

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
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SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	NUNC PRO TUNC ASSIGNMENT		
EFFECTIVE DATE:	12/31/1998		
<b>CONVEYING PARTY DATA</b>			
	<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>
	Surflife, Inc.		12/31/1998
			<b>Entity Type</b>
			PARTNERSHIP: CALIFORNIA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Wavetrak, Inc.		
<b>Street Address:</b>	300 Pacific Coast Highway		
<b>City:</b>	Huntington Beach		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	92648		
<b>Entity Type:</b>	CORPORATION: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 1</b>			
	<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>
	Registration Number:	2315667	SURF ALERT
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(214)981-3400		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
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ATTORNEY DOCKET NUMBER:	32046-01401		
NAME OF SUBMITTER:	Julia M. Chester		
Signature:	/Julia M. Chester/		

CH \$40.00 2315667

Date:

09/28/2009

**Total Attachments: 30**

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DECLARATION OF SEAN COLLINS  
UNDER 37 C.F.R. §2.20

I, Sean Collins, President of Surfline\Wavetrak, Inc., a Delaware corporation, current owner and registrant of SURF ALERT, Trademark Registration No. 2,315,667 ("the Mark") which is the subject of Registrant's Affidavit of Use/Application for Renewal under Sections 8 & 9 of the Trademark Act, have personal knowledge of the corporate events relating to the transfer of the Mark from Surfline, Inc., a California General Partnership to Surfline\Wavetrak, Inc., current and correct Applicant for Renewal which was filed on February 26, 2009.

The Mark was registered on February 8, 2000 to Surfline, Inc. a California General Partnership composed of General Partners Surfline, Inc., a California corporation, and Wavetrak, Inc., a California corporation ("Surfline partnership). In 1998, Wavetrak, Inc. purchased all shares of general partner Surfline, Inc., with Wavetrak, Inc. being the surviving corporation with all right, title and interest in and to the assets of the Surfline partnership.

On or about March 17, 2000, SURF Merger Sub, a Delaware corporation and wholly owned subsidiary of Swell, Inc., a Delaware corporation d/b/a Swell.com, Inc., merged with and into Wavetrak, Inc. with all right, title and interest in and to the assets of Wavetrak, Inc., including the Mark, reserved to SURF Merger Sub, the surviving corporation. Attached hereto as Exhibit A is a copy of the Assignment and Plan of Merger effecting the merger.

Simultaneous with the merger, SURF Merger Sub changed its name to Surfline, Inc., a Delaware corporation. Attached hereto as Exhibit B is a copy of the Delaware Secretary of State authentication of name change.

On or about October 4, 2001, Surfline, Inc. was merged into Swell, Inc., owner of all outstanding shares of stock of Surfline, Inc., with all property, including the Mark, thereafter vested in Swell, Inc. Attached as Exhibit C is a copy of the Certificate of Ownership and merger effecting the Merger.

The undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

SURFLINE\WAVETRAK, INC.

By: P.P.  MATT GALVIN

Sean Collins

Its: President

Exhibit A

## **AGREEMENT AND PLAN OF MERGER**

**Dated as of February 25, 2000, by and among**

**SWELL.COM, INC., a  
Delaware corporation ("Parent"),**

**SURF MERGER SUB, INC., a  
Delaware corporation ("Buyer"),**

**WAVETRAK, INC., a  
California corporation (the "Corporation"),**

**and**

**SEAN COLLINS, an  
Individual ("Shareholder")**

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## AGREEMENT AND PLAN OF MERGER

This **AGREEMENT AND PLAN OF MERGER**, dated as of February 25, 2000 (this "Agreement"), is entered into by and among Swell.com, Inc., a Delaware corporation ("Parent"), SURF Merger Sub, a Delaware corporation and wholly-owned subsidiary of Parent ("Buyer"), Wavetrak, Inc., a California corporation (the "Corporation"), and Sean Collins, an individual (the "Shareholder").

