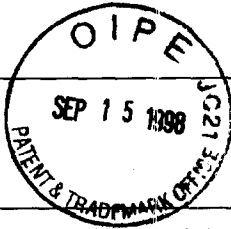


09-29-1998

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PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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

*MRD 9-15-98*

1. Name of conveying party(ies):  
Deacon Research  
Additional name(s) of conveying party(ies) attached?  Yes  No

2. Name and address of receiving party(ies):  
Name: Gemfire Corporation  
Address: 2471 E. Bayshore Road #600  
Palo Alto, CA 94303  
Additional name(s) & address(es) attached?  Yes  No

3. Nature of conveyance:  
 Assignment  Merger  
 Security Agreement  Change of Name  
 Other \_\_\_\_\_  
Execution Date: August 4, 1997

4. Application number(s) or patent number(s):  
A. Patent Application No.:  
08/877,535 Filed: 6/17/97  
08/874,847 Filed: 6/13/97  
08/876,653 Filed: 6/16/97  
08/876,921 Filed: 6/16/97  
08/972,673 Filed: 11/18/97  
Additional numbers attached?  Yes  No  
If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

B. Patent No(s):

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: Warren S. Wolfeld, Esq.  
Address: Fliesler, Dubb, Meyer & Lovejoy  
Four Embarcadero Center, Suite 400  
San Francisco, CA 94111  
Telephone: (415) 362-3800

6. Total Number of applications and patents involved: 1 X \$40.00 each  
7. Total fee (37 CFR 3.41).....\$ 40.00  
 Check Enclosed  
8. Fee Authorization. Authorization is given to charge any additional fees or credit any overpayment to Deposit Account No. 06-1325.  
Copy. (A duplicate copy of this authorization is **not** enclosed.)

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.*  
Warren S. Wolfeld *Warren S. Wolfeld* 9/11/98  
Attorney (Reg. No.: 31,454) Signature Date

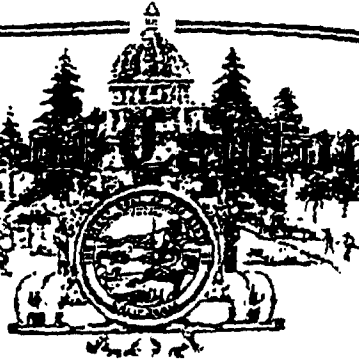
10. Total number of pages to be recorded: 9 (1 page cover sheet and 8 page document).

09/28/1998 DNGUYEN 00000134 00877535

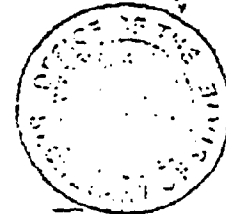
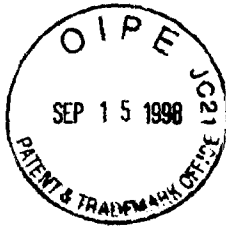
01 FC:581 40.00 OP

Attorney Docket No.: GEMF1017WSW  
/wsw/gemf/1017div4.103

# State of California



SECRETARY OF STATE



I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

*IN WITNESS WHEREOF*, I execute this certificate and affix the Great Seal of the State of California this

AUG 28 1997



Secretary of State



A496562

ENDORSED FILED  
In the office of the Secretary of State  
of the State of California

AUG 21 1997

BILL JONES, Secretary of State

**AGREEMENT OF MERGER**

THIS AGREEMENT OF MERGER ("*Agreement of Merger*") is made as of August 4, 1997, by and among Gemfire, a California corporation ("*Gemfire*") and Deacon Research, a California corporation ("*Deacon Research*").

**RECITALS**

A. Gemfire was incorporated in the State of California. As of the date hereof, Gemfire's authorized capital consists of 50,000,000 shares of Common Stock, no par value ("*Gemfire Common Stock*") and 10,000,000 shares of Preferred Stock, no par value ("*Gemfire Preferred Stock*"). All of the shares of Gemfire Preferred Stock have been designated Series A Preferred Stock ("*Gemfire Series A Preferred Stock*").

B. Deacon Research was incorporated in the State of California. The authorized capital stock of Deacon Research consists of 50,000,000 shares of Common Stock, no par value ("*Deacon Research Common Stock*") and 15,200,000 shares of Preferred Stock, no par value ("*Deacon Research Preferred Stock*"). All of the shares of Preferred Stock have been designated Series A Preferred Stock ("*Deacon Research Series A Preferred Stock*").

C. Gemfire and Deacon Research have entered into an Agreement of Merger and Plan of Reorganization dated as of August 4, 1997 (the "*Plan*"), providing for the merger of Gemfire with and into Deacon Research (the "*Merger*"), with Deacon Research to survive the Merger.

