

05-15-2000



SHEET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

FORM PTO-1594

(Rev. 6-93)

4-20-00

101355220

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

<p>1. Name of conveying party(ies):</p> <p>Hambrecht & Quist Group, a California corporation H & Q Reorganization Subsidiary, Inc., a California corporation</p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association</p> <p><input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership</p> <p><input checked="" type="checkbox"/> Corporations-State: California</p> <p><input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment <input checked="" type="checkbox"/> Merger</p> <p><input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name</p> <p>Other _____</p> <p>Execution Date: June 10, 1996</p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <u>Hambrecht & Quist California</u></p> <p>Internal Address: _____ <u>API</u></p> <p>Street Address: <u>One Bush Street</u></p> <p>City: <u>San Francisco</u> State: <u>CA</u> ZIP <u>94104</u></p> <p><input type="checkbox"/> Individual(s) citizenship _____</p> <p><input type="checkbox"/> Association _____</p> <p><input type="checkbox"/> General Partnership _____</p> <p><input type="checkbox"/> Limited Partnership _____</p> <p><input checked="" type="checkbox"/> Corporation-State <u>California</u></p> <p><input type="checkbox"/> Other _____</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(Designation must be a separate document from Assignment).</p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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<p>4. Application number(s) or registration number(s):</p> <p>A. Trademark Application No.(s)</p>	<p>B. Trademark Registration No.(s) <u>1,831,569</u></p> <p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
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<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: <u>Kathryn M. Wheble</u> <u>Cooley Godward LLP</u></p> <p>Internal Address: _____</p> <p>Street Address: <u>One Maritime Plaza, 20th Floor</u></p> <p>City: <u>San Francisco</u> State: <u>CA</u> ZIP <u>94111-3580</u></p>	<p>6. Total number of applications and registration involved: <u>1</u></p> <p>7. Total fee (37 CFR 3.41):..... <u>\$ 40.00</u></p> <p><input checked="" type="checkbox"/> Enclosed</p> <p><input type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number:</p> <p>(Attach duplicate copy of this page if paying by deposit account)</p>
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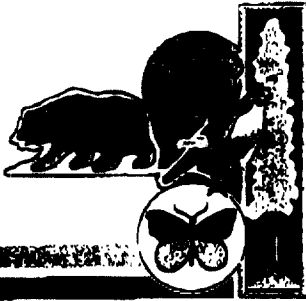
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9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Kathryn M. Wheble 4-14-00
Kathryn M. Wheble Date

Total number of pages including cover sheet, attachments, and document: 11

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



State
of
California
SECRETARY OF STATE

HAMBRECHT & QUIST CALIFORNIA

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

That the annexed transcript was prepared by and in
this office from the record on file, 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

AUG 23 1996



Bill Jones

Secretary of State

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FILED
In the office of the Secretary of State
of the State of California

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AGREEMENT OF MERGER

Bill Jones
BILL JONES, Secretary of State

Merging

H & Q REORGANIZATION SUBSIDIARY, INC., A CALIFORNIA CORPORATION

with and into

HAMBRECHT & QUIST GROUP, A CALIFORNIA CORPORATION

This AGREEMENT MERGER (the "Agreement"), is made and entered into as of June 10, 1996 by and between Hambrecht & Quist Group a California corporation ("Hambrecht & Quist California" or the "Company") and H & Q Reorganization Subsidiary, Inc. a California corporation ("Merger Sub") (Hambrecht & Quist California and Merger Sub, together, the "Constituent Corporations") and the wholly owned subsidiary of Hambrecht & Quist Group, Inc., a Delaware corporation ("Parent") (each, a "Party" and collectively, the "Parties").

RECITALS

A. The Parties have entered into this Merger Agreement providing for the merger of Merger Sub with and into Hambrecht & Quist California upon the terms set forth in this Merger Agreement (the "Merger").