**WHEREAS**, the Corporation is in the business of creating, gathering and providing weather-related surf information for delivery through various multi-media, including but not limited to, facsimile service, telephone, and websites located on the internet/world wide web (the "Business");

**WHEREAS**, Shareholder owns all of the issued and outstanding capital stock of the Corporation (the "Corporation Stock");

**WHEREAS**, Parent and Buyer desire to acquire all of the outstanding capital stock and partnership interests, as the case may be, of the Corporation and its wholly-owned subsidiaries, including, but not limited to, Surflines, Inc., a California corporation and Surflines, a California general partnership (collectively, "Surflines Interests"), plus any tangible or intangible assets or rights of any kind owned or held outside of the Surflines Interests, related to, required or utilized in undertaking the Business including, but not limited to, the domain name and website known as www.surflines.com and all goodwill related thereto (together with the Surflines Interests, the "Assets"), other than the assets listed on Exhibit A (the "Excluded Assets");

**WHEREAS**, the parties hereto believe it is in the best interests of Parent, Parent's stockholders, Buyer, the Corporation and the Shareholder that Buyer acquire the Corporation through the merger of the Corporation with and into Buyer (the "Merger");

**WHEREAS**, in the Merger each outstanding share of the Corporation will be converted into the right to receive the Merger Consideration (as hereinafter defined);

**WHEREAS**, Parent, Buyer, Shareholder and the Corporation desire that the Merger be treated as a reorganization under the Internal Revenue Code of 1986, as amended, and the rules and regulations thereunder (the "Code");

**NOW, THEREFORE**, in consideration of the premises and of the mutual agreements, representations, warranties, provisions and covenants herein contained, the parties hereto agree as follows:

### 1. **THE MERGER.**

**1.1 The Merger.** Subject to the terms and conditions of this Agreement, at the Effective Time, the Corporation shall be merged with and into Buyer, with the Buyer as the surviving corporation (the "Surviving Corporation"), and the separate existence of the Corporation shall thereupon cease. Buyer shall continue as the Surviving Corporation, and with the same certificate of incorporation as in effect, immediately prior to the Effective Time. The

name of the Surviving Corporation shall be Surfline, Inc. The Surviving Corporation and the Corporation are sometimes referred to herein as the "Constituent Corporations."

**1.2 Effect of the Merger.** When the Merger has been effected, the Surviving Corporation shall thereupon and thereafter possess all the rights, privileges, immunities, powers and franchises, of a public as well as of a private nature, of the Constituent Corporations; all property, real, personal and mixed (including the Assets), and all debts due on whatever account and all choses in action, and all and every other interest, of or belonging to or due each of the Constituent Corporations shall be taken and deemed to be transferred to and vested in the Surviving Corporation without further act or deed; and the title to any real estate, or any interest therein, vested in Buyer, the Corporation or the Surviving Corporation shall not revert or be in any way impaired by reason of the Merger. The Surviving Corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the Constituent Corporations so merged; any claim existing or action or proceeding pending by or against any of the Constituent Corporations may be prosecuted as if the Merger had not taken place, or the Surviving Corporation may be substituted in its place. The Surviving Corporation shall have all the rights, privileges, immunities, powers and franchises and shall be subject to all the duties and liabilities of a corporation organized under the Delaware General Corporation Law ("DGCL"), and neither the rights of creditors nor any liens upon the respective properties of the Constituent Corporations and the Surviving Corporation shall be impaired by the Merger; all with the effect set forth in the DGCL.

