

04-24-2001

U.S. Department of Commerce  
Patent and Trademark Office  
**PATENT**



101684406  
**RECORDATION FORM COVER SHEET  
PATENTS ONLY**

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

**Submission Type**

☒ New

☐ Resubmission (Non-Recordation)  
Document ID#

☐ Correction of PTO Error  
Reel #  Frame #

☐ Corrective Document  
Reel #  Frame #

**Conveyance Type**

☐ Assignment ☐ Security Agreement

☐ License ☐ Change of Name

☒ Merger ☐ Other

**U.S. Government**  
(For Use ONLY by U.S. Government Agencies)

☐ Departmental File ☐ Secret File

**Conveying Party(ies)**

☐ Mark if additional names of conveying parties attached

Execution Date  
Month Day Year  
7/21/2000

Name (line 1) Over The Moon Productions, Inc.

Name (line 2)

**Second Party**

Name (line 1)

Name (line 2)

Execution Date  
Month Day Year

**Receiving Party**

☐ Mark if additional names of receiving parties attached

Name (line 1) Gateway Companies, Inc.

Name (line 2)

Address (line 1) 610 Gateway Drive

Address (line 2)

Address (line 3) N. Sioux City

South Dakota

57049

City

State/Country

Zip Code

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name Kenneth J. Cool

Address (line 1) Gateway, Inc

Address (line 2) 610 Gateway Drive Mail Drop Y-04

Address (line 3) North Sioux City, South Dakota 57049

Address (line 4)

**FOR OFFICE USE ONLY**

04/23/2001 GTON11 00000146 500439 09021361  
01 FC:581 120.00 CH

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

**PATENT**  
**REEL: 011696 FRAME: 0744**

## Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

## Pages

Enter the total number of pages of the attached conveyance document  
including any attachments.

#

## Application Number(s) or Patent Number(s)

☐

Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

## Patent Application Number(s)

09/021,361

09/021,568

09/021,362

## Patent Number(s)

If this document is being filed together with a new Patent Application, enter the date the patent application was  
signed by the first named executing inventor.

Month Day Year

## Patent Cooperation Treaty (PCT)

Enter PCT application number  
only if a U.S. Application Number  
has not been assigned.

PCT

PCT

PCT

PCT

PCT

PCT

## Number of Properties

Enter the total number of properties involved.

#

3

## Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

120.00

Method of Payment:

Deposit Account

Enclosed ☐Deposit Account ☒

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

50-0439

Authorization to charge additional fees:

Yes

☒

No

☐

## 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. Charges to deposit account are authorized, as  
indicated herein.

Kenneth J. Cool Reg. No. 40,570

03/29/2001

Name of Person Signing

Signature

Date

Office of the Secretary of State

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"OVER THE MOON PRODUCTIONS, INC.", A TEXAS CORPORATION,  
WITH AND INTO "GATEWAY COMPANIES, INC." UNDER THE NAME OF  
"GATEWAY COMPANIES, INC.", A CORPORATION ORGANIZED AND EXISTING  
UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED  
IN THIS OFFICE THE THIRTY-FIRST DAY OF JULY, A.D. 2000, AT 1  
O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE  
NEW CASTLE COUNTY RECORDER OF DEEDS.



A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

2391341 8100M

001385265

AUTHENTICATION: 0591405

DATE: 07-31-00

PATENT  
REEL: 011696 FRAME: 0746

**CERTIFICATE OF MERGER  
OF  
OVER THE MOON PRODUCTIONS, INC.  
a Texas Corporation  
INTO  
GATEWAY COMPANIES, INC.  
a Delaware Corporation**

GATEWAY COMPANIES, INC., a corporation organized and existing under the laws of the State of Delaware, DOES HEREBY CERTIFY THAT:

**FIRST:** That the name and state of incorporation of the constituent corporations of the merger are as follows:

<u>NAME</u>	<u>STATE OF INCORPORATION</u>
Over the Moon Productions, Inc.	Texas
Gateway Companies, Inc.	Delaware

**SECOND:** That an Agreement and Plan of Merger, by and between Over the Moon Productions, Inc., a Texas corporation ("Over the Moon"), and Gateway Companies, Inc. ("Gateway"), has been approved, adopted, certified, executed and acknowledged by the constituent corporations and their respective stockholders in accordance with the requirement of subsection (c) of Section 252 of the General Corporation Law of the State of Delaware (the "GCL"). The sole holder of the outstanding capital stock of each of the constituent corporations approved the Agreement and Plan of Merger by written consent in accordance with Section 228 of the GCL and Article 9.10(A) of the Texas Business Corporation Act. The Agreement and Plan of Merger is attached as Exhibit A.

**THIRD:** The surviving corporation shall be Gateway Companies, Inc., a Delaware corporation (the "Surviving Corporation").

**FOURTH:** That the Certificate of Incorporation and Bylaws of Gateway as in effect immediately prior to the effective time of the merger shall be the Certificate of Incorporation and Bylaws of the Surviving Corporation.

**FIFTH:** That the executed Agreement and Plan of Merger is on file at an office of the Surviving Corporation. The address of the office of the Surviving Corporation at which a copy of the executed Agreement and Plan of Merger is on file is 4545 Towne Centre Court, San Diego, California 92121.

SIXTH: That a copy of the Agreement and Plan of Merger will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: The effective date of the merger shall be July 31 2000.

IN WITNESS WHEREOF, Gateway Companies, Inc. has caused this Certificate of Merger to be executed on its behalf by its authorized officer this 21 day of July, 2000.

GATEWAY COMPANIES, INC.  
a Delaware corporation

By: William M. Elliott  
William M. Elliott  
Senior Vice President, General Counsel  
and Secretary

**EXHIBIT A**

**AGREEMENT AND PLAN OF MERGER  
BETWEEN  
OVER THE MOON PRODUCTIONS, INC.  
a Texas Corporation  
AND  
GATEWAY COMPANIES, INC.  
a Delaware Corporation**

This Agreement and Plan of Merger ("Agreement"), is made this 21 day of July, 2000, by and between Over the Moon Productions, Inc., a Texas corporation ("Over the Moon"), and Gateway Companies, Inc., a Delaware corporation ("Gateway").