B. The respective Boards of Directors of each of the Constituent corporations deem it advisable and in the best interests of each of such corporations and their respective stockholders that Merger Sub be merged with and into Hambrecht & Quist California.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants, promises and mutual agreements contained in this Merger Agreement, the Constituent Corporations hereby agree that Merger Sub shall be merged with and into Hambrecht & Quist California in accordance with the provisions of the laws of the State of California, upon the terms and subject to the conditions set forth as follows:

ARTICLE 1

THE MERGER

1.1 Filing. This Merger Agreement, together with the officers' certificates of each of the Constituent Corporations required by the General Corporation Law of the State of California (the "California Law", shall be filed with the Secretary of State of the State of California.

1.2 Effectiveness. The Merger shall become effective upon the filing of this Merger Agreement with the Secretary of State of the State of California (the "Effective Time").

1.3 Merger. At the Effective Time, Merger Sub shall be merged into Hambrecht & Quist California and the separate corporate existence of Merger Sub shall thereupon cease. Hambrecht & Quist California will be the Surviving Corporation in the merger and the separate corporate existence of Hambrecht & Quist California shall continue unaffected and unimpaired by the Merger.

1.4 Further Action. If at any time after the Effective Time any further action is necessary or desirable to carry out the purposes of this Merger Agreement or to vest the Surviving Corporation with the full right, title and possession to all assets, property, rights, privileges, immunities, powers and franchises of either or both of the constituent corporations, the officers and directors of the Surviving Corporation are fully authorized (in the name of either or both of the constituent Corporations or otherwise) to take all such action.

ARTICLE 2

CORPORATE GOVERNANCE MATTERS

The Articles of Incorporation of the Surviving Corporation shall be amended and restated in full as of the Effective Time as set forth in Exhibit A attached hereto.

ARTICLE 3

MANNER OF CONVERTING SHARES OF THE CONSTITUENT CORPORATIONS

3.1 Effect on Capital Stock. As of the Effective Time of the Merger, by virtue of the Merger and without any action on the part of any holder of any securities of the Company:

(a) Capital Stock of Merger Sub. All issued and outstanding shares of capital stock of Merger Sub shall be converted into 10,000 shares of the common stock of the Surviving Corporation (the "California Common Stock").

(b) Cancellation of California Common Stock.

(i) All shares of California Common Stock that are owned directly or indirectly by the Company shall be canceled and no common stock of Parent or other consideration shall be delivered in exchange therefor.

(ii) Each holder of a certificate representing any shares of California Common Stock after the Effective Time of the Merger, except shares of California Common Stock issued upon conversion of shares of Merger Sub, shall cease to have any rights with respect to such shares, except the right either to (A) receive the California Merger Consideration Per Share, (as defined in Section 3.1(c) below) multiplied by the number of shares represented by such certificate, upon surrender of such certificate, or (B) to exercise such holder's dissenters' rights as provided in Section 3.1(f) hereof and the California Law.

(c) Conversion of California Common Stock or Capital Stock Rights of Hambrecht & Quist California. Each share of California Common Stock, except canceled shares, Dissenting California Shares (as defined in Section 3.1(f) below) and shares of California Common Stock issued upon conversion of shares of Merger Sub, but including shares issued upon the exercise of any Hambrecht & Quist California Option (as defined in Section 3.1(d) below) prior to the Effective Time of the Merger, that is issued and outstanding immediately prior to the Effective Time of the Merger shall automatically be canceled and extinguished and converted, without any action on the part of the holder thereof, into the right to receive four (4) shares of Common Stock of Parent ("Group Common Stock") (the "Merger Consideration Per Share"). All shares of Group Common Stock received pursuant to this Section 3.1(c) ("California Merger Group Common Stock") shall be subject to restrictions on transfer of the "Underwriters' Market Stand-Off" set forth in Exhibit B hereto and each certificate representing any such share shall carry a legend describing the terms and conditions on transfer as described in the Underwriters' Market Stand-Off. Any reference to California Merger Group Common Stock, including without limitation references contained in Section 3.1(d) below, shall be deemed to refer to Group Common Stock so restricted. The ratio pursuant to which each share of California Common Stock including assumed convertible and exercisable securities, will be exchanged for shares of Common Stock of Parent, determined in accordance with the foregoing provisions, is hereinafter referred to as the "Exchange Ratio."