**1.3 Effective Time of Merger.** Unless this Agreement is earlier terminated pursuant to Section 10, the closing of the Merger (the "Closing") will take place on the later of March 17, 2000, or (ii) two (2) business days following satisfaction or waiver of the conditions set forth in Section 5. The date upon which the Closing actually occurs is herein referred to as the "Closing Date." On the Closing Date, the parties hereto shall cause the Merger to be consummated by filing an Agreement of Merger (or like instrument), in substantially the form attached hereto as Exhibit B (the "Agreement of Merger"), with the Secretary of State of the State of California, and a certificate of merger with the Secretary of State of the State of Delaware, in accordance with the relevant provisions of applicable law. For purposes of this Agreement, the "Effective Time" shall mean the time on the Closing Date when the Merger shall become effective under Delaware law, which shall be 5:00 p.m., California time, on the Closing Date, or such other time as the parties may agree in writing.

**1.4 Certificate of Incorporation and Bylaws of the Surviving Corporation.** The certificate of incorporation of Buyer, as in effect immediately prior to the Effective Time, shall be the certificate of incorporation of the Surviving Corporation and the bylaws of Buyer, as in effect immediately prior to the Effective Time, shall be the bylaws of the Surviving Corporation.

**1.5 Directors and Officers of the Surviving Corporation.** The directors of Buyer immediately prior to the Effective Time shall be the directors of the Surviving Corporation, each to hold office in accordance with the certificate of incorporation and bylaws of the Surviving Corporation. The officers of the Surviving Corporation at and after the Effective Time shall be the officers of Buyer, each to hold office in accordance with the bylaws of the Surviving Corporation.

**1.6 Conversion of Corporation Stock.** At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Buyer, the Corporation or the Surviving Corporation, (i) each share of Corporation Stock that is held in the treasury of the Corporation shall be canceled and retired immediately prior to the Effective Time, and no payment or distribution shall be made with respect thereto, and (ii) each share of Corporation Stock issued and outstanding immediately prior to the Effective Time, shall be canceled and retired and shall be converted into the right to receive the following (collectively, the "Merger Consideration"):

(a) Subject to adjustment as provided in Section 1.9, an amount of cash determined by dividing (x) \$4,250,000, less the Net Working Capital Adjustment (as defined in Section 1.9(d)) and less the Surfline Payments (as defined below) by (y) the number of shares of Corporation Stock issued and outstanding immediately prior to the Effective Time (the "Cash Consideration"); and

(b) a number of shares of Parent's Common Stock determined by dividing (x) 5,666,664 shares by (y) the number of shares of Corporation Stock issued and outstanding immediately prior to the Effective Time (the "Common Stock Consideration").

"Surfline Payments" shall mean (a) the \$40,000 payment to be made to The Surf Hotline under the Sale and Joint Venture Agreement dated January 3, 2000 between Surfline, a California general partnership, and The Surf Hotline plus; (b) the payment in the amount of \$30,000 otherwise due on or before June 30, 2000 from the Corporation to Jerry Arnold, in connection with that certain Agreement for Purchase and Sale of Stock dated as of December 3, 1998 between the Corporation, Jerry Arnold and Surfline, Inc. (the "December 1998 Agreement"); plus (c) payments made in connection with the full pay-off of outstanding business credit lines from the Bank of America to the Corporation and Surfline, Inc. under outstanding Advantage Business Credit Line/Loan Agreements with such bank; plus (d) payments aggregating \$50,000 representing amounts paid by Shareholder to certain employees of the Corporation; minus (e) \$50,000. Prior to the Closing, Parent shall pay to the Corporation an amount in cash equal to the Surfline Payments less \$50,000 (the "Parent Payment").

**1.7 Payment of Merger Consideration.** At the Closing, Shareholder shall deliver to Buyer a completed Accredited Investor Questionnaire (as defined in Section 3.40(e)). At the Closing, upon delivery of a completed Accredited Investor Questionnaire, Parent shall issue to Shareholder the Merger Consideration, in accordance with Sections 2.2 and 2.3, to which the Shareholder is entitled under Section 1.6 with respect to the number of shares of Corporation Stock held of record by the Shareholder immediately prior to the Effective Time. Parent shall be entitled to deduct and withhold from the Merger Consideration such amounts as Parent is