**WITNESSETH:**

WHEREAS, Over the Moon and Gateway desire to consummate the merger of Over the Moon with and into Gateway pursuant to Section 252 of the Delaware General Corporation Law (the "DCGL") and Article 5.01 of the Texas Corporation Act (the "TCA"), upon consummation of which Gateway shall be the surviving corporation (the "Merger");

WHEREAS, each of the Boards of Directors of Over the Moon and Gateway has approved this Agreement and the consummation of the Merger;

WHEREAS, the sole shareholder of each corporation, Gateway, Inc., a Delaware corporation, has approved the Agreement and consummation of the Merger by written consent of sole shareholder of Over the Moon and Gateway;

NOW, THEREFORE, in consideration of the promises and mutual agreement and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties thereto hereby agree as follows:

**ARTICLE I  
THE MERGER**

**Section 1.01 – The Merger**

(a) Pursuant to the terms of this Agreement, Over the Moon shall merge with and into Gateway, whereupon the separate existence of Over the Moon shall cease, and

Gateway shall be the surviving corporation ("Surviving Corporation") of the Merger, in accordance with Section 252 of the DGCL and Article 5.01 of the TCA.

(b) Gateway, as the Surviving Corporation, shall continue its existence as a corporation under the laws of the State of Delaware.

(c) The effective date of the merger shall be July 31, 2000 (the "Effective Date").

(d) At the Effective Date, the effect of the Merger shall be as provided in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Date, all the property, rights, privileges, powers and franchises of Over the Moon and Gateway shall vest in Gateway as the Surviving Corporation, and all debts, liabilities, obligations, and duties of Over the Moon and Gateway shall become debts, liabilities, obligations and duties of Gateway as the Surviving Corporation.

## ARTICLE II THE SURVIVING CORPORATION

Section 2.01 – The Surviving Corporation. The Surviving Corporation shall be Gateway Companies, Inc.

Section 2.02 – The Certificate of Incorporation. The Certificate of Incorporation of Gateway, as amended, in effect at the Effective Date shall be the Certificate of Incorporation of the Surviving Corporation, until duly amended in accordance with the terms thereof and the DGCL.

Section 2.03 – Bylaws. The Bylaws of Gateway in effect at the Effective Date shall be the Bylaws of the Surviving Corporation, until duly amended in accordance with the terms thereof and the DGCL.

Section 2.04 – Directors and Officers. The directors and the officers of Gateway at the Effective Date shall, from and after the Effective Date, be the directors and officers of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Certificate of Incorporation and Bylaws.

## ARTICLE III TREATMENT OF SHARES OF OVER THE MOON AND SHARES OF GATEWAY

Section 3.01 – Cancellation of Common Shares of Over the Moon. At the Effective Date, each share of common stock of Over the Moon issued and outstanding

immediately prior to the Effective Date of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be canceled and cease to exist and no consideration shall be delivered in exchange therefor.

Section 3.02 – Shares of Gateway to Remain Outstanding. At the Effective Date, each share of common stock of Gateway issued and outstanding immediately prior to the Effective Date of the Merger shall remain outstanding as a share of common stock of the Surviving Corporation and shall be unaffected by the Merger.

#### ARTICLE IV AMENDMENT; TERMINATION

Section 4.01 – Termination. This Agreement may be terminated and the Merger may be abandoned by mutual written consent of the Boards of Over the Moon and Gateway at any time prior to the Effective Date.

Section 4.02 – Effect of Termination. If this Agreement is terminated pursuant to Section 4.01, this Agreement shall become void and of no effect with no liability on the part of each party hereto.

Section 4.03 – Amendment. The parties hereto, by mutual consent of the Boards of Over the Moon and Gateway, may amend, modify, or supplement this Agreement in such manner as may be agreed upon by them in writing at any time prior to the Effective Date; provided, however, that no such amendment, modification, or supplement shall be adopted except in accordance with Section 251(d) of the DGCL.

#### ARTICLE V MISCELLANEOUS

Section 5.01 – No Waivers. No failure or delay by any party thereto in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude the exercise of any other right, power, or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 5.02 – Execution of Addition Documents. If at any time after the Effective Date, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either of Over the Moon or Gateway acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or otherwise to carry out this Agreement, the officers and directors of the Surviving Corporation are hereby authorized to execute and deliver, in the name and on behalf of each of Over the Moon and Gateway or otherwise, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on



behalf of each of Over the Moon and Gateway or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

Section 5.03 – Integration. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings, written or oral, between and among the parties with respect to the subject matter hereof.

Section 5.04 – Successors and Assigns. The provisions of this Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective successors and assigns, provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto.

Section 5.05 – Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to principles of conflicts of law.

Section 5.06 – Severability. In the event that one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

Section 5.07 – Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 21 day of July, 2000.

OVER THE MOON PRODUCTIONS, INC.  
a Texas corporation


GATEWAY COMPANIES, INC.  
a Delaware corporation

By: William M. Elliott  
William M. Elliott  
Secretary

By: William M. Elliott  
William M. Elliott  
Senior Vice President, General Counsel  
and Secretary

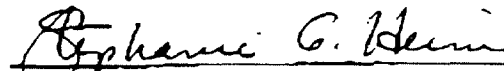
I, Stephanie G. Heim, Assistant Secretary of Over the Moon Productions, Inc., a corporation organized and existing under the laws of the State of Texas (the "Corporation"), hereby certify pursuant to the provisions of Article 5.01 of the Texas Corporation Act (the "TCA"), that Gateway, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Article 9.10(A) of the TCA, has consented to the merger of the Corporation with and into Gateway Companies, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement and Plan of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Over the Moon Productions, Inc., this 21 day of July, 2000.

  
By: Stephanie G. Heim  
Its: Assistant Secretary

I, Stephanie G. Heim, Assistant Secretary of Gateway Companies, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 252 of the Delaware General Corporation Law (the "DGCL"), that Gateway, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of Over the Moon Productions, Inc., a Texas corporation, with and into the Corporation, on the terms and conditions set forth in the Agreement and Plan of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Gateway Companies, Inc., this 21 day of July, 2000.

  
By: Stephanie G. Heim  
Its: Assistant Secretary



# The State of Texas

*SECRETARY OF STATE*

## CERTIFICATE OF MERGER

The undersigned, as Secretary of State of Texas, hereby certifies that the attached Articles of Merger of

OVER THE MOON PRODUCTIONS, INC.

a Texas corporation

with

GATEWAY COMPANIES, INC.

a Delaware corporation

have been received in this office and are found to conform to law. ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Merger.

