preparation. This Merger Agreement is to be deemed to have been prepared jointly by the Constituent Corporations and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any party, but shall be interpreted according to the application of the rules of interpretation for arm's length agreements.

Section 6.4 Governing Law. This Merger Agreement shall in all respects be interpreted, construed and governed by and in accordance with the internal substantive law of the State of Texas.

Section 6.5 Counterparts. This Merger Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties have executed this Merger Agreement as of the date first above written.

SUPER-MAX CORPORATION, a Texas corporation

By: Lester Goodfriend  
Name: LESTER GOODFRIEND  
Title: Secretary

STERLING-U.S.A., INC., a Connecticut corporation

By: Lester Goodfriend  
Name: LESTER GOODFRIEND  
Title: Secretary

**CERTIFICATE OF MERGER OF  
STERLING-U.S.A., INC., a Connecticut corporation and  
SUPER-MAX CORPORATION, a Texas corporation**

1. The name of the surviving corporation in the merger is **SUPER-MAX CORPORATION**, a corporation organized and existing under the laws of the State of Texas.
2. The Plan of Merger is as follows: See enclosed Exhibit A.
3. The Plan of Merger was adopted by the merging corporations in the following manner:
  - (a) The Plan was approved by resolution adopted by the board of directors of each merging corporation.
  - (b) As to the approval of the Plan by the shareholders of each of the undersigned corporations, the designation, number of outstanding shares and number of votes entitled to be cast by each voting group entitled to vote separately on the Plan, and the total number of votes cast for and against the Plan by each voting group entitled to vote separately thereon is as follows:

<u>Designation</u>	<u>No. of outstanding</u>	<u>No. of votes entitled to be cast</u>	<u>No. of votes cast for</u>	<u>No. of votes cast against</u>
Sterling-U.S.A. Group, Incorporated, a Connecticut corporation	200	<u>200</u>	<u>200</u>	0
Super-Max Corporation, a Texas corporation	200	200	200	0

4. With respect to each of **STERLING-U.S.A., INC.**, a Connecticut corporation, and **SUPER-MAX CORPORATION**, a Texas corporation, the approval plan of merger was duly authorized by all action required by the laws under which it was incorporated or organized and by its constituent documents.

DATED as of the \_\_\_ day of August, 2000.

SUPER-MAX CORPORATION, a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ARTICLES OF MERGER  
OF  
STERLING-U.S.A., INC., a Connecticut corporation  
into  
SUPER-MAX CORPORATION, a Texas corporation**

Pursuant to the provisions of Article 5.04 of the Texas Business Corporation Act, the undersigned domestic and foreign corporations adopt the following Articles of Merger.

1. The names of the corporations participating in the merger and the States under the laws of which they are respectively organized are as follows:

<u>Name of Corporation</u>	<u>State</u>
STERLING-U.S.A., INC.	Connecticut
SUPER-MAX CORPORATION	Texas

2. The plan of merger adopted in accordance with the provisions of Article 5.04 of the Texas Business Corporation Act is on file at the principal place of business of the surviving corporation Forth Worth, Texas. The plan of merger will be furnished by the surviving corporation on written request and without cost to any shareholder of each corporation that is a party to the plan of merger.

3. The plan of merger was duly approved by the shareholders of each corporation as follows:

As to each of the undersigned corporations, the number of shares outstanding are as follows:

<u>Name of Corporation</u>	<u>Number of Shares Outstanding</u>
STERLING-U.S.A., INC., a Connecticut corporation	<u>200</u>
SUPER-MAX CORPORATION, a Texas corporation	200

No shares of any of the corporations are entitled to vote as a class.

4. As to each of the undersigned corporations, the total number of shares voted for and against the plan, respectively, are as follows:

<u>Name of Corporation</u>	<u>Total Voted For</u>	<u>Total Voted Against</u>
STERLING-U.S.A., INC., a Connecticut corporation	<u>200</u>	0
SUPER-MAX CORPORATION, a Texas corporation	200	0

5. With respect to each of STERLING-U.S.A., Inc., a Connecticut corporation, and SUPER-MAX CORPORATION, a Texas corporation, the approval of the plan of merger was duly authorized by all action required by the laws under which it was incorporated or organized and by its constituent documents.