Pages 4-9 redacted

(c) Section 3.8(c) of the Corporation Disclosure Schedule lists, to the extent not otherwise included in Schedule 3.8(a), 3.8(b) or the Financial Statements, all claims, liens, pledges, options, charges, easements, security interests, deeds of trust, mortgages, rights-of-way, covenants, conditions, restrictions, encumbrances or other rights of third parties ("Encumbrances") secured by or otherwise affecting any asset of the Corporation and its Subsidiaries (including any facilities), including a description of the nature of such Encumbrance, the amount secured if it secures a Liability, the nature of the Liability secured, and the party holding such Encumbrance.

(d) Neither the Corporation nor Shareholder has any Liability to Jerry Arnold, other than the payment of \$30,000 owed by the Corporation to Jerry Arnold.

Neither the Corporation nor its Subsidiaries has made any payment or committed to make any payment since the Interim Balance Sheet Date on or with respect to any of the Liabilities listed on Sections 3.8(a), (b) and (c) of the Corporation Disclosure Schedule except, in the case of Liabilities listed on Sections 3.8(a) and (c), of the Corporation Disclosure Schedule periodic payments required to be made under the terms of the agreements or instruments governing such Liabilities, and except for any Surpline Payments.

### 3.9 Personal Property.

Section 3.9 of the Corporation Disclosure Schedule lists all material items of the tangible, personal property and fixed assets (other than real estate) of the Corporation and its Subsidiaries. All of the Corporation's vehicles, machinery and equipment necessary for the operation of its business (collectively, the "Equipment") (i) have been maintained in the ordinary course of business, (ii) are in operable condition, and (iii) are in material compliance with all applicable laws, rules and regulations. All such pieces of Equipment are free of known defects that would cause them to fail. All leases of fixed assets are in full force and effect and binding upon the parties thereto and neither the Corporation nor its Subsidiaries or to the knowledge of the Corporation and Shareholder, any other party to such leases is in breach of any of the material provisions thereof.

### 3.10 Permits and Licenses.

Section 3.10 of the Corporation Disclosure Schedule is a full and complete list of all permits, licenses, titles, certificates, franchises, approvals, clearances, authorizations, consents or orders of or filings with any governmental authority, or any owned by, issued to or held by the Corporation, any of its Subsidiaries or the Shareholder which relate to the Business (the "Governmental Permits"). Any material conditions to the Governmental Permits and, if applicable, the expiration dates thereof, are also described in Section 3.10 of the Corporation Disclosure Schedule. Section 3.20 of the Corporation Disclosure Schedule also sets forth the name of any governmental agency from whom Shareholder, the Corporation, its Subsidiaries, Parent or Buyer must obtain consent (the "Required Governmental Consents") in order to effect a direct or indirect transfer of the Governmental Permits required as a result of the consummation of the transactions contemplated by this Agreement. All of the Governmental Permits enumerated and listed on Section 3.10 of the Corporation Disclosure Schedule are adequate for the operation of the business of the Corporation and its Subsidiaries as presently

Pages 11-24 redacted

involving remediation of any condition of any of the Facilities pursuant to the Environmental Laws.

3.25 Powers of Attorney. Neither the Corporation nor any of its Subsidiaries have granted any power of attorney or entered into any agency or similar agreement whereby a third party may bind or commit the Corporation in any manner.

3.26 [RESERVED].

3.27 Litigation, Proceedings and Applicable Law. As of the Closing Date, there are no actions pending at law or in equity or before or by any governmental authority or instrumentality or before any arbitrator of any kind, or to the knowledge of the Corporation and Shareholder, threatened or anticipated:

(a) against, related to or affecting (i) the Corporation, the Subsidiaries, the Business or the Assets (including with respect to Environmental Laws), (ii) any Employee Plan of the Corporation or any Subsidiary or any trust or other funding instrument, fiduciary or administrator thereof, (iii) any officers or directors of the Corporation or any Subsidiary in their capacity as such;

(b) seeking to delay, limit or enjoin, or that would have the effect of delaying, limiting or enjoining the consummation of the transactions contemplated hereby; or

(c) in which the Corporation or any Subsidiary is a plaintiff, including any derivative suits brought by or on behalf of the Corporation or any Subsidiary.