Filed                July 31, 2000

Effective        July 31, 2000



*Elton Bomer*  
Secretary of State  
**PATENT**

REEL: 011696 FRAME: 0754

**FILED**  
**In the Office of the**  
**Secretary of State of Texas**

**JUL 31 2000**

**ARTICLES OF MERGER**  
**(Plan Attached)**  
**of**  
**OVER THE MOON PRODUCTIONS, INC.**  
**a Texas corporation**  
**AND**  
**GATEWAY COMPANIES, INC.**  
**a Delaware corporation**

**Corporations Section**

Pursuant to the provisions of Article 5.04 of the Texas Business Corporation Act, the undersigned corporations adopt the following Articles of Merger.

An Agreement and Plan of Merger has been adopted in accordance with the provisions of Article 5.03 of the Texas Business Corporation Act providing for the merger of Over the Moon Productions, Inc., resulting in Gateway Companies, Inc. being the surviving corporation. The Agreement and Plan of Merger is set forth as Exhibit A.

1. The names of the corporations participating in the merger and in the states under the laws of which they are respectively organized are as follows:

<u>NAME</u>	<u>STATE OF INCORPORATION</u>
Over the Moon Productions, Inc.	Texas
Gateway Companies, Inc.	Delaware

2. The Agreement and Plan of Merger was duly approved by Gateway, Inc., a Delaware corporation, the sole shareholder of each corporation.

3. As to each of the undersigned corporations, the approval of whose shareholders is required, the number of shares outstanding, and, if the shares of any class or series are entitled to vote as a class, the designation and number of outstanding shares of each such class or series are as follows:

Over the Moon Productions, Inc.	1,000 Shares of Common Stock Holder: Gateway, Inc.
Gateway Companies, Inc.	3,000 Shares of Common Stock Holder: Gateway, Inc.

4. As to each foreign corporation that is a party to the Agreement and Plan of Merger, the approval of the Agreement and Plan of Merger was duly authorized by all

action required by the laws under which it was incorporated or organized and by its constituent documents.

5. Gateway Companies, Inc., the surviving corporation, will be responsible for the payment of all fees and franchise taxes of the merged corporations and will be obligated to pay such fees and franchise taxes if the same are not timely paid.

6. The effective date of the merger shall be July 31, 2000.

IN WITNESS WHEREOF, the parties have executed the Articles of Merger this 21 day of July, 2000.

OVER THE MOON PRODUCTIONS, INC.  
a Texas corporation

GATEWAY COMPANIES, INC.  
a Delaware corporation

By: William M. Elliott  
William M. Elliott  
Secretary

By: William M. Elliott  
William M. Elliott  
Senior Vice President, General Counsel  
and Secretary

**EXHIBIT A**

**AGREEMENT AND PLAN OF MERGER  
BETWEEN  
OVER THE MOON PRODUCTIONS, INC.  
a Texas Corporation  
AND  
GATEWAY COMPANIES, INC.  
a Delaware Corporation**

This Agreement and Plan of Merger ("Agreement"), is made this 21 day of July, 2000, by and between Over the Moon Productions, Inc., a Texas corporation ("Over the Moon"), and Gateway Companies, Inc., a Delaware corporation ("Gateway").

**WITNESSETH:**

WHEREAS, Over the Moon and Gateway desire to consummate the merger of Over the Moon with and into Gateway pursuant to Section 252 of the Delaware General Corporation Law (the "DCGL") and Article 5.01 of the Texas Corporation Act (the "TCA"), upon consummation of which Gateway shall be the surviving corporation (the "Merger");

WHEREAS, each of the Boards of Directors of Over the Moon and Gateway has approved this Agreement and the consummation of the Merger;

WHEREAS, the sole shareholder of each corporation, Gateway, Inc., a Delaware corporation, has approved the Agreement and consummation of the Merger by written consent of sole shareholder of Over the Moon and Gateway;

NOW, THEREFORE, in consideration of the promises and mutual agreement and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties thereto hereby agree as follows:

**ARTICLE I  
THE MERGER**

**Section 1.01 – The Merger**

(a) Pursuant to the terms of this Agreement, Over the Moon shall merge with and into Gateway, whereupon the separate existence of Over the Moon shall cease, and

Gateway shall be the surviving corporation ("Surviving Corporation") of the Merger, in accordance with Section 252 of the DGCL and Article 5.01 of the TCA.

(b) Gateway, as the Surviving Corporation, shall continue its existence as a corporation under the laws of the State of Delaware.

(c) The effective date of the merger shall be July 31, 2000 (the "Effective Date").

(d) At the Effective Date, the effect of the Merger shall be as provided in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Date, all the property, rights, privileges, powers and franchises of Over the Moon and Gateway shall vest in Gateway as the Surviving Corporation, and all debts, liabilities, obligations, and duties of Over the Moon and Gateway shall become debts, liabilities, obligations and duties of Gateway as the Surviving Corporation.

## ARTICLE II THE SURVIVING CORPORATION

Section 2.01 – The Surviving Corporation. The Surviving Corporation shall be Gateway Companies, Inc.

Section 2.02 – The Certificate of Incorporation. The Certificate of Incorporation of Gateway, as amended, in effect at the Effective Date shall be the Certificate of Incorporation of the Surviving Corporation, until duly amended in accordance with the terms thereof and the DGCL. Such Certificate of Incorporation of Gateway, as amended, is attached as Exhibit 1 hereto.

Section 2.03 – Bylaws. The Bylaws of Gateway in effect at the Effective Date shall be the Bylaws of the Surviving Corporation, until duly amended in accordance with the terms thereof and the DGCL.

Section 2.04 – Directors and Officers. The directors and the officers of Gateway at the Effective Date shall, from and after the Effective Date, be the directors and officers of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Certificate of Incorporation and Bylaws.

## ARTICLE III TREATMENT OF SHARES OF OVER THE MOON AND SHARES OF GATEWAY

Section 3.01 – Cancellation of Common Shares of Over the Moon. At the Effective Date, each share of common stock of Over the Moon issued and outstanding

immediately prior to the Effective Date of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be canceled and cease to exist and no consideration shall be delivered in exchange therefor.

Section 3.02 – Shares of Gateway to Remain Outstanding. At the Effective Date, each share of common stock of Gateway issued and outstanding immediately prior to the Effective Date of the Merger shall remain outstanding as a share of common stock of the Surviving Corporation and shall be unaffected by the Merger.

#### ARTICLE IV AMENDMENT; TERMINATION

Section 4.01 – Termination. This Agreement may be terminated and the Merger may be abandoned by mutual written consent of the Boards of Over the Moon and Gateway at any time prior to the Effective Date.

Section 4.02 – Effect of Termination. If this Agreement is terminated pursuant to Section 4.01, this Agreement shall become void and of no effect with no liability on the part of each party hereto.

