

04-01-2002

Docket No.: 72391-19

MMM/CEA

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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office



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

1. Name of conveying party(ies):

SOUTHCORP WATER HEATERS USA, 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 HEATERS-WEST, INC.

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 & DOUGLAS

321 North Clark Street, Suite 3400

City: Chicago 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)

DO NOT USE THIS SPACE

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

Mary Margaret Murray

March 14, 2002

Signature

Date

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

10

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

PATENT  
REEL: 012721 FRAME: 0074

## AGREEMENT AND PLAN OF MERGER

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

**WHEREAS**, Southcorp Investments USA, Inc., a Nevada corporation, owns all of the issued and outstanding capital stock of the Company, and the Company owns all of the issued and outstanding capital stock of American Water Heaters;

**WHEREAS**, the respective Boards of Directors and sole shareholders of the Company and American Water Heaters have resolved that the Company be merged under and pursuant to the Nevada General Corporation Law ("NGCL") and the Pennsylvania Business Corporation Law ("PBCL") into a single corporation existing under the laws of the State of Nevada, to wit, American Water Heaters, 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(a)(1)(F) of the Internal Revenue Code of 1986, as amended;

**WHEREAS**, the Company has 1,000 authorized shares of common stock, no par value, 1,000 of which are issued and outstanding;

**WHEREAS**, American Water Heaters has 2,500 authorized shares of common stock, no par value, 100 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 and the PBCL, the Company shall be merged with and into American Water Heaters (the "Merger"). Following the Merger, American Water Heaters shall continue as the surviving corporation under the name American Water Heaters-West, Inc. and the separate corporate existence of the Company shall cease.

2. **Status and Conversion of Securities.** The manner and basis of converting the shares of capital stock of the Company and the nature and amount of securities of American Water Heaters that the holder of shares of Company common stock is to receive in exchange for such shares 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 on the part of the holder thereof, be converted at the Effective Time into one tenth (1/10) fully paid share of American Water Heaters common stock, and outstanding certificates representing shares of Company common stock shall thereafter represent shares of American Water Heaters common stock in proportion to such conversion ratio. Such certificates may, but need not be, exchanged by the holder thereof after the Effective Time for new certificates for the appropriate number of shares bearing the name of the Surviving Corporation.
- (b) **American Water Heaters Common Stock Held by the Company.** All issued and outstanding shares of American Water Heaters common stock held by the Company immediately before the Effective Time shall, by virtue of the Merger and at the Effective Time, cease to exist and certificates representing such shares shall be cancelled.

**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 American Water Heaters 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 American Water Heaters 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 the PBCL and delivered to the respective Secretaries of State of Nevada and Pennsylvania such documents as shall effect the Merger under the laws of the State of Nevada and the State of Pennsylvania, and the parties shall cause to be performed all necessary acts within the State of Pennsylvania and the State of Nevada and elsewhere to effect the Merger. The Boards of Directors and the proper officers of the Company and American Water Heaters 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.

**SOUTHCORP WATER HEATERS USA, INC.**  
a Pennsylvania corporation

By: Robert W. Trudeau  
Its: President

Attest:

By: Edward T. Mack  
Its: Secretary

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

By: Robert W. Trudeau  
Its: President

Attest:

By: Edward T. Mack  
Its: Secretary

**EXPRESS MAILING CERTIFICATE**  
**UNDER 37 C.F.R. § 1.10**

EF 366 670 463 US  
"Express Mail" Mailing Number

March 14, 2002  
Date of Deposit

I hereby certify this Assignment and its enclosures are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above, addressed to:

BOX: ASSIGNMENTS  
Commissioner for Patents  
Washington, D.C. 20231

For: Assignment of Interest from Southcorp Water Heaters USA, Inc. to American Water Heaters-West, Inc.

The following documents are enclosed:

1. Patent Recordation Form Cover Sheet (1 pg.)
3. Articles of Merger (7 pgs.)
3. Check No. 353097 in the amount of \$40.00
4. A return postcard

Carol E. Arellano  
Typed name of person mailing this  
Certificate of Mailing

  
Signature

Atty. Docket No.: 72391-19 MMM/CEA

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

DEC 24 1996

ARTICLES OF MERGER OF

SOUTHCORP WATER HEATERS USA, INC., A PENNSYLVANIA CORPORATION

No.

*Dean Hill*  
TAM HILLER, SECRETARY OF STATE

AND

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

To the Secretary of State  
State of Nevada

Pursuant to the provisions of Chapter 92A, Nevada Revised Statutes, the domestic corporation and the foreign corporation 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 **Southcorp Water Heaters USA, Inc.**, a Pennsylvania corporation (the "Company"), with and into **American Water Heaters-West, Inc.**, a Nevada corporation ("American Water Heaters").

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

Southcorp Water Heaters-USA, Inc., a Pennsylvania corporation

By: Robert W. Trudear

Its: President

By: Edward T. Hackney

Edward T. Hackney

Its: Secretary

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

By: Robert W. Trudear

Its: President

By: Edward T. Hackney

Edward T. Hackney

Its: Secretary

STATE OF GEORGIA       )  
                                  ) SS:  
COUNTY OF COBB       )

On December 19, 1996, personally appeared before me, a Notary Public in and for the State and County aforesaid, Edward T. Hackney, Secretary of Southcorp Water Heaters USA, Inc., a Nevada corporation, and \_\_\_\_\_, ~~President of Southcorp Water Heaters USA, Inc., an 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.

Deborah A. Horton  
Notary Public       Notary Public, DeKalb County, Georgia.  
My Commission Expires August 10, 1999

STATE OF GEORGIA       )  
                                  ) SS:  
COUNTY OF COBB       )

On ~~December~~ 19, 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 \_\_\_\_\_, ~~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.

Deborah A. Horton  
Notary Public       Notary Public, DeKalb County, Georgia.  
My Commission Expires August 10, 1999



COUNTY OF Franklin)

Judge R. Farnum

Don't know how to type. 4/2/80

COUNTY OF San Diego

Charles H. Smith

My intention is to give a full and complete