Section 3.27 of the Corporation Disclosure Schedule contains a description of any such actions that have been resolved during the two-year period immediately preceding the Closing Date, including the terms and conditions of, and other material information related to, the resolution. To the knowledge of the Corporation and Shareholder, there is no valid basis for any other action, proceeding or investigation not listed in Section 3.27 of the Corporation Disclosure Schedule, and neither the Corporation nor Shareholder is aware of any facts that may provide a basis for any such action, proceeding or investigation in the future. The Corporation is not in default with respect to or subject to any court order, and there are no unsatisfied judgments against the Corporation, the Business, the Assets or any Subsidiary which individually or in the aggregate may have a material adverse effect on the business, assets, operations, prospects, financial condition of the Corporation and its Subsidiaries. There are no court orders or agreements with, or liens by, any governmental authority or quasi-governmental entity relating to any Environmental Law which regulate, obligate, bind or in any way affect the Corporation or any Subsidiary or any Facility or Facility formerly occupied, managed or owned by the Corporation or any of its Subsidiaries.

3.28 Proprietary Rights.

(a) Section 3.28 of the Corporation Disclosure Schedule lists, among other things, all trademarks, service marks, internet or world wide web domain names



(URLs) or addresses and related registrations and pending applications, owned by each of the Corporation and its Subsidiaries.

(b) Each of the Corporation and its Subsidiaries owns or has the right to use, possess, license, copy, modify, publicly display, publish, make derivative works of, sell, distribute, market, advertise and/or dispose of all Proprietary Rights necessary for or currently used in the operation of its business free and clear of all Encumbrances other than licenses granted to third parties and other matters listed in Section 3.28 of the Corporation Disclosure Schedule. None of the activities or business conducted by the Corporation or any of its Subsidiaries now, nor have they in the past, infringe or violate any patent (to the knowledge of the Corporation and Shareholder), trademark, trade name, copyright, or other intellectual property rights of any person, or constitute a misappropriation of any trade secret, know-how, confidential information or any other intellectual property right of any person. Exercise of any of the Proprietary Rights transferred by the Corporation and Shareholder Subsidiaries to Parent and Buyer will not infringe or otherwise violate the patent (to the knowledge of the Corporation and Shareholder), trademark, trade name, copyright, or other intellectual property rights of any person, or constitute a misappropriation of any trade secret, know-how, confidential information or any other intellectual property right of any person. None of the Corporation, its Subsidiaries nor Shareholder has received any complaint, claim or notice alleging or threatening any such infringement, violation or misappropriation, and neither the Corporation any Subsidiaries or Shareholder knows or has reason to believe that there are any claims of third parties alleging any such infringement, violation or misappropriation, or has any reason to believe that there exists any basis for any such claim or claims. Neither the Corporation nor any of its Subsidiaries has sent any notice or communication alleging that any other person or entity is or was infringing, violating or misappropriating any of the intellectual property owned or used by the Corporation or any of its Subsidiaries in the conduct of its business.

(c) To the knowledge of the Corporation and Shareholder, all Proprietary Rights are valid and enforceable rights of the Corporation and its Subsidiaries in those countries in which the Corporation and its Subsidiaries conduct business on the Closing Date and will not cease to be valid and in full force and effect by reason of the execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby in any country in which the Corporation and its Subsidiaries offer their products/services or otherwise conduct business on the Closing Date. There are not any restrictions on the rights of the Corporation or any of its Subsidiaries, and it is reasonably expected that after the Closing Date there will not be any restrictions on the Corporation's or its Subsidiaries' right, to sell products manufactured or services provided by the Corporation in connection with its business that incorporate or contain the Proprietary Rights in any country in which the Corporation or any Subsidiary sells its products or otherwise conducts business on the Closing Date.

