

08-02-2002




Substitute Form PTO-1595
Attorney Docket No.: 07316-115001

RECOF



102176562

Commissioner for Patents: Please record the attached original document(s) or copy(ies).

1. Name of conveying party(ies): GIGANET, INC. Additional name(s) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	2. Name and address of receiving party(ies): EMULEX CORPORATION 3535 Harbor Boulevard Costa Mesa, CA 92626			
3. Nature of conveyance: <input type="checkbox"/> Assignment <input checked="" type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other: Execution Date: July 1, 2001	Additional names/addresses attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
4. Application number(s) or patent number(s): If this document is being filed with a new application, the execution date of the application is: A. Patent Application No(s): <u>09/065,118</u> 09/347,709 09/071,855 09/065,115 B. Patent No(s): 5,991,818 6,094,712 Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
5. Name/address of party to whom correspondence concerning document should be mailed: SCOTT C. HARRIS Fish & Richardson P.C. 4350 La Jolla Village Drive, Suite 500 San Diego, California 92122	6. Total number of applications/patents involved: 6 7. Total fee (37 CFR §3.41): \$240 <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to charge Deposit Account. 8. Deposit Account No.: 06-1050 Please apply any additional charges, or any credits, to our Deposit Account No. 06-1050.			
DO NOT USE THIS SPACE				
9. Statement and Signature: <i>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.</i> <table border="0" style="width: 100%;"> <tr> <td style="width: 30%; border-bottom: 1px solid black;"> Alex C. Chen Reg. No. 45,591 Name of Person Signing </td> <td style="width: 30%; text-align: center; border-bottom: 1px solid black;">  Signature </td> <td style="width: 30%; text-align: right; border-bottom: 1px solid black;"> <u>7/16/02</u> Date </td> </tr> </table>		Alex C. Chen Reg. No. 45,591 Name of Person Signing	 Signature	<u>7/16/02</u> Date
Alex C. Chen Reg. No. 45,591 Name of Person Signing	 Signature	<u>7/16/02</u> Date		
Total number of pages including coversheet, attachments and document:				

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CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner of Patents, Washington, D.C. 20231.

July 19, 2002 Gina Bianchi
 Date of Deposit Signature Typed Name of Person Signing Certificate

The Commonwealth of Massachusetts

William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512

ARTICLES OF ~~CONSOLIDATION~~ / *MERGER (General Laws, Chapter 156B, Section 79)

Examiner

SECRETARY OF THE
COMMONWEALTH

01 JUN 29 PM 3:52

CORPORATION DIVISION

Consolidation / *merger of

GigaNet, Inc., a

Massachusetts corporation

and

Emulex Corporation, a California

corporation

the constituent corporations, into

Emulex Corporation

~~XXXXXXXXXXXX~~ *one of the constituent corporations organized under the laws of California

The undersigned officers of each of the constituent corporations certify under the penalties of perjury as follows:

1. An agreement of ~~consolidation~~ / *merger has been duly adopted in compliance with the requirements of General Laws, Chapter 156B, Section 79, and will be kept as provided by Subsection (c) thereof. The ~~resulting~~ / *surviving corporation will furnish a copy of said agreement to any of its stockholders, or to any person who was a stockholder of any constituent corporation, upon written request and without charge.

2. The effective date of the ~~consolidation~~ / *merger determined pursuant to the agreement of ~~consolidation~~ / *merger shall be the date approved and filed by the Secretary of the Commonwealth. If a later effective date is desired, specify such date which shall not be more than *thirty days* after the date of filing:

3. (For a merger)

*The following amendments to the Articles of Organization of the *surviving* corporation have been effected pursuant to the agreement of merger:

(For a consolidation)

(a) The purpose of the *resulting* corporation is to engage in the following business activities:

C
P
M
R.A.

*Delete the inapplicable words

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(For a consolidation)

(b) State the total number of shares and the par value, if any, of each class of stock which the *resulting* corporation is authorized to issue:

WITHOUT PAR VALUE		WITH PAR VALUE		
TYPE	NUMBER OF SHARES	TYPE	NUMBER OF SHARES	PAR VALUE
Common:		Common:		
Preferred:		Preferred:		

(c) If more than one class of stock is authorized, state a distinguishing designation for each class and provide a description of the preferences, voting powers, qualifications, and special or relative rights or privileges of each class and of each series then established.