D. The Boards of Directors of Gemfire and Deacon Research deem it advisable and in the best interests of their respective shareholders that the Merger be consummated.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. **Merger and Effective Time.** Upon the filing of this Agreement of Merger (the "*Effective Time*") and the related officers' certificates with the Secretary of State of the State of California in accordance with the California Corporations Code, Gemfire shall be merged with and into Deacon Research. Deacon Research shall be the surviving corporation (the "*Surviving Corporation*").

2. **Effect of the Merger.** At and upon the Effective Time, the separate existence of Gemfire shall cease, and Deacon Research shall succeed, without other transfer, to all the rights and property of Gemfire and shall be subject to all the debts and liabilities of Gemfire in the same manner as if Deacon Research had itself incurred them, all without further act or deed.

3. **Articles of Incorporation.** At and upon the Effective Time, the Articles of Incorporation of Deacon Research in effect immediately prior to the Effective Time shall be the Articles of incorporation of the Surviving Corporation, without change or amendment, except that Article I thereof shall be amended to read in its entirety as follows:

**"ARTICLE I**

644220.1

PATENT  
REEL: 9475 FRAME: 0073

The name of this corporation is GEMFIRE CORPORATION."

4. Conversion of Outstanding Shares of Gemfire Common Stock. Each share of Gemfire Common Stock that is issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at and as of the Effective Time, into one share of Deacon Research Common Stock, except for the 1,500,000 shares of outstanding Gemfire Common Stock owned by Deacon Research, which shares shall be canceled as of the Effective Time.

5. Conversion of Outstanding Shares of Gemfire Series A Preferred Stock. Each share of Gemfire Series A Preferred Stock that is issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at and as of the Effective Time, into one share of Deacon Research Series A Preferred Stock.

6. Assumption of Gemfire Warrants and Gemfire Options. Subject to the terms and conditions of the Plan, at the Effective Time, the Surviving Corporation will assume (a) each warrant to purchase shares of Gemfire Common Stock ("*Gemfire Warrant*") that is outstanding immediately prior to the Effective Time, and (ii) each option to purchase Gemfire Common Stock ("*Gemfire Option*"), whether vested or unvested, that is outstanding immediately prior to the Effective Time, and each such Gemfire Warrant and each such Gemfire Option shall become a warrant or an option, as the case may be, to purchase shares of Deacon Research Common Stock on the same terms and conditions applicable to each such Gemfire Warrant and each such Gemfire Option immediately prior to the Effective Time of the Merger.

7. No Fractional Shares. No fractional shares of either Deacon Research Common Stock or Deacon Research Series A Preferred Stock will be issued in the Merger.

8. Dissenting Shares. If holders of Gemfire Common Stock or Gemfire Series A Preferred Stock are entitled to dissenters' rights in connection with the Merger under Chapter 13 of the California General Corporation Law, any Dissenting Shares shall not be converted into shares of Deacon Research Common Stock and Deacon Research Series A Preferred Stock as provided in Sections 4 and 5 above, but shall be converted into the right to receive such consideration as may be determined to be due with respect to such Dissenting Shares pursuant to Chapter 13 of the California General Corporation Law.

9. Rights After the Effective Time. As soon as practicable after the Effective Time, each holder of record of a certificate or certificates which, prior to the Effective Time, represented outstanding shares of Gemfire Common Stock or Gemfire Series A Preferred Stock shall be entitled, upon surrender of such certificate or certificates (or in the case of a certificate or certificates that have been lost, stolen or destroyed, lost certificate affidavits therefor and indemnification in connection therewith) to the Surviving Corporation, in form suitable for transfer, to receive a certificate or certificates representing the number of whole shares of Deacon Research Common Stock or Deacon Research Series A Preferred Stock, respectively, to which such shareholder is entitled under Sections 4 and 5. Until such surrender, each certificate shall be deemed for all purposes to evidence the right to receive such consideration; provided, however, that until such certificate or certificates are so surrendered, no dividend or other distribution payable to the holder

of record of such consideration after the Effective Time shall be paid in respect of such certificate or certificates.

10. **Further Assurances.** From time to time, as and when required by the Surviving Corporation or by its successors or assigns, there shall be executed and delivered on behalf of Gemfire and Deacon Research such deeds and other instruments, and there shall be taken or cause to be taken by it, all such further action as shall be appropriate, advisable or necessary in the reasonable opinion of the Surviving Corporation to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation, the title to and possession of all property, interests, assets, rights, privileges, immunities, powers, franchisees and authorities of Gemfire and Deacon Research, and otherwise to carry out the purposes of this Agreement of Merger. The officers and the directors of the Surviving Corporation are fully authorized in the name of and on behalf of Gemfire and Deacon Research, or otherwise, to take any and all such action and to execute and deliver any and all such deeds and other instruments to accomplish the foregoing.

11. **Abandonment.** At any time before the Effective Time, this Agreement of Merger may be terminated and the Merger abandoned in the event that the Plan is terminated in accordance with its terms, or with the approval of the Boards of Directors of Gemfire and Deacon Research, notwithstanding the approval of this Agreement of Merger by the shareholders of Gemfire and Deacon Research.

