

04-01-2002

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U.S. DEPARTMENT OF COMMERCE

Patent and Trademark Office



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102037588

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

## 1. Name of conveying party(ies):

AMERICAN WATER HEATERS-WEST, INC.

3-14-02

Additional names(s) of conveying party(ies)

☐ Yes ☒ No

## 3. Nature of conveyance:

- ☐ Assignment ☒ Merger
- ☐ Security Agreement ☐ Change of Name
- ☐ Other \_\_\_\_\_

Execution Date: December 19, 1996

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

Name: AMERICAN WATER HEATER COMPANY

Internal Address: \_\_\_\_\_

Street Address: 500 Princeton Road

City: Johnson City

State: TN

ZIP: 37601

Additional name(s) & address(es) attached? ☐ Yes ☒ No

## 4. Application number(s) or patent numbers(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

B. Patent No.(s)

5,240,411

Additional numbers attached? ☐ Yes ☒ No

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

Name: Mary Margaret Murray

Internal Address: \_\_\_\_\_

Street Address: GARDNER, CARTON &amp; DOUGLAS

321 North Clark Street, Suite 3400

City: Chicago

00000147 5240411

State: IL

ZIP: 60610

## 6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

☒ Enclosed - Any excess or insufficiency should be credited or debited to deposit account☐ Authorized to be charged to deposit account

## 8. Deposit account number:

07-0181

(Attach duplicate copy of this page if paying by deposit account)

## 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.

Mary Margaret Murray

Name of Person Signing

Signature

March 14, 2002

Date

Total number of pages including cover sheet, attachments, and document: 10

## AGREEMENT AND PLAN OF MERGER

**THIS AGREEMENT AND PLAN OF MERGER** is entered into as of December 19, 1996 by **American Water Heaters-West, Inc.**, a Nevada corporation, 500 Princeton Road, Johnson City, Tennessee 37601 (the "Company"), and **American Water Heater Company**, a Nevada corporation, 500 Princeton Road, Johnson City, Tennessee 37601 ("AWHC").

**WHEREAS**, Southcorp Investments USA, Inc., a Nevada corporation ("Southcorp Investments"), owns all of the issued and outstanding capital stock of the Company and all of the issued and outstanding capital stock of AWHC, thereby making both the Company and AWHC wholly-owned subsidiaries of Southcorp Investments;

**WHEREAS**, the respective Boards of Directors and sole shareholders of the Company and of AWHC have resolved that the Company be merged under and pursuant to the Nevada General Corporation Law ("NGCL") into a single corporation existing under the laws of the State of Nevada, to wit, AWHC, which shall be the surviving corporation (such corporation in its capacity as surviving corporation being sometimes referred to herein as the "Surviving Corporation") in a transaction qualifying as a reorganization within the meaning of Section 368(2)(1)(F) of the Internal Revenue Code of 1986, as amended;

**WHEREAS**, the Company has 2,500 authorized shares of common stock, no par value, 100 of which are issued and outstanding;

**WHEREAS**, AWHC has 1,000 authorized shares of common stock, \$100.00 par value, 10 of which are issued and outstanding;

**NOW THEREFORE**, the parties to this Agreement hereby agree as follows:

1. **The Merger.** Upon the terms and subject to the conditions hereby, and in accordance with the NGCL, the Company shall be merged with and into AWHC (the "Merger"). Following the Merger, AWHC shall continue as the surviving corporation under the name American Water Heater Company and the separate corporate existence of the Company shall cease.

2. **Status and Conversion of Securities.** The mode of carrying the Merger into effect and the manner and basis of converting the shares of the Company are as follows:

- (a) **Company Common Stock.** Each share of Company common stock which shall be issued and outstanding immediately before the Effective Time (as hereinafter defined) shall, by virtue of the Merger and without any action, be cancelled.
- (b) **AWHC Common Stock Held by Southcorp Investments.** All issued and outstanding shares of AWHC common stock held by Southcorp Investments immediately before the Effective Time shall remain unchanged by virtue of the Merger.

3. **Effective Time.** The Merger shall become effective after filing Articles of Merger with the Secretary of State of Nevada ("Articles of Merger") and at such time as stated in the Articles of Merger ("Effective Time").

4. **Articles of Incorporation and By-Laws.** Upon consummation of the Merger at the Effective Time, the Articles of Incorporation and By-Laws of AWHC in effect immediately prior to the Effective Time shall thereafter continue in full force and effect as the Articles of Incorporation and By-Laws of the Surviving Corporation, until amended or repealed as provided therein or by law.

5. **Officers and Directors.** The officers and directors of the Surviving Corporation shall be the corresponding officers and directors of AWHC immediately prior to the Effective Time.