(d) Except as set forth in Section 3.28 to the Disclosure Schedule, none of the Corporation or its Subsidiaries or Shareholder has granted any license or other right to any third party with respect to the use, possession, copying, modification, sale, distribution, marketing, advertisement and/or disposition of any of the Proprietary

Rights owned or used by the Corporation or any Subsidiary in the conduct of its business. Section 3.28 of the Corporation Disclosure Schedule sets forth a complete and correct list of all licenses, sublicenses and other agreements ("Licenses") as to which the Corporation or any of its Subsidiaries is a party and pursuant to which any person is authorized to use any Proprietary Rights of the Corporation or any Subsidiary or pursuant to which the Corporation or any Subsidiary is authorized to use any Proprietary Rights of any other person. There have been no unauthorized disclosures of any trade secret or confidential information of the Corporation or its Subsidiaries to any third party by the Corporation any Subsidiary or any of its employees or consultants and there has been no breach of any confidentiality or non-disclosure agreement to which the Corporation or any Subsidiary is a party.

(e) As used in this Section 3.28, "Proprietary Rights" means all patents, patent applications, copyrights, internet domain names, internet or world wide web URLs or addresses, trademarks, service marks, trade names, trade dress, trade secrets, know-how, technologies, ideas, processes, computer software programs, as well as all registrations and pending applications for registration of any of the foregoing in any jurisdiction, and including each license, sublicense or other contract relating thereto.

(f) Section 3.28 of the Corporation Disclosure Schedule sets forth a list of all computer software incorporated by the Corporation and its Subsidiaries into its products and services (the "Computer Software"). Except for Computer Software which is licensed to the Corporation and its Subsidiaries pursuant to licenses identified in Section 3.28 of the Corporation Disclosure Schedule or as otherwise set forth in such schedule, each of the Corporation and its Subsidiaries exclusively owns all rights to the Computer Software incorporated in its products or services, and no royalties, fees, honoraria or other payment are required for the Surviving Corporation to continue to exclusively own and use the Computer Software. Licenses for Computer Software identified in the Corporation Disclosure Schedule are fully transferable to the Surviving Corporation at no additional cost to Parent, Buyer or the Surviving Corporation.

### 3.29 [RESERVED]


3.30 Manufacturers, Suppliers and Customers. The relations between the Corporation and its Subsidiaries and its customers are good. None of the Corporation, its Subsidiaries nor Shareholder has knowledge of any fact (other than general economic and industry conditions) which indicates that any of the manufacturers or suppliers supplying products, components or materials to the Corporation and its Subsidiaries intend to cease providing such items to the Corporation and its Subsidiaries, nor does the Corporation, its Subsidiaries or Shareholder have knowledge of any fact (other than general economic and industry conditions) which indicates that any of the customers of the Corporation or its Subsidiaries intends to terminate, limit or reduce its business relations with the Corporation or any Subsidiary.

3.31 Absence of Certain Business Practices. None of the Corporation, its Subsidiaries or Shareholder has directly or indirectly within the past five years given or agreed to give any gift or similar benefit to any customer, supplier, governmental employee or other person

Pages 28-52 redacted

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by persons thereunto duly authorized as of the date first above written.

**THE CORPORATION:** WAVETRAK, INC., a California corporation

  
\_\_\_\_\_  
Sean Collins  
President

**THE SHAREHOLDER:**

  
\_\_\_\_\_  
SEAN COLLINS

**PARENT:** SWELL.COM, INC., a Delaware corporation

\_\_\_\_\_  
Jeffrey A. Berg  
Chairman of the Board

**BUYER:** SURF MERGER SUB, INC., a Delaware corporation

\_\_\_\_\_  
Nicholas Nathanson  
President

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by persons thereunto duly authorized as of the date first above written.