12. **Amendment.** At any time before the Effective Time, this Agreement of Merger may be amended, modified or supplemented by the Boards of Directors of Gemfire and Deacon Research, notwithstanding the approval of this Agreement of Merger by the shareholders of Gemfire and Deacon Research; *provided, however*, that no such amendment, modification or supplement not approved by the shareholders may materially adversely affect the benefits intended under this Agreement of Merger for such shareholders.

13. **Governing Law.** This Agreement of Merger shall be governed by and construed

[The remainder of this page has intentionally been left blank.]

under the internal laws of the State of California as applied to Agreement of Mergers among California residents entered into and to be performed entirely within California without reference to principles of conflicts of law.

14. ~~COUNTERPARTS~~. In order to facilitate the filing and recording of this Agreement of Merger, it may be executed in counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, Gemfire and Deacon Research have executed this Agreement of Merger as of the first date written above.

GEMFIRE.

DEACON RESEARCH

By: 

Rick Tompans, President

By: 

Olive H. C. Lee-Deacon, President  
and Secretary

By: 

Olive H. C. Lee-Deacon, Treasurer and  
Corporate Secretary

**EXHIBIT "1"**

**AGREEMENT OF MERGER  
by and between  
GEMFIRE  
and  
DEACON RESEARCH**

\* \* \*

**(Attached Hereto)**

600220.1

**GEMFIRE**  
**(a California Corporation)**


**CERTIFICATE OF APPROVAL OF MERGER**

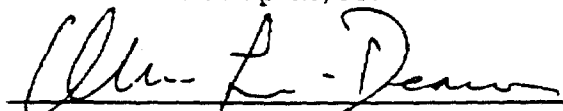
Rick Tompane and Olive H.C. Lee-Deacon hereby certify that they are the President and Secretary, respectively, of **GEMFIRE**, a California corporation (the "*Company*") and that:

1. The principal terms of the Agreement of Merger, dated as of August 4, 1997, by and between the Company and Deacon Research, a California corporation, set forth in Exhibit "1" attached hereto and made a part hereof by this reference (the "*Agreement of Merger*"), have been duly approved by the Board of Directors of the Company; and
2. The principal terms of the Agreement of Merger have been duly approved by the required vote of the shareholders of the Company in accordance with Section 1201 of the California Corporations Code. The Company has two classes of stock, and the number of outstanding shares is 11,404,000 shares of Common Stock and 10,000,000 shares of Series A Preferred Stock. The number of shares of Common Stock and Series A Preferred Stock of the Company voting in favor of the Agreement of Merger set forth herein equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Common Stock and more than 50% of the outstanding shares of the Series A Preferred Stock.

**IN WITNESS WHEREOF**, the undersigned further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Dated: August 4, 1997

  
Rick Tompane, President

  
Olive H. C. Lee-Deacon, Secretary



DEACON RESEARCH  
(a California Corporation)

CERTIFICATE OF APPROVAL OF MERGER

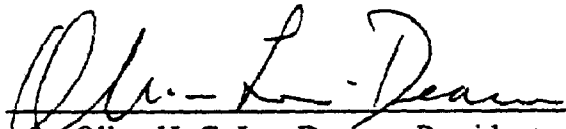
Olive H.C. Lee-Deacon hereby certifies that she is the President and Secretary of

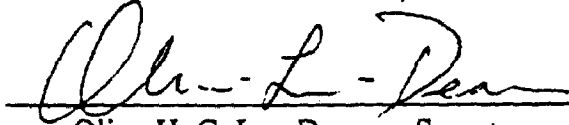
DEACON RESEARCH, a California corporation (the "*Company*") and that:

1. The principal terms of the Agreement of Merger, dated as of August 4, 1997, by and between the Company and Gemfire, a California corporation, set forth in Exhibit "I" attached hereto and made a part hereof by this reference (the "*Agreement of Merger*"), have been duly approved by the Board of Directors of the Company; and
2. The principal terms of the Agreement of Merger have been duly approved by the required vote of the shareholders of the Company in accordance with Section 1201 of the California Corporations Code. The Company has two classes of stock, and the number of outstanding shares is 1,016,500 shares of Common Stock 4,940,000 shares of Series A Preferred Stock. The number of shares of Common Stock and Series A Preferred Stock of the Company voting in favor of the Agreement of Merger set forth herein equaled or exceeded the vote required. The percentage vote required was more than 50% of the outstanding shares of Common Stock and more than 50% of the outstanding shares of the Series A Preferred Stock.

IN WITNESS WHEREOF, the undersigned further declares under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of her own knowledge.

Dated: August 4, 1997

  
Olive H. C. Lee-Deacon, President

  
Olive H. C. Lee-Deacon, Secretary