6. **Filing.** As soon as practicable, the parties hereto shall cause to be executed in the manner required by the NGCL and delivered to the Secretary of State of Nevada such documents as shall effect the Merger under the laws of the State of Nevada, and the parties shall cause to be performed all necessary acts within the State of Nevada and elsewhere to effect the Merger. The Boards of Directors and the proper officers of the Company and AWHC are hereby authorized, empowered and directed to do any and all acts and things, and to make, execute, deliver, file and record any and all instruments, papers and documents which shall be or become necessary, proper or convenient to carry out or put into effect any of the provisions of this Agreement and Plan of Merger or of the Merger.

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

**AMERICAN WATER HEATERS-WEST, INC.**  
a Nevada corporation

By: Robert W. Trudeau  
Its: President

Attest:

By: Edward T. Haskins  
Its: Secretary

**AMERICAN WATER HEATER COMPANY,**  
a Nevada corporation

By: Robert W. Trudeau  
Its: President

Attest:

By: Edward T. Haskins  
Its: Secretary

FILED  
THE OFFICE OF THE  
SECRETARY OF STATE OF  
STATE OF NEVADA

ARTICLES OF MERGER OF

AMERICAN WATER HEATERS-WEST, INC., A NEVADA CORPORATION

AND

DEC 24 1996  
C 25854-96  
Dean Heller  
AN HELLER, SECRETARY OF STATE  
AMERICAN WATER HEATER COMPANY, A NEVADA CORPORATION

To the Secretary of State  
State of Nevada

Pursuant to the provisions of Chapter 92A, Nevada Revised Statutes, the two domestic corporations herein named do hereby submit the following Articles of Merger.

1. Annexed hereto and made a part hereof is the Agreement and Plan of Merger for merging **American Water Heaters-West, Inc.**, a Nevada corporation (the "Company"), with and into **American Water Heater Company**, a Nevada corporation ("American Water Heater").

2. The Plan and Agreement of Merger was approved and adopted by unanimous written consent of the boards of directors and stockholders of (i) the Company, dated December 19, 1996 and (ii) American Water Heater, dated December 19, 1996.

3. The merger herein provided for shall become effective in the State of Nevada on December 31, 1996.

Signed on December 19 1996.

**American Water Heaters-West, Inc.,  
a Nevada corporation**

By: Robert W. Trudeau  
Robert W. Trudeau  
Its: President

By: Edward T. Hackney  
Edward T. Hackney  
Its: Secretary

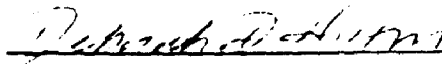
**American Water Heater Company,  
a Nevada corporation**

By: Robert W. Trudeau  
Robert W. Trudeau  
Its: President

By: Edward T. Hackney  
Edward T. Hackney  
Its: Secretary


STATE OF GEORGIA       )  
                                  ) SS:  
COUNTY OF COBB       )

On December 22 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Edward T. Hackney, Secretary of American Water Heaters-West, Inc., a Nevada corporation, and ~~Robert W. Trudeau, President of American Water Heaters-West, Inc., a Nevada corporation~~, personally known to me to be the persons whose names are subscribed to the above instrument in the said capacities, who acknowledged that they executed the said instrument.

  
\_\_\_\_\_  
Notary Public  
Notary Public, DeKalb County, Georgia  
My Commission Expires August 10, 1999

STATE OF GEORGIA       )  
                                  ) SS:  
COUNTY OF COBB       )  
                                  ) Notary Public, DeKalb County, Georgia  
                                  ) My Commission Expires August 10, 1999

On December 22, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Edward T. Hackney, Secretary of American Water Heater Company, a Nevada corporation, and ~~Robert W. Trudeau, President of American Water Heater Company, a Nevada corporation~~, personally known to me to be the persons whose names are subscribed to the above instrument in the said capacities, who acknowledged that they executed the said instrument.

  
\_\_\_\_\_  
Notary Public  
Notary Public, DeKalb County, Georgia  
My Commission Expires August 10, 1999

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On December 12, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Robert W. Trudeau, President of American Water Heaters - West, Inc., a Nevada corporation, personally known to me to be the person whose name is subscribed to the above instrument in the said capacity, who acknowledged that he executed the said instrument.

My Commission Expires: 04/24/08

COUNTY OF Washington)

On December 18, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Robert W. Trudeau, President of American Water Heater Company, a Nevada corporation, personally known to me to be the person whose name is subscribed to the above instrument in the said capacity, who acknowledged that he executed the said instrument.

Рез. комиссии. Эксп. з: 04.02.88