

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings

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

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

<p>1. Name of conveying party(ies): <u>Cooker Corporation</u></p> <p><input type="checkbox"/> Individual(s)      <input type="checkbox"/> Association  <input type="checkbox"/> General Partnership      <input type="checkbox"/> Limited Partnership  <input checked="" type="checkbox"/> Corporation-State  <input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies) Name: <u>Cooker Restaurant Corporation</u> Internal Address: <u>Building A, Suite 106</u></p> <p>Street Address: <u>5151 Reed Road</u> City: <u>Columbus</u> State: <u>OH</u> Zip: <u>43220</u></p> <p><input type="checkbox"/> Individual(s) citizenship _____  <input type="checkbox"/> Association _____  <input type="checkbox"/> General Partnership _____  <input type="checkbox"/> Limited Partnership _____  <input checked="" type="checkbox"/> Corporation-State <u>Ohio corporation</u>  <input type="checkbox"/> Other _____</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No  (Designations must be a separate document from assignment)  Additional name(s) &amp; address(es) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
---	--

3. Nature of conveyance:

Assignment       Merger  
 Security Agreement       Change of Name  
 Other \_\_\_\_\_

Execution Date: April 13, 1988

<p>4. Application number(s) or registration number(s): A. Trademark Application No.(s)</p>	<p>B. Trademark Registration No.(s) <u>1,498,116</u></p> <p>Additional number(s) attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
--	---

<p>5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>Bruce A. Tassan</u> Internal Address: <u>Tassan Law Firm</u>  Street Address: <u>4143 27th Street N.</u>  City: <u>Arlington</u> State: <u>VA</u> Zip: <u>22207</u></p>	<p>6. Total number of applications and registrations involved: <u>1</u></p> <p>7. Total fee (37 CFR 3.41).....\$ <u>40.00</u>  <input type="checkbox"/> Enclosed  <input type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number: _____  (Attach duplicate copy of this page if paying by deposit account)</p>
---	---

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.*

Bruce A. Tassan      [Signature]      November 12, 2002  
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 Patent & Trademarks, Box Assignments Washington, D.C. 20231

11/15/2002 LMUELLER 00000319 1498116

01 FC:8521

40.00 DP

TRADEMARK REEL: 002618 FRAME: 0273

G365-0172



Department of State  
**The State of Ohio**  
**Sherrod Brown**  
Secretary of State

684439

 **Certificate** 

It is hereby certified that the Secretary of State of Ohio has custody of the Records of Incorporation and Miscellaneous Filings; that said records show the filing and recording of: MER AMD INC

\_\_\_\_\_ of:  
COOKER RESTAURANT CORPORATION

United States of America  
State of Ohio  
Office of the Secretary of State

Recorded on Roll 6365 at Frame 0174 of  
the Records of Incorporation and Miscellaneous Filings.

Witness my hand and the seal of the Secretary of State, at the  
City of Columbus, Ohio, this 13<sup>TH</sup> day of APRIL,  
A.D. 19 88.



*Sherrod Brown*  
**Sherrod Brown**  
Secretary of State

SEC 6002

G365-0172

684439  
APPROVED  
By: IAG  
Date: 4-13-1988  
Amount: \$ 50.00

CERTIFICATE OF MERGER

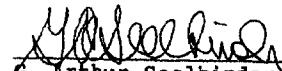
The undersigned, being the Chairman and Assistant Secretary, respectively, of COOKER CORPORATION, an Ohio corporation ("Cooker"), and the President and Assistant Secretary, respectively, of COOKER RESTAURANT CORPORATION, an Ohio corporation ("CRC"), in accordance with Section 1701.81 of the Ohio Revised Code (the "Code"), do hereby certify as follows:

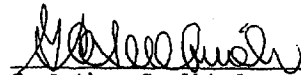
1. That a certain Merger Agreement, dated as of March 15, 1988, between Cooker and CRC, a copy of which is attached hereto (the "Merger Agreement"), was approved and adopted by the directors and shareholders of Cooker in a joint action taken without a meeting or meetings, in a writing approved and signed by all of the directors and all of the shareholders of Cooker, in accordance with Section 1701.54 of the Code;


2. That the Merger Agreement was approved by the directors of CRC in an action taken without a meeting, in a writing approved and signed by all of the directors of CRC, in accordance with Section 1701.54 of the Code; and


3. That the Merger Agreement was adopted by the shareholders of CRC at a meeting held for that purpose on April 13, 1988.

