

12-15-1999



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RECORDATION FORM COVER SHEET
TRADEMARKS 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 License
- Security Agreement Nunc Pro Tunc Assignment
- Merger Effective Date
Month Day Year
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

- Individual General Partnership Limited Partnership Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

- Individual General Partnership Limited Partnership
- Corporation Association
- Other

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 should be attached. (Designation must be a separate document from Assignment.)

Citizenship/State of Incorporation/Organization

12/14/1999 TTON11 00000230 1382621

FOR OFFICE USE ONLY

01 FC:481
02 FC:482

40.00 OP
50.00 OP

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

TRADEMARK
REEL: 001998 FRAME: 0797

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

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.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

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

Trademark Application Number(s)

Registration Number(s)

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

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

Deposit Account Number:

#

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.

Louis J. Luzynski

11-10-99

Name of Person Signing

Signature

Date Signed

State of Delaware
Office of the Secretary of State PAGE 1

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:

"GCF, INC.", A DELAWARE CORPORATION,
WITH AND INTO "GASCARD CLUB, INC." UNDER THE NAME OF
"GASCARD, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE SIXTEENTH DAY OF SEPTEMBER, A.D. 1988, AT 9 O'CLOCK A.M.



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

Edward J. Freel, Secretary of State

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AUTHENTICATION: 8891904

DATE: 01-29-98

TRADEMARK
REEL: 001998 FRAME: 0799

98-03482-54

**CERTIFICATE OF MERGER
MERGING**

**GCF, INC.,
A DELAWARE CORPORATION,**

9 AM

WITH AND INTO

SEP 16

**GASCARD CLUB, INC.,
A DELAWARE CORPORATION**

(Pursuant to Sections 25 and 303 of the
General Corporation Law of the State of Delaware)

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

1. Provision for entering into this Certificate of Merger is contained in the Plan of Reorganization of GASCARD (the "Plan") confirmed by the United States Bankruptcy Court for the Southern District of California in the bankruptcy proceedings conducted under Chapter 11 of the United States Bankruptcy Code of 1978, as amended, styled In Re: GASCARD Club, Inc., Debtor, Case No. 88-03482-B11, pursuant to the Order of Confirmation (the "Order") dated September 1, 1988 issued in such proceedings. Certified copies of the Plan and Order are attached hereto as Exhibits A and B, respectively.

2. The name and state of incorporation of each constituent corporation is:

<u>Name of Corporation</u>	<u>State of Incorporation</u>
GCF, Inc.	Delaware
GASCARD Club, Inc.	Delaware

3. Pursuant to the Plan, GASCARD and GCF, Inc. ("GCF") entered into and consummated that certain agreement and plan of merger dated September 15, 1988 (the "Merger Agreement").

4. The name of the surviving corporation is GASCARD Club, Inc., a Delaware corporation.

5. The Certificate of Incorporation of GASCARD is hereby amended and restated in its entirety as follows:

FIRST: The name of the corporation is GASCARD, Inc.

SECOND: The address of the registered office of the corporation is Corporation Trust Center, 1209 Orange Street,

Wilmington, Delaware, County of New Castle. The name of the registered agent at the address is The Corporation Trust Company.

THIRD: The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware. The corporation shall have all of the powers granted or permitted by the laws of the State of Delaware to corporations organized under its General Corporation Law.

FOURTH:

A. Authorized Shares. The total number of shares of all classes of stock which the corporation shall have the authority to issue is two hundred two million (202,000,000), consisting of: (1) two hundred million (200,000,000) shares of common stock, par value one-tenth (1/10) of one cent (\$.001) per share (the "Common Stock"); and (2) two million (2,000,000) shares of preferred stock, par value one-tenth (1/10) of one cent (\$.001) per share (the "Preferred Stock"). The corporation shall not issue any non-voting equity securities.

B. Authorized Preferred Stock.

1. Series of Preferred Stock. Except as otherwise provided in this Certificate of Incorporation, the Board of Directors shall have authority, by resolution, to divide the Preferred Stock into series, to establish and fix the distinguishing designation of each such series and the number of shares thereof (which number, by like action of the Board of Directors from time to time thereafter, may be increased except when otherwise provided by the Board of Directors in creating such series, or may be decreased but not below the number of shares thereof then outstanding) and, within the limitations of applicable law of the State of Delaware or as otherwise set forth in this Article FOURTH, to fix and determine the relative rights and preferences of the shares of each series so established prior to the issuance thereof, and particularly with respect to:

a. The rate of dividends and the initial original issue date or other date from which such dividends shall be cumulative;

b. The price or prices at which, the period or periods within which, and the terms and conditions on which, shares may or shall be redeemed;

c. The amounts payable upon shares in the event of voluntary or involuntary liquidation;

d. The terms of the sinking fund provisions or redemption or purchase amount, if any, for the redemption or purchase of shares;

e. The terms and conditions on which shares may be converted into shares of Common Stock, or any other class or series, if any shares are issued with the privilege of conversion; and

f. Whether or not shares shall have voting rights, and the terms and conditions upon which any voting rights may be exercised.

2. Incorporation, Exclusion or Limitation of Terms by Reference. The Board of Directors, in fixing and determining any terms of any series of Preferred Stock as permitted under Paragraph 1, may incorporate by specific reference (with or without any permissible variations, exclusions or limitations then determined by the Board of Directors) any or all of the terms set forth in this Article FOURTH or set forth in any other resolution fixing the terms of the same or another series of Preferred Stock; provided that such other resolution has been duly filed so as to constitute an amendment to this Certificate of Incorporation of the corporation.

