

02-20-2004

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Form PTO-1594  
(Rev. 10/02)  
OMB No. 0651-0027 (exp. 6/30/200)  
Tab settings



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EET 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.

1. Name of conveying party(ies):

Cooper Smith, Inc.

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

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

2. Name and address of receiving party(ies)

Name: EBCI, LLC

Internal Address:

Street Address: 8400 Maryland Avenue

City: St. Louis State: MO Zip: 63105

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other Limited Liability company

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
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: January 20, 2004

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1,800,215

1,933,117

Additional number(s) attached  Yes  No

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

Name: Nicholas J. Valenziano, Jr.

Internal Address:

LIWELLER 00000201 1000215

40.00 DA  
25.00 DA

Street Address: 1000 E. Hanes Mill Rd.

City: Winston-Salem State: NC Zip: 27105

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41) \$ 65.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

19-0142

DATE FEB 18 AM 7:46  
OPR/FINANCE

DO NOT USE THIS SPACE

9. Signature.

Missy Smith Frye  
Name of Person Signing

Missy Smith Frye  
Signature

2-13-04  
Date

Total number of pages including cover sheet, attachments, and document: 6

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

02-19-2004 LIWELLER 00000201 100143 1000215  
01-FC-8521 40.00-DA

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REEL: 002915 FRAME: 0867

## AGREEMENT AND PLAN OF REORGANIZATION

THIS AGREEMENT AND PLAN OF REORGANIZATION ("Agreement"), dated January ~~2004~~ 2004, among Cooper Smith, Inc., a Georgia corporation ("Cooper Smith (GA)"), Cooper Smith Group, Inc., a Colorado corporation ("Cooper Smith (CO)"), and EBCL, LLC, a Delaware limited liability company (the "LLC").

WHEREAS, Cooper Smith (CO) is a wholly-owned subsidiary of Cooper Smith (GA); and

WHEREAS, the LLC is a wholly-owned subsidiary of Cooper Smith (CO); and

WHEREAS, Cooper Smith (CO), Cooper Smith (GA) and the LLC deem it advisable and in the best interests of Cooper Smith (CO), Cooper Smith (GA) and the LLC that Cooper Smith (GA) reorganize into a holding company structure as set forth in this agreement, whereby (i) Cooper Smith (GA) will merge with and into the LLC (the "Merger"), in accordance with the Delaware Limited Liability Company Act (the "Delaware Act"), the Georgia Limited Liability Company Act (the "Georgia Act") and the Georgia Business Corporation Code (the "Georgia Code"), upon the terms and subject to the conditions of this Agreement, with the LLC to survive the Merger and (ii) shareholders of Cooper Smith (GA) will receive in consideration for the Merger certain shares of Cooper Smith (CO) as described herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereby agree, subject to the terms and conditions hereinafter set forth, as follows:

### ARTICLE I TERMS OF THE MERGER

SECTION 1.01. The Merger. Upon the terms and conditions hereof, and in accordance with Section 18-209 of the Delaware Act and Sections 14-11-901 and 14-11-902 of the Georgia Act, Cooper Smith (GA) shall be merged with and into the LLC and the LLC shall be the surviving entity in the Merger (the "Surviving Entity").

SECTION 1.02. Effective Time. As soon as practicable after approval of the Merger: (i) a Certificate of Merger shall be filed with the Secretary of State of Delaware as required by Section 18-209 of the Delaware Act, in substantially the same form attached hereto as Exhibit A, and (ii) Articles of Merger shall be filed with the Secretary of State of Georgia as required by Section 14-11-904 of the Georgia Act, in substantially the same form attached hereto as Exhibit B. The Merger shall be effective at 11:59 p.m., Eastern Time, on January 20, 2004 (the "Effective Time").

SECTION 1.03. Certain Effects of the Merger. After the Effective Time of the Merger (i) the separate existence of Cooper Smith (GA) shall cease and Cooper Smith (GA) shall be merged with and into the LLC and (ii) the Merger shall have all the effects set forth in the Delaware Act, the Georgia Act and the Georgia Code.

SECTION 1.04. Certificate of Incorporation and By-Laws. The Certificate of Formation and Limited Liability Company Agreement of the LLC as in effect immediately prior to the Effective Time shall be the Certificate of Formation and Limited Liability Company Agreement of the Surviving Entity.

SECTION 1.05. Directors and Officers of the Surviving Entity. The terms of office for each of the directors and officers of Cooper Smith (GA) immediately prior to the Effective Time shall end at the

Effective Time, and the authorized representatives of the LLC at the Effective Time shall continue to serve as authorized representatives of the Surviving Entity, until their earlier death, resignation or removal.

**ARTICLE II**  
**EFFECT OF MERGER ON CAPITAL STOCK AND MEMBER INTERESTS**  
**OF THE CONSTITUENT ENTITIES**

SECTION 2.01. Conversion of Common Stock of Cooper Smith (GA). At the Effective Time, (i) all shares of Common Stock, par value \$0.01 per share, of Cooper Smith (GA) ("Cooper Smith (GA) Common Stock"), which are outstanding immediately prior to the Effective Time, in the aggregate, shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into the right to receive, in the aggregate, 100 shares of Common Stock, no par value, of Cooper Smith (CO) (the "Common Stock Merger Consideration").

SECTION 2.02 Cancellation of Common Stock of Cooper Smith (CO). At the Effective Time of the Merger, by virtue of the Merger and without any action on the part of any holder thereof, each share of Common Stock, no par value, of Cooper Smith (CO) which is outstanding immediately prior to the Effective Time, all of which is held by Cooper Smith (GA), shall be canceled.

**ARTICLE III**  
**MISCELLANEOUS**

SECTION 3.01. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of all the parties hereto.

SECTION 3.02. Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

SECTION 3.03. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given to the respective parties when delivered in person, by cable, telegram, telex or telecopy, or when received by registered or certified mail (postage prepaid, return receipt requested), at their respective principal executive offices or at such other address as the person to whom notice is given may have previously furnished to the other in writing in the manner set forth above (provided that notice of any change of address shall be effective only upon receipt thereof).

SECTION 3.04. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware, without regard to its conflicts of law principles.

SECTION 3.05. Tax Effect of Merger. It is the intent of the parties that the merger and reorganization provided for herein shall qualify as a reorganization as defined in 368(A)(1)(F) of the Internal Revenue Code of 1986, as amended.

SECTION 3.06. Descriptive Headings. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

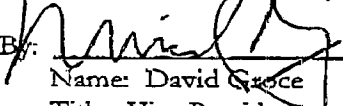
SECTION 3.07. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

SECTION 3.08. Parties in Interest. This Agreement shall be binding upon and inure to the benefit of each party hereto and their respective successors, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

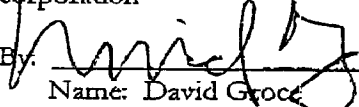
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IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first above written.

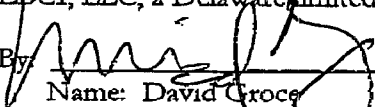
Cooper Smith, Inc. a Georgia corporation

By:   
Name: David Groce  
Title: Vice President

Cooper Smith Group, Inc., a Colorado corporation

By:   
Name: David Groce  
Title: President and Secretary

EBCI, LLC, a Delaware limited liability company

By:   
Name: David Groce  
Title: Authorized Person