Section 4.03 – Amendment. The parties hereto, by mutual consent of the Boards of Over the Moon and Gateway, may amend, modify, or supplement this Agreement in such manner as may be agreed upon by them in writing at any time prior to the Effective Date; provided, however, that no such amendment, modification, or supplement shall be adopted except in accordance with Section 251(d) of the DGCL.

#### ARTICLE V MISCELLANEOUS

Section 5.01 – No Waivers. No failure or delay by any party thereto in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, no shall any single or partial exercise thereof preclude the exercise of any other right, power, or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 5.02 – Execution of Addition Documents. If at any time after the Effective Date, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either of Over the Moon or Gateway acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or otherwise to carry out this Agreement, the officers and directors of the Surviving Corporation are hereby authorized to execute and deliver, in the name and on behalf of each of Over the Moon and Gateway or otherwise, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on



behalf of each of Over the Moon and Gateway or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

Section 5.03 – Integration. This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings, written or oral, between and among the parties with respect to the subject matter hereof.

Section 5.04 – Successors and Assigns. The provisions of this Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective successors and assigns, provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto.

Section 5.05 – Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to principles of conflicts of law.

Section 5.06 – Severability. In the event that one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

Section 5.07 – Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 21 day of July, 2000.

OVER THE MOON PRODUCTIONS, INC.  
a Texas corporation

GATEWAY COMPANIES, INC.  
a Delaware corporation

By: William M. Elliott  
William M. Elliott  
Secretary

By: William M. Elliott  
William M. Elliott  
Senior Vice President, General Counsel  
and Secretary


I, Stephanie G. Heim, Assistant Secretary of Over the Moon Productions, Inc., a corporation organized and existing under the laws of the State of Texas (the "Corporation"), hereby certify pursuant to the provisions of Article 5.01 of the Texas Corporation Act (the "TCA"), that Gateway, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Article 9.10(A) of the TCA, has consented to the merger of the Corporation with and into Gateway Companies, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement and Plan of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Over the Moon Productions, Inc., this 21 day of July, 2000.

  
By: Stephanie G. Heim  
Its: Assistant Secretary

I, Stephanie G. Heim, Assistant Secretary of Gateway Companies, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 252 of the Delaware General Corporation Law (the "DGCL"), that Gateway, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of Over the Moon Productions, Inc., a Texas corporation, with and into the Corporation, on the terms and conditions set forth in the Agreement and Plan of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Gateway Companies, Inc., this 21 day of July, 2000.

  
By: Stephanie G. Heim  
Its: Assistant Secretary

## EXHIBIT 1

## State of Delaware

PAGE 1

*Office of the Secretary of State*

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "GATEWAY COMPANIES, INC." AS RECEIVED AND FILED IN THIS OFFICE.

## THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE FOURTH DAY OF APRIL, A.D. 1994, AT 10:30 O'CLOCK A.M.

CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "GATEWAY 2000 FACTORY OUTLET, INC." TO "GATEWAY 2000 RETAIL, INC.", FILED THE THIRTEENTH DAY OF MARCH, A.D. 1996, AT 4:30 O'CLOCK P.M.

CERTIFICATE OF AMENDMENT, CHANGING ITS NAME FROM "GATEWAY 2000 RETAIL, INC." TO "GATEWAY 2000 COUNTRY STORES, INC.", FILED THE TWELFTH DAY OF NOVEMBER, A.D. 1996, AT 9 O'CLOCK A.M.

CERTIFICATE OF AMENDMENT, FILED THE SEVENTEENTH DAY OF JULY, A.D. 1998, AT 10 O'CLOCK A.M.

CERTIFICATE OF MERGER, CHANGING ITS NAME FROM "GATEWAY 2000 COUNTRY STORES, INC." TO "GATEWAY COMPANIES, INC.", FILED THE THIRTIETH DAY OF DECEMBER, A.D. 1998, AT 9 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF MERGER IS THE THIRTY-FIRST DAY OF

2391341 8100H

001343519

  
Edward J. Freel, Secretary of State

0543855

AUTHENTICATION:

DATE:

07-07-00

PATENT  
REEL: 011696 FRAME: 0762

*State of Delaware*  
*Office of the Secretary of State*

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PAGE 2

DECEMBER, A.D. 1998.

CERTIFICATE OF MERGER, FILED THE THIRTIETH DAY OF APRIL,  
A.D. 1999, AT 9 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF  
THE AFORESAID CERTIFICATE OF MERGER IS THE FIRST DAY OF MAY,  
A.D. 1999.

CERTIFICATE OF CORRECTION, FILED THE FIRST DAY OF NOVEMBER,  
A.D. 1999, AT 1:30 O'CLOCK P.M.



A handwritten signature in cursive script, reading "Edward J. Freel", is written over a horizontal line.

Edward J. Freel, Secretary of State

2391341 8100H

001343519

AUTHENTICATION: 0543855

DATE: 07-07-00

PATENT

REEL: 011696 FRAME: 0763

APR-04-1994 08:41 FROM

TO

13026748340

P.04

4-4-94

**CERTIFICATE OF INCORPORATION**  
**OF**  
**GATEWAY 2000 FACTORY OUTLET, INC.**

1. The name of the corporation is **GATEWAY 2000 FACTORY OUTLET, INC.**

2. The address of its registered office in the State of Delaware is **Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.**

3. The nature of the business or purpose to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

4. The total number of shares of stock which the Corporation shall have authority to issue is **1,000,000** and the par value of each of such shares is **\$.01** amounting in the aggregate to **\$10,000.00.**

5. The name and mailing address of the incorporator is as follows:

<u>Name</u>	<u>Mailing Address</u>
Dale C. Tigges	300 Commerce Building P.O. Box 1557 Sioux City, IA 51102

6. The name and mailing address of each person, who is to serve as a director until the first annual meeting of the shareholders or until a successor is elected and qualified, is as follows:

<u>Name</u>	<u>Mailing Address</u>
John J. Morrissey	610 Gateway Drive North Sioux City, SD 57049
Michael D. Hammond	610 Gateway Drive North Sioux City, SD 57049

APR-04-1994 08:41 FROM

TO

13026748340

P.05

Todd S. Osborn

610 Gateway Drive  
North Sioux City, SD 57049

7. The corporation is to have perpetual existence.


8. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the By-laws of the Corporation.

9. Elections of directors need not be by written ballot unless the By-laws of the Corporation shall so provide. Meetings of stockholders may be held within or without the State of Delaware, as the By-laws may provide. The books of the Corporation may be kept (subject to any provisions contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By-laws of the Corporation.

10. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

11. A director of the Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for a breach of the director's duty of loyalty to the Corporation or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, (iii) for a transaction from which the director derived an improper personal benefit, or (iv) under Section 174 of the General Corporation Law of the State of Delaware. Any repeal or modification of this Article by the shareholders of the Corporation shall be prospective only, and shall not adversely affect any limitation on the personal liability, or any other right or protection, of a director of the Corporation with respect to any state of facts existing at or prior to the time of such repeal or modification.

THE UNDERSIGNED, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, does make this certificate, hereby declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 1st day of April, 1994.

  
Dale C. Tigges

07/17/98 FRI 07:39 FAX 805 232 2812

004

7-17-98

**CERTIFICATE OF AMENDMENT  
OF  
GATEWAY 2000 COUNTRY STORES, INC.**

Gateway 2000 Country Stores, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify:

**FIRST:** That the following resolution was adopted by the Board of Directors of the Corporation. The resolution was duly adopted setting forth a proposed amendment of the Certificate of Incorporation of the Corporation, declaring the amendment to be advisable. The resolutions setting forth the proposed amendment are as follows:

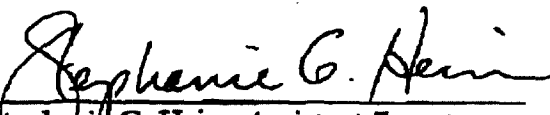
**NOW, THEREFORE, BE IT RESOLVED,** that Article Fourth of the Certificate of Incorporation of the Corporation be amended in its entirety to read as follows:

"4. The total number of shares of the capital stock which the Corporation has authority to issue shall be 3,000 shares of the Common Stock, par value \$.01 per share.

**SECOND:** That the amendment was approved and adopted pursuant to the written consent executed by the sole stockholder of the Corporation in accordance with Section 228 of the General Corporation Law of the State of Delaware.

**THIRD:** That the amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

**IN WITNESS WHEREOF,** Gateway 2000 Country Stores, Inc., has caused this certificate to be executed by Stephanie G. Heim, its Assistant Secretary, on this 16th July, 1998.

By:   
Stephanie G. Heim, Assistant Secretary

11-1296

STATE OF DELAWARE  
 SECRETARY OF STATE  
 DIVISION OF CORPORATIONS  
 FILED 09:00 AM 11/12/1996  
 960327880 - 2391331

**UNANIMOUS CONSENT OF DIRECTORS  
 PROPOSING AND DECLARING ADVISABLE  
 AN AMENDMENT OF THE  
 CERTIFICATE OF INCORPORATION  
 OF  
 GATEWAY 2000 RETAIL, INC.**

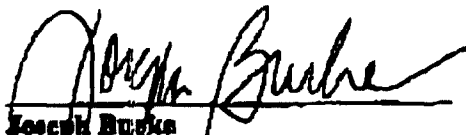
WE, THE UNDERSIGNED, being all the members of the board of directors of Gateway 2000 Retail, Inc. a corporation organized and existing under the laws of the State of Delaware, DO HEREBY, pursuant to Secs. 141 and 242 of the General Corporation Law of the State of Delaware, propose and declare advisable the following amendment to the Certificate of Incorporation of said corporation:

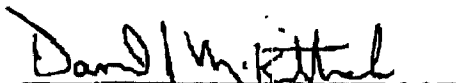
RESOLVED, that the Certificate of Incorporation of this corporation be amended by changing the first Article thereof so that, as amended, said Article shall be read as follows:

"Gateway 2000 Country Stores, Inc."

and hereby authorize the proper officers of this corporation, if the stockholders adopt said amendment, to file the necessary certificate effecting said amendment with the Secretary of State of Delaware and to file with the proper state official of any state in which this corporation is authorized to do business as a foreign corporation such evidence of said amendment and/or any other instrument as may be required by the laws of such state.

WITNESS our hands this 1st day of November A.D. 1996

  
 Joseph Burke

  
 David J. McKittrick

  
 William M. Elliott

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03/13/96 WED 15:45 FAX 805 232 2812

002

31396

**CERTIFICATE OF AMENDMENT  
OF  
GATEWAY 2000 FACTORY OUTLET, INC.**

Gateway 2000 Factory Outlet, Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY:

FIRST: That the following resolution was adopted by the Board of Directors of the Corporation. The resolution was duly adopted setting forth a proposed amendment of the Certificate of Incorporation of the Corporation, declaring the amendment to be advisable. The resolution setting forth the proposed amendment is as follows:

NOW, THEREFORE, BE IT RESOLVED, that Article First of the Certificate of Incorporation of the Corporation be amended in its entirety to read as follows:


"1. The name of the corporation is **GATEWAY 2000 RETAIL, INC.**"

SECOND: That the amendment was approved and adopted pursuant to the written consent executed by the sole stockholder of the Corporation in accordance with Section 228 of the General Corporation Law of the State of Delaware.

THIRD: That the amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, Gateway 2000 Factory Outlet, Inc. has caused this certificate to be executed by Joseph Burke, its President and William M. Elliott, its Secretary, this 13<sup>th</sup> day of March, 1996

BY:   
Joseph Burke  
President

BY:   
William M. Elliott  
Secretary

DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS  
FILED 09:00 AM 12/30/1998  
981508723 - 2391341

**CERTIFICATE OF MERGER****BETWEEN**

**GATEWAY 2000 MAJOR ACCOUNTS, INC.**  
A Delaware corporation

**GATEWAY 2000 TECHNICAL SUPPORT, INC.**  
A Delaware corporation

**GATEWAY 2000 AVIATION, INC.**  
A Delaware corporation

**PC TECHNOLOGY SERVICES, INC.**  
A Delaware corporation

**GATEWAY 2000 BUSINESS DIRECT, INC.**  
A Delaware corporation

**DAKOTALAND SERVICES, INC.**  
A Delaware corporation

**AND**

**GATEWAY 2000 COUNTRY STORES, INC.**  
A Delaware corporation

**GATEWAY 2000 COUNTRY STORES, INC.,** a corporation organized and existing under and by virtue of the General corporation Law of the State of Delaware (the "Corporation"), **DOES HEREBY CERTIFY:**

**FIRST:** That the name and state of incorporation of each of the constituent corporations of the merger are as follows:

<b>NAME</b>	<b>STATE OF INCORPORATION</b>
Gateway 2000 Major Accounts, Inc.	Delaware
Gateway 2000 Technical Support, Inc.	Delaware
Gateway 2000 Aviation, Inc.	Delaware
PC Technology Services, Inc.	Delaware