(d) Assumption of Hambrecht & Quist California Options.

(i) At the Effective Time of the Merger, each unexpired and unexercised option to purchase shares of California Common Stock (a "Hambrecht & Quist California Option") granted under the stock option plans and agreements of Hambrecht & Quist California outstanding immediately prior to the Effective Time of the Merger shall be assumed by Parent (an "Assumed Hambrecht & Quist California Option") together with the stock option plans under which those options are outstanding (the "Assumed Option Plans"). Each Hambrecht & Quist California Option so assumed by Parent will continue to have, and be subject to, substantially the same terms and conditions set forth in the documents governing such Hambrecht & Quist California Option, including the Assumed Option Plans, immediately prior to the Effective Time of the Merger, except that (A) such Assumed Hambrecht & Quist California Option will be exercisable for that number of whole shares of California Merger Group Common Stock (which shall be subject to the restrictions on transfer) equal to the product of the number

of shares of California Common Stock that were purchasable under such Assumed Hambrecht & Quist California Option immediately prior to the Effective Time of the California Merger multiplied by the Exchange Ratio, and (B) the per share exercise price for the shares of California Merger Group Common Stock issuable upon exercise of such Assumed Hambrecht & Quist California Option will be equal to the quotient obtained by dividing the exercise price per share of California Common Stock (on an as converted to Common Stock basis) at which such Assumed Hambrecht & Quist California Option was exercisable immediately prior to the Effective Time of the Merger by the Exchange Ratio, rounded up to the nearest whole cent. Consistent with the terms of the Hambrecht & Quist California Options and the documents governing such Hambrecht & Quist California Options, including the Assumed Option Plans, the Merger will not terminate or accelerate any Assumed Hambrecht & Quist California Option or any right of exercise, vesting or repurchase relating thereto with respect to shares of California Merger Group Common Stock acquired upon exercise of the Assumed Hambrecht & Quist California Option. Holders of Assumed Hambrecht & Quist California Options will not be entitled to acquire California Common Stock following the Merger.

(ii) As soon as practicable after the Effective Time of the Merger, Hambrecht & Quist Group shall issue to each holder of an Assumed Hambrecht & Quist California Option a document evidencing the stock option assumption by parent. The right to receive an Assumed Hambrecht & Quist California Option may not be assigned or transferred, except as provided under the Assumed Option Plan under which that option was granted. Any attempted assignment contrary to this Section 3.1(d) shall be null and void.

(iii) It is the intention of the Parties that the Hambrecht & Quist California Options assumed by Hambrecht & Quist Group qualify following the Effective Time of the Merger as incentive stock options as defined in Section 422 of the Internal Revenue Code of 1986, as amended (the "Code") to the extent the Hambrecht & Quist California Options qualified as incentive stock options prior to the Effective Time of the Merger.

(e) California Common Stock Subject to Repurchase. All shares of California Merger Group Common Stock that are received in the Merger in exchange for shares of California Common Stock that, under applicable stock purchase, stock restriction or similar agreements with Hambrecht & Quist California, are unvested or subject to a repurchase option or other condition of forfeiture which by its terms does not terminate due to the Merger ("Hambrecht & Quist California Restricted Stock") will also be unvested or subject to the same repurchase option or other condition, as the case may be, and all such repurchase options shall automatically inure to Parent in the Merger and shall thereafter be exercisable by Parent upon the same terms and conditions in effect for Hambrecht & Quist California immediately prior to the Effective Time of the Merger, except that the shares purchasable under any such repurchase option shall be shares of Merger Group Common Stock and the price payable by Parent shall be equal to the quotient determined by dividing the aggregate purchase price at which the California Common Stock was repurchasable under each applicable agreement by the Exchange Ratio and rounding the resulting aggregate price payable by Hambrecht & Quist Group to the nearest whole cent. The certificates evidencing such shares will be marked with appropriate legends.