IN WITNESS WHEREOF, we have hereunto set our hands this 13th day of April, 1988.

  
G. Arthur Seelbinder,  
Chairman of Cooker  
Corporation

  
G. Arthur Seelbinder,  
President of Cooker  
Restaurant Corporation

  
Phillip H. Barrett,  
Assistant Secretary of  
Coker Corporation

  
Phillip H. Barrett,  
Assistant Secretary of  
Coker Restaurant  
Corporation

HAYES/53

G365-0175 ORIGINAL

MERGER AGREEMENT

THIS MERGER AGREEMENT is made as of March 15, 1988, between COOKER CORPORATION, an Ohio corporation ("Cooker"), and COOKER RESTAURANT CORPORATION, an Ohio corporation ("CRC"). (Cooker and CRC are sometimes hereinafter collectively referred to as the "Constituent Corporations," and, individually, as a "Constituent Corporation".)

RECITALS

A. Cooker is a corporation organized and existing under the laws of Ohio and is authorized to issue 1,000 common shares, without par value (the "Cooker Shares"). There are 936 Cooker Shares issued and outstanding as of the date hereof.

B. CRC is a corporation organized and existing under the laws of Ohio and is authorized to issue 15,000,000 common shares, without par value, of which 12,200,000 are designated Class A Common Stock (the "CRC Class A Shares") and 2,800,000 are designated Class B Common Stock (the "CRC Class B Shares"). There are 3,036,867 CRC Class A Shares and 2,800,000 CRC Class B Shares issued and outstanding as of the date hereof.

C. Cooker currently owns 2,500,000 CRC Class B Shares.

D. Simultaneously with their execution hereof, the Constituent Corporations have entered into a certain Supplemental Agreement with all of the shareholders of Cooker, which contains certain additional terms and conditions relating to the transactions contemplated hereunder (the "Supplemental Agreement").

E. The Constituent Corporations desire that Cooker be merged into CRC, in accordance with the terms and conditions contained herein and in the Supplemental Agreement.

F. This Agreement has been approved by the directors of both Constituent Corporations and adopted by the shareholders of Cooker.

AGREEMENT

The Constituent Corporations hereby agree as follows:

1. Merger. Cooker shall be merged into CRC in accordance with the terms and conditions contained herein and

0005-0172

in the Supplemental Agreement, and in accordance with the provisions of Section 1701.78 of the Ohio Revised Code (the "Merger"). CRC shall be the surviving corporation in the Merger. (CRC, as the surviving corporation in the Merger, as of and after the time when the Merger becomes effective, is hereinafter referred to as the "Surviving Corporation.")

2. Adoption by the Shareholders of CRC. This Agreement and the Supplemental Agreement shall be submitted to the shareholders of CRC for adoption, in accordance with the requirements of Section 1701.78 of the Ohio Revised Code, at a meeting to be held for that purpose on or before April 30, 1988. If this Agreement has not been adopted by the shareholders of CRC on or before April 30, 1988, it shall thereupon become null and void and neither party shall have any further obligations hereunder.

3. Certificate of Merger. Upon the adoption of this Agreement by the shareholders of CRC and the satisfaction of the conditions contained in the Supplemental Agreement, the appropriate officers of the Constituent Corporations shall execute and file in the office of the Secretary of State of Ohio a Certificate of Merger meeting the requirements of Section 1701.81 of the Ohio Revised Code (the "Certificate").

4. Effective Date. The Merger shall be effective as of the close of business on the date on which the Certificate has been filed in the office of the Secretary of State of Ohio (the "Effective Date"); provided, however, that the Merger shall be deemed to have become effective as of the close of business on March 31, 1988, for financial reporting purposes.

5. Articles of Incorporation of the Surviving Corporation. The Articles of Incorporation of CRC, as amended through the Effective Date, and as further amended in this paragraph 5, shall be the Articles of Incorporation of the Surviving Corporation. As of the time when the Merger becomes effective, Article FOURTH of the Articles of Incorporation of CRC shall be deleted in its entirety and the following shall be substituted in lieu thereof in the Articles of Incorporation of the Surviving Corporation:

FOURTH: The number of shares which the corporation is authorized to have outstanding is 15,000,000, all of which shall be common shares, without par value.

6. Regulations of the Surviving Corporation. The Regulations of CRC, as amended through the Effective Date, shall be the Regulations of the Surviving Corporation.

CONFIDENTIAL

7. Directors of the Surviving Corporation. The directors of CRC as of the Effective Date shall be the directors of the Surviving Corporation, until changed in accordance with the regulations of the Surviving Corporation.