Gateway 2000 Business Direct, Inc.      Delaware  
Dakotaland Services, Inc.      Delaware  
Gateway 2000 Country Stores, Inc.,      Delaware

**SECOND:** That an agreement of merger by and between Gateway 2000 Major Accounts, Inc. a Delaware corporation ("Accounts"), Gateway 2000 Technical Support, Inc., a Delaware corporation ("Support"), Gateway 2000 Aviation, Inc., a Delaware corporation ("Aviation"), PC Technology Services, Inc., a Delaware corporation ("PC"), Gateway 2000 Business Direct, Inc., a Delaware corporation ("Business"), Dakotaland, Inc., a Delaware corporation, ("Dakotaland"), and the Corporation (the "Merger Agreement") has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations and their respective stockholders in accordance with the requirements of subsection (c) of Section 251 of the General Corporation Law of the State of the Delaware (the "GCL"). The sole holder of all of the outstanding capital stock of each of the constituent corporations approved the Merger Agreement by written consent in accordance with Section 228 of the GCL. The Agreement of Merger is attached as Exhibit A.

**THIRD:** That the surviving corporation shall be Gateway 2000 Country Stores, Inc., a Delaware corporation (the "Surviving Corporation"), and the name of the Surviving Corporation shall be changed to "Gateway Companies, Inc." pursuant hereto.

**FOURTH:** That the certificate of incorporation and bylaws of the Corporation as in effect immediately prior to the effective time of the merger shall be the certificate of incorporation and bylaws of the Surviving Corporation, except that, pursuant hereto, **ARTICLE 1** of the certificate of incorporation of the Surviving Corporation shall be amended to read as follows:

**ARTICLE 1**

The name of the corporation shall be Gateway Companies, Inc.

WHEREAS, each of the Boards of Directors of Accounts, Support, Aviation, PC, Business, Dakotaland and Country has approved this Agreement and the consummation of the Merger;

WHEREAS Gateway 2000, Inc. has approved the Agreement and consummation of the Merger by written consent of sole stockholder of Accounts, Support, Aviation, PC, Business, Dakotaland, and Country;

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### Article I: The Merger

##### Section 1.01 - The Merger

(a) Pursuant to the terms of this Agreement, Accounts, Support, Aviation, PC, Business, Dakotaland and Country (collectively, the "Merging Into Corporations") shall merge with and into Country, whereupon the separate existence of each of Accounts, Support, Aviation, PC, Business, and Dakotaland shall cease, and Country shall be the surviving corporation of the Merger (sometimes referred to herein as the "Surviving Corporation") in accordance with Section 251 of the DGCL.

(b) Country as the Surviving Corporation shall continue its existence as a corporation under the laws of the State of Delaware.

(c) The Merger shall take effect on December 31, 1998 (the "Effective Time").

(d) At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers, and franchises of each of Accounts, Support, Aviation, PC, Business, Dakotaland and Country shall vest in Country as the Surviving Corporation, and all debts, liabilities, obligations, and duties of Accounts, Support, Aviation, PC, Business, Dakotaland and Country shall become debts, liabilities, obligations and duties of Country as the Surviving Corporation.

#### Article II: The Surviving Corporation

##### Section 2.01 - The Surviving Corporation

The Surviving Corporation shall be Gateway 2000 Country States, Inc. and the name of the Surviving Corporation shall be changed to "Gateway Companies, Inc." pursuant hereto.

**Section 2.02 – The Certificate of Incorporation**

The Certificate of Incorporation of Country in effect immediately prior to the Effective Time shall be the Certificate of Incorporation of the Surviving Corporation, except that, pursuant hereto, ARTICLE 1 of the Certificate of Incorporation of the Surviving Corporation shall be amended to read as follows:

**Article I**

The name of the corporation shall be Gateway Companies, Inc.

**Section 2.03 – Bylaws**

The Bylaws of Country in effect immediately prior to the Effective Time shall be the Bylaws of the Surviving Corporation, unless and until amended or repealed in accordance with such Bylaws, the Certificate of Incorporation of the Surviving Corporation, and applicable law.

**Section 2.04 – Directors and Officers**

The directors and officers of Country immediately prior to the Effective Time shall be the directors and officers, respectively, of the surviving Corporation as and after the Effective Time until the earlier of (i) the expiration of their current terms and the election and qualification of the successors and (ii) their prior resignation, removal or death, subject in each case to the Certificate of Incorporation and Bylaws of the Surviving Corporation and subsequent actions by the shareholders and/or directors of the Surviving Corporation.

**Article III. Treatment of Shares of the Merging Into Corporations and Shares of Country****Section 3.01 – Cancellation of Common Shares of the Merging Into Corporations**

At the Effective Time, each share of Common Stock of each of Accounts, Support, Aviation, Business, DakotaLand and PC, issued and outstanding immediately prior to the Effective Time of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be cancelled and cease to exist and no consideration shall be delivered in exchange therefor.

**Section 3.02 – Shares of Country To Remain Outstanding**

At the Effective Time, each share of Common Stock of Country issued and outstanding immediately prior to the Effective Time of the Merger shall remain outstanding as a share of Common Stock of the Surviving Corporation and shall be unaffected by the Merger.

**Article IV: Amendment-Termination****Section 4.01 - Termination**

This Agreement may be terminated and the Merger may be abandoned by mutual written consent of the Boards of Directors of each Accounts, Support, Aviation, PC, Business, Dakotaland and Country, at any time prior to the Effective Time.

**Section 4.02 - Effect of Termination**

If this Agreement is terminated pursuant to Section 4.01, this Agreement shall become void and of no effect with no liability on the part of each party hereto.

**Section 4.03 - Amendment**

The parties hereto, by mutual consent of the Boards of Directors of Accounts, Support, Aviation, PC, Business, Dakotaland and Country, may amend, modify, or supplement this Agreement in such manner as may be agreed upon by them in writing at any time prior to the Effective Time; provided, however, that no such amendment, modification, or supplement shall be adopted except in accordance with Section 251(d) of the DGCL.

**Article V: Miscellaneous****Section 5.01 - No Waiver**

No failure or delay by any party hereto in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude the exercise of any other right, power, or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

**Section 5.02 - Integration**

This Agreement constitutes the entire agreement of the parties and supercedes all prior agreements and understandings, written or oral, between and among the parties with respect to the subject matter hereof.

**Section 5.03 - Successors and Assigns**

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided that no party may

assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto.

#### Section 5.04 - Governing Law

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

#### Section 5.05 - Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement, and when executed shall be binding on the parties hereto.