(f) Dissenters' Rights. If, as of the Effective Time of the Merger, holders of California Common Stock have properly exercised and not lost dissenters' rights ("Dissenting California Shares") in connection with the Merger under Chapter 13 of the California Law, such Dissenting California Shares shall not be converted into California Merger Group Common Stock but shall be

converted into the right to receive such consideration as may be determined to be due with respect to such Dissenting California Shares pursuant to the California Law. Hambrecht & Quist California shall give Parent prompt notice of any demand received by Hambrecht & Quist California to require Hambrecht & Quist California to purchase shares of California Common Stock, and Parent shall have the right to participate in all negotiations and proceedings with respect to such demand. Each holder of Dissenting California Shares (a "Dissenting California Security Holder") who, pursuant to the provisions of the California Law, becomes entitled to payment of the value of shares of California Common Stock shall receive payment therefor (but only after the value therefor shall have been agreed upon or finally determined pursuant to such provisions). In the event of a legal obligation, after the Effective Time of the Merger, to deliver shares of Merger Group Common Stock to any holder of shares of California Common Stock who shall have failed to make an effective purchase demand or shall have lost his status as a Dissenting California Security Holder, Parent shall issue and deliver, upon surrender by such Dissenting California Security Holder of his certificate or certificates representing shares of California Common Stock, the shares of California Merger Group Common Stock to which such Dissenting California Security Holder is then entitled under this Section 3.1.

3.2 Surrender of Certificates: Payment of Merger Consideration.

(a) **Exchange Agent.** Prior to the Closing Date, Parent shall appoint a third party to act as exchange agent (the "Exchange Agent") in the Mergers.

(b) **Hambrecht & Quist Group to Provide Common Stock and Cash.** Promptly after the earlier of (i) the Effective Date of this Merger and (ii) the effective Date of the LP Merger (but in no event later than thirty (30) business days thereafter), Parent shall make available for exchange in accordance with this Article 2, through such reasonable procedures as Parent may adopt, the California Merger Group Common Stock issuable pursuant to Section 3.1 in exchange for outstanding shares of California Common Stock.

(c) **Exchange Procedures for California Common Stock.** Within thirty (30) calendar days after the Effective Time of the Merger, the Exchange Agent shall mail to each holder of record of a certificate or certificates that immediately prior to the Effective Time of the Merger represented outstanding shares of California Common Stock (the "California Certificates") whose interests are being converted into California Merger Group Common Stock pursuant to Section 3.1 hereof (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the California Certificates shall pass, only upon delivery of the California Certificates to the Exchange Agent and shall be in such form and have such other provisions as Hambrecht & Quist Group may reasonably specify) and (ii) instructions for use in effecting the surrender of the California Certificates in exchange for California Merger Group Common Stock. Upon surrender of a California Certificate for cancellation to the Exchange Agent or to such other agent or agents as may be appointed by Parent, together with such letter of transmittal, duly executed and completed in accordance with the instructions thereto, the holder of such California Certificate shall be entitled to receive in exchange therefor the number of shares of California Merger Group Common Stock to which the holder of such certificate is entitled pursuant to Section 3.1 hereof. The California Certificate so surrendered shall forthwith be canceled. In the event of a transfer of ownership of California Common Stock that is not registered on the transfer records of

Hambrecht & Quist California, the appropriate number of shares of California Merger Group Common Stock may be delivered to a transferee if the California Certificate representing such California Common Stock is presented to the Exchange Agent and accompanied by all documents required to evidence and effect such transfer and to evidence that any applicable stock transfer taxes have been paid. Until surrendered as contemplated by this Section 3.2, each California Certificate shall be deemed at all times after the Effective Time of the Merger to represent the right to receive upon such surrender the number of shares of California Merger Group Common Stock as provided by this Article 3 and the provisions of the California Law but shall, subject to Section 3.1(f), have no other right; provided, however, that customary and appropriate certifications and indemnities allowing exchange against lost or destroyed certificates shall be provided; and provided further that nothing in this Section 3.2(c) shall require Parent to issue California Merger Group Common Stock to any holder of California Common Stock who shall fail to surrender a certificate representing such shares or the certification and indemnities relating to a lost certificate. Notwithstanding the foregoing, neither the Exchange Agent nor any Party hereto shall be liable to a holder of shares of California Common Stock for any California Merger Group Common Stock delivered to a public official pursuant to applicable abandoned property, escheat and similar laws. Promptly following the date that is six (6) months after the California Effective Date, the Exchange Agent shall return to the Surviving Corporation all shares of California Merger Group Common Stock in its possession relating to the transactions described in this Agreement, and the Exchange Agent's duties shall terminate. Thereafter, each holder of a California Certificate may surrender such Certificate to the Surviving Corporation and (subject to applicable abandoned property, escheat and similar laws) receive in exchange therefor the shares of California Merger Group Common Stock to which such holder is entitled pursuant hereto.