(d) The restrictions, if any, on the transfer of stock contained in the agreement of consolidation are:

(e) Other lawful provisions, if any, for the conduct and regulation of the business and affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the corporation, or of its directors or stockholders, or of any class of stockholders:

Item 4 below may be deleted if the resulting/surviving corporation is organized under the laws of a state other than Massachusetts.

4. The information contained in Item 4 is *not* a permanent part of the Articles of Organization of the resulting/surviving corporation.

(a) The street address of the resulting/surviving corporation in Massachusetts is: (post office boxes are not acceptable)

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(b) The name, residential address and post office address of each director and officer of the *resulting / *surviving corporation is:

NAME RESIDENTIAL ADDRESS POST OFFICE ADDRESS

President:

Treasurer:

Clerk:

Directors:

(c) The fiscal year end (i.e. tax year) of the *resulting / *surviving corporation shall end on the last day of the month of:

(d) The name and business address of the resident agent, if any, of the *resulting / *surviving corporation is:

Item 5 below may be deleted if the resulting/surviving corporation is organized under the laws of Massachusetts.

5. The ~~XXXXXX~~ *surviving corporation hereby agrees that it may be sued in the Commonwealth of Massachusetts for any prior obligation of any constituent Massachusetts corporation, any prior obligation of any constituent foreign corporation qualified under General Laws, Chapter 181, and any obligations hereafter incurred by the ~~XXXXXX~~ / *surviving corporation, including the obligation created by General Laws, Chapter 156B, Section 85, so long as any liability remains outstanding against the corporation in the Commonwealth of Massachusetts, and it hereby irrevocably appoints the Secretary of the Commonwealth as its agent to accept service of process in any action for the enforcement of any such obligation, including taxes, in the same manner as provided in Chapter 181.

FOR MASSACHUSETTS CORPORATIONS

The undersigned *President / ~~XXXXXXXXXX~~ and *Clerk / ~~XXXXXXXXXX~~ of GigaNet, Inc. a corporation organized under the laws of Massachusetts, further state under the penalties of perjury that the agreement of *consolidation / *merger has been duly executed on behalf of such corporation and duly approved in the manner required by General Laws, Chapter 156B, Section 78.

_____, *President / ~~XXXXXXXXXX~~

_____, *Clerk / ~~XXXXXXXXXX~~

FOR CORPORATIONS ORGANIZED IN A STATE OTHER THAN MASSACHUSETTS

The undersigned, † President and †† Secretary of Emulex Corporation, a corporation organized under the laws of California, further state under the penalties of perjury that the agreement of ~~XXXXXXXXXX~~ / *merger has been duly adopted by such corporation in the manner required by the laws of California

*Delete the inapplicable words. Specify the officer having authority.

†

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(b) The name, residential address and post office address of each director and officer of the "resulting / "surviving corporation is:

	NAME	RESIDENTIAL ADDRESS	POST OFFICE ADDRESS
President:			
Treasurer:			
Clerk:			
Directors:			

(c) The fiscal year end (i.e. tax year) of the "resulting / "surviving corporation shall end on the last day of the month of:

(d) The name and business address of the resident agent, if any, of the "resulting / "surviving corporation is:

Item 5 below may be deleted if this resulting/surviving corporation is organized under the laws of Massachusetts.

5. The ~~XXXXXX~~ "surviving corporation hereby agrees that it may be sued in the Commonwealth of Massachusetts for any prior obligation of any constituent Massachusetts corporation, any prior obligation of any constituent foreign corporation qualified under General Laws, Chapter 181, and any obligations hereafter incurred by the ~~XXXXXX~~ "surviving corporation, including the obligation created by General Laws, Chapter 156B, Section 85, so long as any liability remains outstanding against the corporation in the Commonwealth of Massachusetts, and it hereby irrevocably appoints the Secretary of the Commonwealth as its agent to accept service of process in any action for the enforcement of any such obligation, including taxes, in the same manner as provided in Chapter 181.

FOR MASSACHUSETTS CORPORATIONS

The undersigned "President / ~~XXXXXXXXXX~~ and "Clerk / ~~XXXXXXXXXX~~ of GigaNet, Inc. a corporation organized under the laws of Massachusetts, further state under the penalties of perjury that the agreement of "consolidation / "merger has been duly executed on behalf of such corporation and duly approved in the manner required by General Laws, Chapter 156B, Section 7B.