#### Section 5.06 - Severability

In the event that one or more of the provisions of this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

#### Section 5.07 - Headings

The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as the date first above written.

GATEWAY 2000 MAJOR ACCOUNTS, INC.  
A Delaware corporation

By: William M. Elliot

Name: William M. Elliot

Title: Secretary

GATEWAY 2000 TECHNICAL SUPPORT, INC.  
A Delaware corporation

By: William M. Elliot

Name: William M. Elliot

Title: Secretary

**GATEWAY 2000 AVIATION, INC.**  
A Delaware corporation

By: W. M. Elliott  
Name: William M. Elliott  
Title: Secretary

**PC TECHNOLOGY SERVICES, INC.**  
A Delaware corporation

By: W. M. Elliott  
Name: William M. Elliott  
Title: Secretary

**GATEWAY 2000 BUSINESS DIRECT, INC.**  
A Delaware corporation

By: W. M. Elliott  
Name: William M. Elliott  
Title: Secretary

**DAKOTALAND SERVICES, INC.**  
A Delaware corporation

By: W. M. Elliott  
Name: William M. Elliott  
Title: Secretary

**GATEWAY 2000 COUNTRY STORES, INC.**  
A Delaware corporation

By: W. M. Elliott  
Name: William M. Elliott  
Title: Secretary



I, Stephanie G. Heim, Assistant Secretary of Gateway 2000 Major Accounts, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), that Gateway 2000, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of the Corporation with and into Gateway 2000 Country Stores, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Gateway 2000 Major Accounts, Inc., this 28<sup>th</sup> day of December, 1998.

[SEAL]

By:

Name: Stephanie G. Heim

Title: Assistant Secretary

I, Stephanie G. Heim, Assistant Secretary of Gateway 2000 Technical Support, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), that Gateway 2000, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of the Corporation with and into Gateway 2000 Country Stores, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Gateway 2000 Technical Support, Inc., this 28<sup>th</sup> day of December, 1998.

[SEAL]

By:

Name: Stephanie G. Heim

Title: Assistant Secretary

I, Stephanie G. Helm, Assistant Secretary of Gateway 2000 Aviation, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), that Gateway 2000, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of the Corporation with and into Gateway 2000 Country Stores, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Gateway 2000 Aviation, Inc., this 21<sup>st</sup> day of December, 1998.

[SEAL]

By:

Name: Stephanie G. Helm

Title: Assistant Secretary

I, Stephanie G. Helm, Assistant Secretary of PC Technology Services, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), that Gateway 2000, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of the Corporation with and into Gateway 2000 Country Stores, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of PC Technology Services, Inc., this 22<sup>nd</sup> day of December, 1998.

[SEAL]

By:

Name: Stephanie G. Helm

Title: Assistant Secretary

I, Stephanie G. Helm, Assistant Secretary of Gateway 2000 Business Direct, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), that Gateway 2000, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of the Corporation with and into Gateway 2000 Country Stores, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Gateway 2000 Business Direct, Inc., this 28<sup>th</sup> day of December, 1998.

[SEAL]

By:

Name: Stephanie G. Helm

Title: Assistant Secretary

I, Stephanie G. Helm, Assistant Secretary of Dakotaland, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), that Gateway 2000, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of the Corporation with and into Gateway 2000 Country Stores, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Dakotaland, Inc., this 28<sup>th</sup> day of December, 1998.

[SEAL]

By:

Name: Stephanie G. Helm

Title: Assistant Secretary

I, Stephanie G. Heim, Assistant Secretary of Gateway 2000 Marketing Services, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), that Gateway 2000, Inc., the sole stockholder of the Corporation, pursuant to the provisions of Section 228 of the DGCL, has consented to the merger of the Corporation with and into Gateway 2000 Country Stores, Inc., a Delaware corporation, on the terms and conditions set forth in the Agreement of Merger to which this certification is appended.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of Gateway 2000 Marketing Services, Inc., this 28<sup>th</sup> day of December, 1998.

[SEAL]

By:

Name: Stephanie G. Heim

Title: Assistant Secretary

STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 09:00 AM 04/30/1999  
991172274 - 2392341

**CERTIFICATE OF MERGER  
BETWEEN  
GATEWAY 2000 MARKETING SERVICES, INC.  
A Delaware Corporation  
AND  
GATEWAY COMPANIES, INC.  
A Delaware Corporation**

**GATEWAY COMPANIES, INC., a corporation organized and existing under the laws of the State of Delaware ("Company"), DOES HEREBY CERTIFY:**

**FIRST:** That the name and state of incorporation of the constituent corporations of the merger are as follows:

<u>NAME</u>	<u>STATE OF INCORPORATION</u>
Gateway 2000 Marketing Services, Inc.	Delaware
Gateway Companies, Inc.	Delaware

**SECOND:** That an agreement of merger by and between Gateway 2000 Marketing Services, Inc., a Delaware Corporation ("Marketing") and Companies (the "Merger Agreement") has been approved, adopted, certified, executed and acknowledged by the constituent corporations and their respective stockholders in accordance with the requirements of subsection (c) of Section 251 of the General Corporation Law of the State of Delaware (the "GCL"). The sole holder of the outstanding capital stock of the constituent corporations approved the Merger Agreement by written consent in accordance with Section 228 of the GCL. The Agreement of Merger is attached as Exhibit A.

**THIRD:** The surviving corporation shall be Gateway Companies, Inc., a Delaware corporation (the "Surviving Corporation").

**FOURTH:** That the Certificate of Incorporation and bylaws of Gateway Companies, Inc. as in effect immediately prior to the effective time of the merger shall be the certificate of incorporation and bylaws of the Surviving Corporation.

**FIFTH:** That the executed agreement of merger is on file at an office of the Surviving Corporation. The address of the office of the Surviving Corporation at which a copy of the executed agreement of merger is on file is 4343 Towne Centre Court, San Diego, CA 92121.

**SIXTH:** That a copy of the agreement of merger will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of the constituent corporation.

**SEVENTH:** The effective date of the merger shall be May 1, 1999

*Amended/Supplemental Certificate of Marketing Services*

0011

IN WITNESS WHEREOF, Gateway Companies, Inc. has caused this Certificate to be executed on its behalf by its authorized officer this 30<sup>th</sup> day of April, 1999.

GATEWAY COMPANIES, INC.