8. Cancellation and Conversion of CRC Shares. As of the time when the Merger becomes effective:

(a) the CRC Class B Shares held by Cooker prior to the Effective Date shall be cancelled;

(b) all other outstanding CRC Class A Shares and CRC Class B Shares shall be converted into common shares of CRC, on a one-for-one basis, and all certificates evidencing a certain number of CRC Class A Shares or CRC Class B Shares shall thereafter be deemed to evidence a like number of common shares of CRC; and

(c) any and all outstanding options, warrants and other rights to subscribe for or purchase any number of CRC Class A Shares or CRC Class B Shares shall apply to a like number of common shares of CRC.

9. Substitution for Cooker Shares. As of the time when the Merger becomes effective, all outstanding Cooker Shares shall be cancelled, and each holder of Cooker Shares shall be entitled to receive 4,540.5983 common shares of CRC for each Cooker Share (and a proportionate part thereof for any fractional part of a Cooker Share) owned by such shareholder (the total number of such shares to be issued to each shareholder to be rounded-off to the nearest whole number of such shares) in substitution for his or her Cooker Shares, upon the surrender of the certificate or certificates evidencing such shares.

10. Effect of the Merger. As of the time when the Merger becomes effective:

(a) except as provided in Section 1701.82 of the Ohio Revised Code, the separate existence of Cooker shall cease;

(b) the Surviving Corporation shall possess all assets and property of every description, and every interest in the assets and property, wherever located, and the rights, privileges, immunities, powers, franchises and authority, of a public as well as of a private nature, of Cooker and CRC, and all obligations belonging to or due to Cooker or CRC, all of which shall be vested in the Surviving Corporation without further act or deed;

G365-0172

(c) the Surviving Corporation shall be liable for all of the obligations of Cooker and CRC, including liability to dissenting shareholders of either of them, if any;

(d) any claim existing, or action or proceeding pending, by or against Cooker or CRC, may be prosecuted to judgment, with right of appeal, as if the Merger had not taken place, or the Surviving Corporation may be substituted in its place; and

(e) all rights of creditors of Cooker and CRC are preserved unimpaired, and all liens upon the property of Cooker and CRC are preserved unimpaired, on only the property affected by such liens immediately prior to the time when the Merger becomes effective.

11. Further Actions by Directors and Officers of Cooker. The directors and officers of Cooker in office as of the Effective Date shall, upon request by the Surviving Corporation at any time and from time to time after the time when the Merger becomes effective, execute and deliver such instruments and take any and all other actions, for and on behalf of Cooker, as may be necessary to vest or perfect in the Surviving Corporation, or to confirm of record or otherwise, title to any and all of the assets, property, interests, rights, privileges, immunities, powers, franchises and authority of Cooker, and otherwise to carry out the purposes of this Agreement.

12. Termination. This Agreement may be terminated and the Merger abandoned, notwithstanding the adoption of this Agreement by the shareholders of Cooker or CRC, at any time prior to the filing of the Certificate in the office of the Secretary of State of Ohio, in the manner and upon the terms and conditions set forth in the Supplemental Agreement, whereupon this Agreement shall become null and void and neither party shall have any further obligations hereunder.

13. Amendments. This Agreement may be amended at any time prior to the filing of the Certificate in the office of the Secretary of State of Ohio, by a writing signed by both Constituent Corporations, provided that such amendment has been approved by the directors of both Constituent Corporations, and provided further that, after the adoption of this Agreement by the shareholders of a Constituent Corporation, no such amendment may be made without the approval of the shareholders of such Constituent Corporation, which would do any of the following:

(a) alter or change the amount or kind of shares, evidences of indebtedness, other securities, cash, rights or

0035-01.0

any other property to be received by the shareholders of such Constituent Corporation in substitution for their shares;

(b) alter or change any term of the Articles of Incorporation or Regulations of the Surviving Corporation, except for alterations or changes that could otherwise be adopted by the directors of the Surviving Corporation; or

(c) alter or change any other terms and conditions of this Agreement if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the holders of any class or series of shares of such Constituent Corporation.

IN WITNESS WHEREOF, the undersigned have executed this Merger Agreement as of the day and year first above written.

COOKER CORPORATION

By: G. Arthur Seelbinder  
G. Arthur Seelbinder, Chairman

COOKER RESTAURANT CORPORATION

By: G. Arthur Seelbinder  
G. Arthur Seelbinder, President

HAYES/52