

02-07-2003



102360184

M COVER SHEET

MARKS ONLY

Docket No.:

09745.0400

Tab settings

To the Honorable Com.

Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Microtest, Inc.

2-6-03

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

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

3. Nature of conveyance:

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

Execution Date: June 12, 2001

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

Name: Fluke Networks, Inc.

Internal Address:

Street Address: 6920 Seaway Boulevard

City: Everett State: WA ZIP: 98203

- 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

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

A. Trademark Application No.(s)

76/031,779

76/313,916

B. Trademark Registration No.(s)

1,635,366	2,451,661	2,488,514
2,239,601	2,444,660	
2,313,033	1,999,037	

Additional numbers attached? Yes No

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

Name: Damon L. Boyd

Internal Address: Snell & Wilmer

One Arizona Center

Street Address: 400 East Van Buren

City: Phoenix, State: AZ ZIP: 85004

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

9

7. Total fee (37 CFR 3.41):.....\$ \$240.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

19-2814

FINANCE SECTION
2002-6 PM 2:47
COMMUNICATIONS RECORDS

DO NOT USE THIS SPACE

02/07/2003 ECOOPER 00000058 76031779

01 FC:8521 40.00 DP
02 FC:8522 200.00 DP

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.

Damon L. Boyd

Name of Person Signing

Signature

30 January 2003

Date

Total number of pages including cover sheet, attachments, and documents

7

TRADEMARK

REEL: 002666 FRAME: 0630

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this "Agreement"), dated as of June 12, 2001, by and among Danaher Corporation, a Delaware corporation ("Parent"), Phoenix Acquisition Corp., a Delaware corporation and an indirect, wholly owned subsidiary of Parent (the "Purchaser"), and Microtest, Inc., a Delaware corporation (the "Company"). Unless otherwise expressly set forth, the term "Company" when used herein shall refer to Microtest, Inc. and each of its subsidiaries.

WHEREAS, the respective Boards of Directors of Parent, the Company and Purchaser, have approved the acquisition of the Company by Parent on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, pursuant to and subject to the terms and conditions of this Agreement the Purchaser has agreed to commence a tender offer (the "Offer") to purchase all of the Company's common stock, par value \$0.001 per share that are issued and outstanding, including the associated preferred share purchase rights (the "Rights") issued pursuant to the Rights Agreement, dated as of April 4, 2001, between the Company and American Stock Transfer & Trust Company as Rights Agent (the "Rights Agreement") (each share of common stock of the Company, together with its associated Rights, is referred to herein as a "Share" or "Common Share," and in the aggregate as the "Shares" or the "Common Shares") at a price per Share of \$8.15 net to the seller in cash (such amount or any greater amount per Share paid pursuant to the Offer being hereinafter referred to as the "Offer Price"); and

WHEREAS, the Board of Directors of the Company (the "Company Board") has, on the terms and subject to the conditions set forth herein, unanimously (i) approved the Offer and the Merger and adopted this Agreement in accordance with the General Corporation Law of the State of Delaware (the "GCL"), and (ii) resolved to recommend that the stockholders of the Company accept the Offer, tender their Shares pursuant to the Offer and approve the Merger (if such approval is required by applicable Law); and

WHEREAS, the Board of Directors of Purchaser, and Fluke Networks, Inc. as the sole stockholder of the Purchaser, have approved the merger of the Purchaser with and into the Company with the Company as the surviving corporation, as set forth below (the "Merger"), in accordance with the GCL, and upon the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, Parent, the Purchaser and the Company desire to make certain representations, warranties, covenants and agreements in connection with the Offer and the Merger and also to prescribe various conditions to the Offer and the Merger;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Parent, the Purchaser and the Company agree as follows:

Board shall not delegate any matter set forth in this Section 1.3(c) to any committee of the Company Board.