**THE CORPORATION:** WAVETRAK, INC., a California corporation

\_\_\_\_\_  
Sean Collins  
President

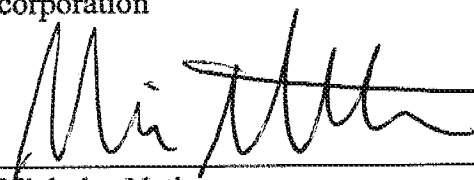
**THE SHAREHOLDER:**

\_\_\_\_\_  
SEAN COLLINS  
\_\_\_\_\_

**PARENT:** SWELL.COM, INC., a Delaware corporation

  
\_\_\_\_\_  
Jeffrey A. Berg  
Chairman of the Board

**BUYER:** SURF MERGER SUB, INC., a Delaware corporation

  
\_\_\_\_\_  
Nicholas Nathanson  
President

A  
B  
C  
D  
E  
F  
G

Schedules redacted

SECTION 3.6

SUBSIDIARIES

Subsidiaries  
Surflite, Inc.

Percent Ownership  
100%



Interests in other Entities

Each of Wavetrak, Inc. and Surflite, Inc. are partners in Surflite, a California general partnership.

**SECTION 3.28**

**PROPRIETARY RIGHTS<sup>1</sup>**

**3.28(a)**

All rights in and to the following marks:

<b><u>Type of Right</u></b>	<b><u>Identification</u></b>	<b><u>Holder</u></b>	<b><u>Class</u></b>
Trademark; ServiceMark (U.S.)	Reg. No. 1,894,138; Serial No. -- 74- 419374; <u>Wave-Trak</u> <u>Surf Report and</u> <u>Forecast Sean etc.</u> <u>and design</u>	Sean Collins	25, 41
Service Mark (CA)	#041197 <u>976•SURF</u>	Surf line, Inc.	100
Mark (FL)	#T92000000011 <u>976•SURF</u>	Surf line, Inc.	41
Trademark (U.S.); <b>Note: Trademark Application assigned to Sean Collins in May 1996 but registration process not completed. Registration process is now in process.</b>	Serial No. 74-660635 <u>SURFOLOGY 101</u>	Sean Collins	9
Service Mark (U.S.)	#75/668,868 <u>SURFLINE</u>	Sean Collins	42
Trademark (U.S.)	<u>SURFLIVE</u> (Application filed 11/99-- Application pending) Serial No. 75-846,572	Sean Collins	42

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<sup>1</sup> Any proprietary right that is indicated as being owned by Sean Collins individually, has been or will be assigned to Wavetrak, Inc. prior to the Closing.



<u>Type of Right</u>	<u>Identification</u>	<u>Holder</u>	<u>Class</u>
Trademark (U.S.)	<u>BEACHLIVE</u> (Application filed 11/99-- Application pending) Serial No. 75-848,355	Sean Collins	42
ServiceMark (U.S.)	#75/496,901 <u>SURFALERT</u>	Surflines GP	42
Service Mark (U.S.)	#75/496,904 <u>SURF ALERT</u>	Surflines GP	42
Service Mark <b>NOTE: Application Pending</b>	<u>Wavifax</u>	Surflines GP/Surflines, Inc.	42
Domain Name (URL)	<u>Surflines.Com</u> NIC-990121.182d	Surflines/Wavetrak	N/A
Domain Name (URL)	<u>Wavetrak.Com</u> NIC-990213.64f9	Sean Collins	N/A
Domain Name (URL)	<u>Surflines.Com</u> NIC-990213.64e4	Surflines/Wavetrak	N/A
Domain Name (URL)	<u>Beachlives.Com</u> NIC-	Surflines/Wavetrak	N/A
Domain Name (URL)	<u>Surfology.Com</u> NIC-990213.64f8	Sean Collins	N/A
Domain Name (URL)	<u>Marinelives.Com</u> NIC-991223.cfdf	Sean Collins	N/A
Domain Name (URL)	<u>Surflineslives.Com</u> NIC-	Surflines GP	N/A
Trademark (U.S.) <b>NOTE: REGISTRATION CANCELED PURSUANT TO SECTION 8; TRADEMARK WAS FOR CLOTHING WHICH IS NO LONGER USED</b>	Reg. No. 1,561,110 <u>976•SURF</u>	Surflines, Inc.	25