By: William M. Elliott  
William M. Elliott, Secretary

Attached hereto is a copy of the Certificate of Marketing Service

**EXHIBIT A**

**AGREEMENT OF MERGER  
BETWEEN  
GATEWAY 2000 MARKETING SERVICES, INC.  
A Delaware Corporation  
AND  
GATEWAY COMPANIES, INC.  
A Delaware Corporation**

AGREEMENT OF MERGER, made this 30th day of April, 1999 (the "Agreement"), by and between Gateway 2000 Marketing Services, Inc., a Delaware corporation ("Marketing Services") and Gateway Companies, Inc., a Delaware corporation ("Companies"):

**WITNESSETH:**

WHEREAS, Marketing Services desires to consummate the merger of Marketing Services with and into Companies pursuant to Section 251 of the Delaware General Corporation Law (the "DGCL"), upon consummation of which Companies shall be the surviving corporation (the "Merger");

WHEREAS, each of the Boards of Directors of Marketing Services and Companies has approved this Agreement and the consummation of the Merger;

WHEREAS Gateway 2000, Inc. has approved the Agreement and consummation of the Merger by written consent of sole stockholder of Marketing Services and Companies;

NOW, THEREFORE, in consideration of the promises and mutual agreement and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties thereto hereby agree as follows:

**Article 1: The Merger**

**Section 1.01 - The Merger**

- (a) Pursuant to the terms of this Agreement, Marketing Services shall merge with and into Companies, whereupon the separate existence of Marketing Services shall cease, and Companies shall be the surviving corporation of the Merger

*Approved and adopted on behalf of Marketing Services*

(sometimes referred to herein as the "Surviving Corporation") in accordance with Section 251 of the DGCL.

- (b) Companies as the Surviving Corporation shall continue its existence as a corporation under the laws of the State of Delaware.
- (c) The merger shall take effect on May 1, 1999 (the "Effective Time").
- (d) At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of Marketing Services shall vest in Companies as the Surviving Corporation, and all debts, liabilities, obligations, and duties of Marketing Services and Companies shall become debts, liabilities, obligations and duties of Companies as the Surviving Corporation.

#### Article II: The Surviving Corporation

**Section 2.01 - The Surviving Corporation** The Surviving Corporation shall be Gateway Companies, Inc.

**Section 2.02 - The Certificate of Incorporation** The Certificate of Incorporation of Companies in effect at the Effective Time shall be the Certificate of Incorporation of the Surviving Corporation, until duly amended in accordance with the terms thereof and the DGCL.

**Section 2.03 - Bylaws** The Bylaws of Companies in effect at the Effective Time shall be the By-Laws of the Surviving Corporation, until duly amended in accordance with the terms thereof and the DGCL.

**Section 2.04 - Directors and Officers** The directors and the officers of Companies at the Effective Time shall, from and after the Effective Time, be the directors and officers, respectively, of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Certificate of Incorporation and By-Laws.

#### Article III: Treatment of Shares of Marketing Services and Shares of Companies

**Section 3.01 - Cancellation of Common Shares of Marketing** At the Effective Time, each share of Common Stock of Marketing Services issued and outstanding immediately prior to the Effective Time of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be canceled and cease to exist and no consideration shall be delivered in exchange therefor.



**Section 3.02 -- Shares of Companies to Remain Outstanding** At the Effective Time, each share of Common Stock of Companies issued and outstanding immediately prior to the Effective Time of the Merger shall remain outstanding as a share of Common Stock of the Surviving Corporation and shall be unaffected by the Merger.

#### **Article IV: Amendment; Termination**

**Section 4.01 -- Termination** This Agreement may be terminated and the Merger may be abandoned by mutual written consent of the Boards of Marketing Services and Companies at any time prior to the Effective Time.

**Section 4.02 -- Effect of Termination** If this Agreement is terminated pursuant to Section 4.01, this Agreement shall become void and of no effect with no liability on the part of each party hereto.

**Section 4.03 -- Amendment** The parties hereto, by mutual consent of the Boards of Directors of Marketing Services and Companies, may amend, modify, or supplement this Agreement in such manner as may be agreed upon by them in writing at any time prior to the Effective Time; provided, however, that no such amendment, modification, or supplement shall be adopted except in accordance with Section 251(d) of the DGCL.

#### **Article V: Miscellaneous**

**Section 5.01 -- No Waiver** No failure or delay by any party thereto in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude the exercise of any other right, power, or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

**Section 5.02 -- Execution of Additional Documents** If at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either of Marketing Services or Companies acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or otherwise to carry out this Agreement, the officers and directors of the Surviving Corporation are hereby authorized to execute and deliver, in the name and on behalf of each of Marketing Services and Companies or otherwise, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of each of Marketing Services and Companies or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

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**Section 5.03 - Integration** This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements and understandings, written or oral, between and among the parties with respect to the subject matter hereof.

**Section 5.04 - Successors and Assigns** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto.

**Section 5.05 - Governing Law** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without regard to principles of conflicts of law.

**Section 5.06 - Severability** In the event that one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

**Section 5.07 - Headings** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

IT WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

GATEWAY 2000 MARKETING SERVICES, INC.  
A Delaware Corporation

GATEWAY COMPANIES, INC.  
A Delaware Corporation

By:

William M. Elliott  
William M. Elliott, Secretary

By:

William M. Elliott  
William M. Elliott, Secretary

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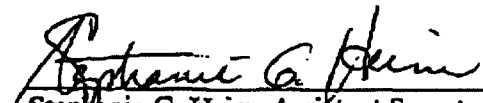
**CERTIFICATE OF CORRECTION TO THE  
CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
GATEWAY COMPANIES, INC.**

**Gateway Companies, Inc.**, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify that:

1. The name of the corporation is Gateway Companies, Inc.
2. The original Certificate of Amendment of the Certificate of Incorporation of the Corporation to which this Certificate of Correction relates, was filed with the Secretary of State of Delaware on July 17, 1998, and said Certificate of Amendment requires correction as permitted by Section 103 of the General Corporation Law of the State of Delaware.
3. The original Certificate of Amendment inadvertently omitted the second sentence of the action taken by the Corporation's Board of Directors and Sole Stockholder.
4. Article 4 of the Certificate is hereby corrected to read as follows:

"4. The total number of shares of the capital stock which the Corporation has authority to issue shall be 3,000 shares of Common Stock, par value \$.01 per share. Upon amendment of this Article 4, each one thousand (1,000) shares of Common Stock shall be converted into three (3) shares of Common Stock."

**IN WITNESS WHEREOF**, the Corporation has caused this certificate to be signed by its Assistant Secretary, Stephanie G. Heim, this 29<sup>th</sup> day of October, 1999.

  
Stephanie G. Heim, Assistant Secretary