ARTICLE TWO
THE MERGER

Section 2.1 The Merger. Upon the terms and subject to the satisfaction or waiver of the conditions hereof, and in accordance with the applicable provisions of this Agreement and the GCL, at the Effective Time the Purchaser shall be merged with and into the Company. Following the Merger, the separate corporate existence of the Purchaser shall cease and the Company shall continue as the surviving corporation (the "Surviving Corporation"), and shall continue its existence under the GCL.

Section 2.2 Effective Time. As soon as practicable after the satisfaction or waiver of the conditions set forth in Section 7.1(a) and (b), but subject to satisfaction of the conditions set forth in Section 7.1(c) and (d), the Merger shall become effective as set forth in the certificate of merger which shall be filed with the Secretary of State of the State of Delaware. The parties shall take such other and further actions as may be required by Law to make the Merger effective. The time the Merger becomes effective in accordance with applicable Law is referred to herein as the "Effective Time." Prior to such filing, a closing (the "Closing") shall be held at the offices of Wilmer, Cutler & Pickering, 2445 M Street, Washington, D.C. 20037, or such other place as the parties shall agree, for the purpose of confirming the satisfaction or waiver, as the case may be, of the conditions set forth in Article Seven. The date on which the Closing occurs is referred to as the "Closing Date."

Section 2.3 Effects of the Merger. At and after the Effective Time the Merger shall have the effects set forth in Section 259 of the GCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the properties, rights, privileges, powers and franchises of the Company and the Purchaser shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and the Purchaser shall become the debts, liabilities and duties of the Surviving Corporation.

Section 2.4 Certificate of Incorporation and Bylaws of the Surviving Corporation.

(a) The certificate of incorporation of the Company, as in effect immediately prior to the Effective Time, shall be the certificate of incorporation of the Surviving Corporation until thereafter amended, subject to the provisions of Section 6.6 of this Agreement, in accordance with the provisions thereof and hereof and applicable Law.

(b) The bylaws of the Purchaser in effect at the Effective Time shall be the bylaws of the Surviving Corporation until amended, subject to the provisions of Section 6.6 of this Agreement, in accordance with the provisions thereof and applicable Law.

Execution Copy

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its respective officer thereunto duly authorized, all as of the day and year first above written.

DANAHER CORPORATION

By: Daniel L Comas
Name: _____
Title: _____

PHOENIX ACQUISITION CORP.

By: Daniel L Comas
Name: _____
Title: _____

MICROTEST, INC.

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its respective officer thereunto duly authorized, all as of the day and year first above written.

DANAHER CORPORATION

By: _____
Name: _____
Title: _____

PHOENIX ACQUISITION CORP.

By: _____
Name: _____
Title: _____

MICROTEST, INC.

By: *Frederick Heer* _____
Name: _____
Title: _____

SCHEDULE A
TRADEMARK REGISTRATIONS TRANSFERRED
FROM MICROTEST, INC. TO FLUKE NETWORKS, INC.
DUE TO MERGER

<u>TRADEMARK</u>	<u>REGISTRATION NO.</u>	<u>REGISTRATION DATE</u>
MICROTEST	1,635,366	February 19, 1991
CERTIFIBER	2,239,601	April 13, 1999
COMPAS	2,313,033	February 1, 2000
OMNIFIBER	2,451,661	May 15, 2001
OMNISCANNER	2,444,660	April 17, 2001
PENTASCANNER	1,999,037	September 10, 1996
SIMPLIFIBER	2,488,514	September 11, 2001

SCHEDULE A
TRADEMARK APPLICATIONS TRANSFERRED
FROM MICROTEST, INC. TO FLUKE NETWORKS, INC.
DUE TO MERGER

<u>TRADEMARK</u>	<u>SERIAL NO.</u>	<u>FILED DATE</u>
MICROTOOLS	76/031,779	April 21, 2000
PAIRSCANNER	76/313,916	September 18, 2001

AGREEMENT & PLAN OF MERGER

BY AND AMONG

DANAHER CORPORATION
("Parent")

PHOENIX ACQUISITION CORP.,
("Purchaser")

and

MICROTEST, INC.
(the "Company")

June 12, 2001