[Signature] "President / ~~XXXXXXXXXX~~

[Signature] "Clerk / ~~XXXXXXXXXX~~

FOR CORPORATIONS ORGANIZED IN A STATE OTHER THAN MASSACHUSETTS

The undersigned, + President [Signature] and "Secretary [Signature] of Emulex Corporation, a corporation organized under the laws of California, further state under the penalties of perjury that the agreement of ~~XXXXXXXXXX~~ "merger has been duly adopted by such corporation in the manner required by the laws of California

*Delete the inapplicable words

+

THE COMMONWEALTH OF MASSACHUSETTS

ARTICLES OF *CONSOLIDATION / *MERGER

(General Laws, Chapter 156B, Section 79)

I hereby approve the within Articles of *Consolidation / *Merger and,
the filing fee in the amount of \$ _____, having been paid,
said articles are deemed to have been filed with me this _____
day of _____, 19 _____.

Effective date _____

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

TO BE FILLED IN BY CORPORATION

Photocopy of document to be sent to:

Joseph S. Rosen, Esq.
Goulston & Storrs, P.C.

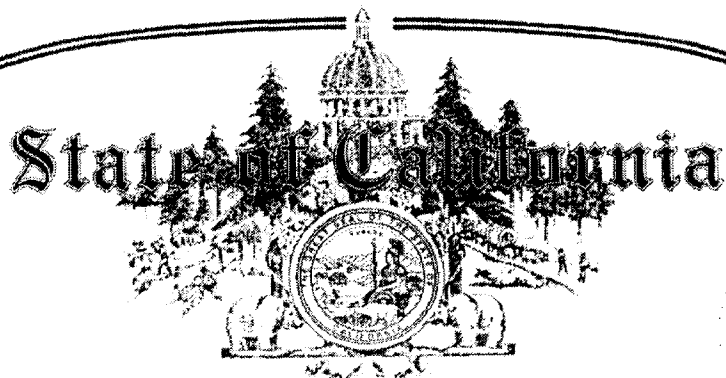
400 Atlantic Avenue

Boston, MA 02110

(A17) 182-1774

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SECRETARY OF STATE

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

That the attached transcript of 1 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

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



Bill Jones

Secretary of State

JUL - 1 2001

AGREEMENT OF MERGER

BILL JONES, Secretary of State

THIS AGREEMENT OF MERGER (this "Agreement") is entered into as of July 1, 2001, by and between GIGANET, INC., a Massachusetts corporation (sometimes referred to herein as the "Disappearing Corporation"), and EMULEX CORPORATION, a California corporation (sometimes referred to herein as the "Surviving Corporation"), both of said corporations being wholly-owned subsidiaries of EMULEX CORPORATION, a Delaware corporation ("Parent").

RECITALS

WHEREAS, The Board of Directors of the Surviving Corporation and the Board of Directors of the Disappearing Corporation deem it advisable that the Disappearing Corporation merge into the Surviving Corporation pursuant to the California General Corporation Law (the "California Law"), and the Board of Directors of each such corporation has approved the Agreement.

WHEREAS, the Board of Directors of the Parent has approved the Agreement.

AGREEMENT

NOW THEREFORE, BE IT RESOLVED, that the parties do hereby adopt the plan of merger encompassed by this Agreement and hereby agree as follows:

1. Subject to the terms and conditions hereinafter set forth, the Disappearing Corporation shall be merged with and into the Surviving Corporation, as approved by the Board of Directors of each of said corporations.
2. The Surviving Corporation shall continue its existence under its present name pursuant to the provisions of the General Corporation Law of the State of California.
3. The Articles of Incorporation and Bylaws of the Surviving Corporation shall not be amended as a result of the merger. The Articles of Incorporation and Bylaws of Emulex Corporation, a California corporation, shall be the Articles of Incorporation and Bylaws of the Surviving Corporation from and after the effective time and date of the merger and shall continue in full force and effect until further amended and changed in the manner prescribed by the provisions of the General Corporation Law of the State of California.
4. At the effective time and date of the merger, each outstanding share of common stock of the Disappearing Corporation shall be retired and cancelled.
5. The outstanding shares of the Surviving Corporation shall remain outstanding and are not affected by the merger and Surviving Corporation shall continue to be a wholly-owned subsidiary of Parent.