Schedules redacted

Exhibit B

Office of the Secretary of State

OCT 5 2001

BILL JONES, Secretary of State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "SURF MERGER SUB, INC.", FILED A CERTIFICATE OF MERGER, CHANGING ITS NAME TO "SURFLINE, INC.", THE SEVENTEENTH DAY OF MARCH, A.D. 2000, AT 1 O'CLOCK P.M.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

3173142 8320

AUTHENTICATION: 1376501

010495637

DATE: 10-04-01

**AMENDED STATEMENT BY FOREIGN CORPORATION**

Surfline, Inc., a corporation organized and existing under the laws of the State of Delaware, and which is presently qualified for the transaction of intrastate business in the State of California, makes the following statement:

That the name of the Corporation has been changed to that hereinabove set forth and that the name relinquished at the time of such change was Surf Merger Sub, Inc.

Surfline, Inc., a Delaware corporation

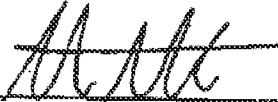
By:   
Nicholas Nathanson, President



Exhibit C

State of Delaware  
Office of the Secretary of State

PAGE 1

I, HARRIET SMITH WINDSOR, 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:

"SURELINE, INC.", A DELAWARE CORPORATION,

WITH AND INTO "SWELL, INC." UNDER THE NAME OF "SWELL, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE FIFTH DAY OF OCTOBER, A.D. 2001, AT 6 O'CLOCK P.M.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

3040943 8100M

AUTHENTICATION: 1418913

010545484

DATE: 10-30-01

TRADEMARK  
REEL: 004069 FRAME: 0776

STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
10:06:00 PM 10/05/2001  
110498535 - 3040943

**CERTIFICATE OF OWNERSHIP AND MERGER**  
**Merging**  
**SURFLINE, INC.**  
**(a Delaware corporation)**  
**with and into**  
**SWELL, INC.**  
**(a Delaware corporation)**

Swell, Inc., a Delaware corporation (this "Corporation"), hereby certifies that:

1. This Corporation is incorporated pursuant to the Delaware General Corporation Law (the "DGCL").
2. This Corporation is the owner of all of the outstanding shares of stock of Surfline, Inc., a Delaware corporation ("Surfline").
3. This Corporation hereby merges Surfline with and into the Corporation pursuant to Section 253 of the DGCL.
4. The following is a true and correct copy of the resolutions adopted on October 3, 2001 by the board of directors of this Corporation to merge Surfline into this Corporation:

"RESOLVED, that Surfline be merged with and into this Corporation, and that all of the estate, property rights, privileges, powers, and franchises of Surfline be vested in and held and enjoyed by this Corporation, as the surviving corporation, as fully and entirely and without change or diminution as the same were before held and enjoyed by Surfline in its name;

RESOLVED FURTHER, that this Corporation assume all of the obligations of Surfline; and

RESOLVED FURTHER, that this Corporation shall cause to be executed, filed and recorded the documents prescribed by the laws of the State of Delaware and any other appropriate jurisdiction and will cause to be performed all necessary acts prescribed by the laws of those jurisdictions."

IN WITNESS WHEREOF, this Corporation has caused this Certificate of Ownership and Merger to be executed by its duly authorized officer this 4th day of October, 2001.

Swell, Inc.,  
a Delaware corporation

By: /s/ Nicholas Nathanson  
Nicholas Nathanson  
President

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