(d) No Further Ownership Rights in Capital Stock of Hambrecht & Quist California.

All California Merger Group Common Stock delivered upon the surrender for exchange of shares of California Common Stock in accordance with the terms hereof shall be deemed to have been delivered in full satisfaction of all rights pertaining to such shares of California Common Stock. There shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of California Common Stock which were outstanding immediately prior to the Effective Time of the California Merger. If, after the Effective Time of the Merger, California Certificates are presented to the Surviving Corporation for any reason, they shall be canceled and exchanged as provided in this Article 3.

ARTICLE 4

TERMINATION AND AMENDMENT

4.1 Termination. This Merger Agreement may be terminated at any time prior to the Effective Time, whether before or after approval of the Merger by the sole stockholder of Merger Sub and the shareholders of Hambrecht & Quist California, by mutual agreement of the Boards of Directors of Merger Sub and Hambrecht & Quist California.

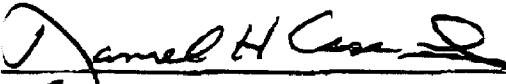
4.2 Amendment. This Merger Agreement may be amended by the parties hereto at any time before or after approval hereof by the shareholders of either Merger Sub or Hambrecht & Quist California, but, after any such approval, no amendment shall be made without the further approval of


such shareholders if such amendment would (i) have a material adverse effect on the shareholders of either Merger Sub or Hambrecht & Quist California, (ii) change any of the principal terms of the Merger Agreement, or (iii) change any time of the Articles of Incorporation of the Surviving Corporation. This Merger Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

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

Hambrecht & Quist Group,
a California corporation

H & Q Reorganization Subsidiary, Inc.,
a California corporation

By: 
Daniel H. Case III,
President and Chief Executive Officer

By: 
Steven N. Machtinger,
President, Chief Executive Officer,
and Secretary

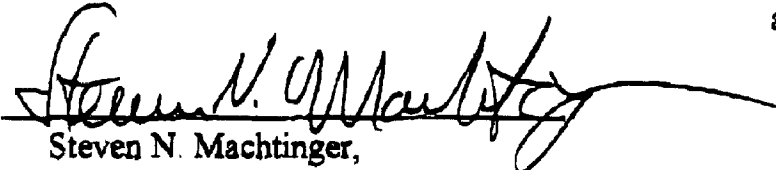
By: 
Steven N. Machtinger,
Secretary

EXHIBIT A

AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

Hambrecht & Quist Group

ONE. The name of this corporation is **Hambrecht & Quist California**.

TWO. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

THREE. This corporation is authorized to issue only one class of stock, designated "Common Stock," and the total number of shares which this corporation is authorized to issue is ten thousand (10,000).

FOUR. (a) The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) The corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the agents, vote of shareholders or disinterested directors, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the corporation or its shareholders. The corporation is further authorized to provide insurance for agents as set forth in Section 317 of the California Corporations Code, provided that, in cases where the corporation owns all or a portion of the shares of the company issuing the insurance policy, the company and/or the policy must meet one of the two sets of conditions set forth in Section 317, as amended.

(c) Any repeal or modification of the foregoing provisions of this Article Four by the shareholders of this corporation shall not adversely affect any right or protection of an agent of this corporation existing at the time of such repeal or modification.