6. Upon such merger, the separate existence of the Disappearing Corporation shall cease and the Surviving Corporation shall succeed, without other transfer, to all the rights and property of the Disappearing Corporation and shall be subject to all the debts and liabilities thereof in the same manner as if the Surviving Corporation had itself incurred them. All rights of creditors and all liens upon the property of each corporation shall be preserved unimpaired, provided that such liens upon property of the Disappearing Corporation shall be limited to the property affected thereby immediately prior to the time the merger is effective.


7. The Board of Directors and the proper officers of the Disappearing Corporation and of the Surviving Corporation, respectively, are hereby authorized, empowered and directed to do any and all acts and things, and to make, execute, deliver, file, and/or 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 of Merger or of the merger herein provided for.

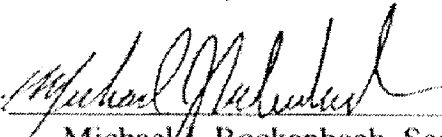
[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

"Parent"

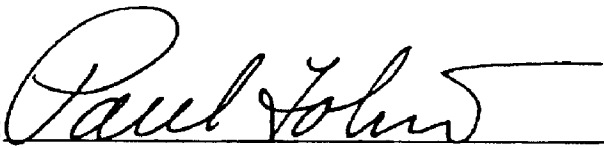
EMULEX CORPORATION,
a Delaware corporation

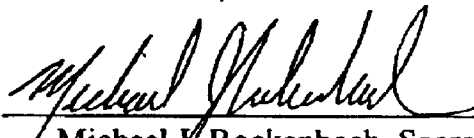
By: 
Paul Folino, President

By: 
Michael J. Rockenbach, Secretary

"Surviving Corporation"

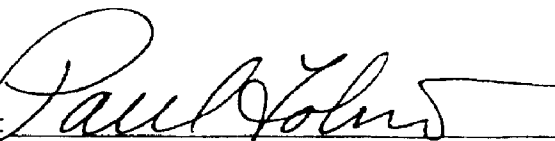
EMULEX CORPORATION,
a California corporation


By: 
Paul Folino, President

By: 
Michael J. Rockenbach, Secretary

"Disappearing Corporation"

GIGANET, INC. ,
a Massachusetts corporation

By: 
Paul Folino, President

By: 
Michael Rookerbach, Clerk

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CERTIFICATE OF APPROVAL

OF

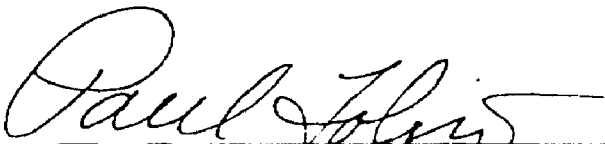
AGREEMENT OF MERGER

Paul Folino and Michael J. Rockenbach certify that:

1. They are the president and the secretary, respectively, of EMULEX CORPORATION, a California corporation (the "Corporation").
2. The Agreement of Merger in the form attached was duly approved by the board of directors of the Corporation.
3. The shareholder vote required for the aforesaid approval was a majority of the outstanding shares of the Corporation.
4. The shareholder approval was by the holder of 100% of the outstanding shares of the Corporation.
5. The Corporation has only one class of shares outstanding and the number of shares outstanding is one hundred (100).

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

DATE: June 21, 2001



PAUL FOLINO, President



MICHAEL J. ROCKENBACH, Secretary

CERTIFICATE OF APPROVAL

OF

AGREEMENT OF MERGER

Paul Folino and Michael J. Rockenbach certify that:

1. They are the duly elected and acting president and clerk, respectively of GIGANET, INC., a Massachusetts corporation (the "Corporation").
2. The Agreement of Merger in the form attached was duly approved by the board of directors and sole shareholder of the Corporation.
3. The shareholder vote required for the aforesaid approval was two-thirds of the outstanding shares of the Corporation.
4. The shareholder approval was by the holder of 100% of the outstanding shares of the Corporation.

The Corporation has only one class of shares and the number of shares outstanding is one hundred (100).

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

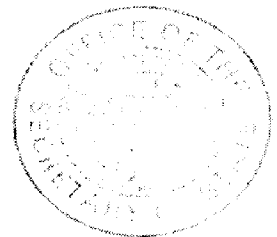
DATE: June 21, 2001



PAUL FOLINO, President



MICHAEL J. ROCKENBACH, Clerk



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RECORDED: 07/24/2002

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