6. SUPER-MAX CORPORATION, a Texas corporation, is to be the surviving corporation of the merger.

DATED as of the \_\_\_\_ day of August, 2000.

STERLING-U.S.A., INC., a Connecticut corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SUPER-MAX CORPORATION, a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



# The State of Texas

*SECRETARY OF STATE*

## CERTIFICATE OF MERGER

The undersigned, as Secretary of State of Texas, hereby certifies that the attached Articles of Merger of

STERLING-U.S.A., INC.  
a Connecticut no permit entity  
with  
SUPER-MAX CORPORATION  
a Texas corporation

have been received in this office and are found to conform to law. ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Merger.

Filed                    September 22, 2000

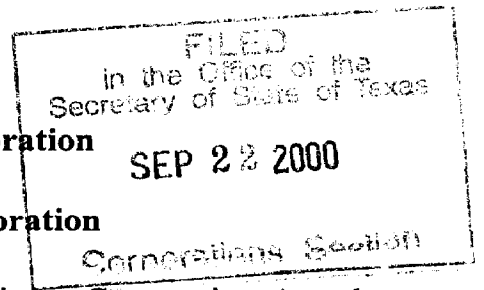
Effective             September 22, 2000



*Elton Bomer*  
*Secretary of State*  
**TRADEMARK**

REEL: 002181 FRAME: 0380

**ARTICLES OF MERGER  
OF  
STERLING-U.S.A., INC., a Connecticut corporation  
into  
SUPER-MAX CORPORATION, a Texas corporation**



Pursuant to the provisions of Article 5.04 of the Texas Business Corporation Act, the undersigned domestic and foreign corporations adopt the following Articles of Merger.

1. The names of the corporations participating in the merger and the States under the laws of which they are respectively organized are as follows:

<u>Name of Corporation</u>	<u>State</u>
STERLING-U.S.A., INC.	Connecticut
SUPER-MAX CORPORATION	Texas

2. The plan of merger adopted in accordance with the provisions of Article 5.04 of the Texas Business Corporation Act is on file at the principal place of business of the surviving corporation Fort Worth, Texas. The plan of merger will be furnished by the surviving corporation on written request and without cost to any shareholder of each corporation that is a party to the plan of merger. The principal place of business of the surviving entity is 4395 Diplomacy Road, Fort Worth, Texas 76155

3. The plan of merger was duly approved by the shareholders of each corporation as follows:

As to each of the undersigned corporations, the number of shares outstanding are as follows:

<u>Name of Corporation</u>	<u>Number of Shares Outstanding</u>
STERLING-U.S.A., INC., a Connecticut corporation	<u>200</u>
SUPER-MAX CORPORATION, a Texas corporation	200

No shares of any of the corporations are entitled to vote as a class.

There will be no amendments made to the articles of incorporation of the surviving entity.



4. As to each of the undersigned corporations, the total number of shares voted for and against the plan, respectively, are as follows:

<u>Name of Corporation</u>	<u>Total Voted For</u>	<u>Total Voted Against</u>
STERLING-U.S.A., INC., a Connecticut corporation	<u>200</u>	0
SUPER-MAX CORPORATION, a Texas corporation	200	0

5. With respect to each of STERLING-U.S.A., Inc., a Connecticut corporation, and SUPER-MAX CORPORATION, a Texas corporation, the approval of the plan of merger was duly authorized by all action required by the laws under which it was incorporated or organized and by its constituent documents.

6. SUPER-MAX CORPORATION, a Texas corporation, is to be the surviving corporation of the merger.

DATED as of the 11 day of August, 2000.

STERLING-U.S.A., INC., a Connecticut corporation

By: *Lester Conzried*  
Name: LESTER CONZRIED  
Title: Secretary

SUPER-MAX CORPORATION, a Texas corporation

By: *Lester Conzried*  
Name: LESTER CONZRIED  
Title: Secretary