3. Terms of New Series Deemed an Addition to This Part. Upon completion of any filing of a resolution of the Board of Directors adopted pursuant to Paragraph 1, which may be required in order that the same shall constitute an amendment to this Certificate, the terms of the new series as set forth therein shall be deemed to become an appropriately numbered additional paragraph to this Article FOURTH, and may be so certified by any officer of the corporation or by any public official whose duty it may be to certify copies of this Certificate of Incorporation, or amendments thereto.

FIFTH: The following provisions are inserted for the management of the business and for the conduct of the affairs of the corporation, and for further definition, limitation and regulation of the powers of the corporation and of its directors and stockholders:

1. The business and affairs of the corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the bylaws of the corporation, the directors are hereby empowered to exercise all such powers and to do such things and acts as may be exercised or done by the corporation.

2. Except as otherwise fixed by or pursuant to the provisions of Article FOURTH relating to the rights of the

holders of any class or series of stock having a preference over the Common Stock, the number of directors of the corporation shall be such as from time to time shall be fixed by or in the manner provided in the bylaws, but shall not be less than three, except that when all the shares of the corporation are owned beneficially and of record by either one or two stockholders, the number of directors may be less than three but not less than the number of stockholders. Election of directors need not be by ballot unless the bylaws so provide.

3. The Board of Directors shall have the power, without the vote or assent of the stockholders and subject to rights of the holders of any series of Preferred Stock then outstanding:

a. To make, alter, amend, change, add to or repeal the bylaws of the corporation; to fix and vary any amount to be reserved for any proper purpose; to authorize and cause to be executed mortgages and liens upon all or any part of the property of the corporation; to determine the use and disposition of any surplus or net profit; and to fix the times for declaration and payment of dividends.

b. To submit any contract or act for approval or ratification at any annual meeting of the stockholders, or at any special meeting of the stockholders called for the purpose of considering any such act or contract, and any contract or act that shall be approved or ratified by the vote of the holders of a majority of the stock of the corporation which is represented in person or by proxy at such meeting and entitled to vote thereat (provided that a lawful quorum of stockholders is represented in person or by proxy) shall be as valid and binding upon the corporation and upon all the stockholders as though it had been approved or ratified by every stockholder of the corporation, whether or not the contract or act would otherwise be open to attack because of directors' interest or for any other reason.

SIXTH: Whenever a compromise or arrangement is proposed between this corporation and its creditors, or any class of them and/or between this corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this corporation or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this corporation under the provisions of Section 291 of Title 8 of the Delaware Code, or on the application of trustees in dissolution

or of any receiver or receivers appointed for this corporation under the provisions of Section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this corporation, as the case may be, and also on this corporation.

SEVENTH: The corporation shall indemnify, to the full extent permitted by law, any person who is made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative, or any appeal in such an action, by reason of the fact that he is or was a director or officer of the corporation after May 2, 1988, against all expenses (including attorneys' fees), judgments, fines or amounts paid in settlement actually and reasonably incurred by such director or officer in connection with any such action, suit or proceeding. The corporation may indemnify other persons, as permitted by law. The corporation may advance expenses to directors, officers or other persons, as permitted by law. The corporation may purchase and maintain insurance on behalf of directors, officers or any persons against any liability asserted against such person in such a capacity or arising out of his status as such a person, whether or not the corporation would have the power to indemnify him against such liability, as permitted by law.

EIGHTH: The corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation in the manner now or hereafter prescribed by law, and all rights and powers conferred herein on stockholders, directors and officers are subject to this reserved power.

NINTH: A director of the corporation shall not be personally liable to the corporation or any stockholder for monetary damages for breach of a fiduciary duty as a director, except that this Article NINTH shall not eliminate or limit a director's liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of Delaware, or (iv) for any transaction from which the director derived an improper personal

benefit. Any repeal or modification of the foregoing provisions of this Article NINTH shall not increase the personal liability of any director of the corporation for any act or occurrence taking place prior to such repeal or modification, or otherwise adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

The corporation shall, to the fullest extent permitted by Section 145 of the Delaware General Corporation Law, as amended from time to time, indemnify all persons who are eligible for indemnification pursuant thereto. The provisions of this Article NINTH shall not be deemed to limit or preclude indemnification of a director by the corporation for any liability of a director which has not been eliminated by the provisions of this Article NINTH.

TENTH: The name and address of the incorporator is:
David J. Harshman
11025 North Torrey Pines Road
P.O. Box 389700
La Jolla, CA 92038

6. The executed Agreement and Plan of Merger is on file at the principal place of business of the surviving corporation, the address of which is:

GASCARD, Inc.
11025 North Torrey Pines Road
La Jolla, California 92037
Attention: Mr. Keith Moore, President

7. A copy of the Agreement and Plan of Merger will be furnished by GASCARD, on request and without cost, to any stockholder of GASCARD or GCF.

IN WITNESS WHEREOF, GASCARD Club, Inc. has caused this Certificate of Merger to be signed on its behalf by its President and attested by its Secretary, this 15th day of September, 1988.

ATTEST:

GASCARD CLUB, INC.



Lindsay B. Holland, Secretary

By: 

Keith Moore, President

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CERTIFICATE OF MERGER
GASCARD Club, Inc.

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