

P99000073615



ACCOUNT NO. : 072100000032

REFERENCE : 389563 4728359

AUTHORIZATION :

COST LIMIT : \$ PPD

FILED
99 SEP 28 PM 4:33
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ORDER DATE : September 28, 1999

ORDER TIME : 12:36 PM

ORDER NO. : 389563-005

CUSTOMER NO: 4728359

CUSTOMER: Ms. Jennifer D. Riddle
Bush Ross Gardner Warren &
220 South Franklin Street

Tampa, FL 33602

000002999590-19
-09/29/99--01001--009
*****70.00 *****35.00

DOMESTIC AMENDMENT FILING

NAME: 1:1 MEDIA, INC.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
 RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

 CERTIFIED COPY
XX PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Tamara Odom

EXAMINER'S INITIALS: _____

Place note
Check with
1st filing
09/29/99
9:08 PM 3:12
DEPT. OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA
RECEIVED

C. COULLIETTE SEP 28 1999

**ARTICLES OF AMENDMENT TO
ARTICLES OF INCORPORATION
OF 1:1 MEDIA, INC.**

**DETERMINING AND DESIGNATING THE
PREFERENCES, LIMITATIONS AND RELATIVE RIGHTS OF
SERIES A CONVERTIBLE PREFERRED STOCK**

**Pursuant to Sections 607.0601 and .0602
of the
Florida Business Corporation Act**

FILED
99 SEP 28 PM 4:33
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

1:1 MEDIA, INC., a Florida corporation maintaining offices at 210 South O'Brien Street, Tampa, Florida 33609 (the "Corporation"), hereby certifies that pursuant to authority conferred upon its Board of Directors by the Articles of Incorporation of the Corporation, and by the provisions of Sections 607.0601, .0602 and .0821, Florida Statutes, such Board, by unanimous written action taken as of September 24, 1999, has adopted a resolution approving and providing for the designation and issuance of a series of its 5,000,000 shares of authorized preferred stock, \$.01 par value, the content of which resolution is hereinafter set forth in its entirety:

RESOLVED, that pursuant to the authority expressly granted and vested in the Board of Directors of this Corporation in accordance with the provisions of its Articles of Incorporation, a series of the Corporation's authorized class of preferred stock, \$.01 par value, is hereby established as "Series A Convertible Preferred Stock, \$.01 Par Value," hereinafter referred to as the "Series A Preferred Stock", which series shall consist of 200 shares. The preferences and relative, participating, optional or other special rights of, and the qualifications, limitations and restrictions imposed upon the Series shall be as follows:

1. Cash Dividends. The holders of shares of the Series A Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors out of the funds of the Corporation legally available therefor, such cash dividends, if any, as are made available to the holders of the Corporation's common stock (the "Common Stock"), as may be declared from time to time by the Company's Board of Directors, in its discretion, from funds legally available therefor.

2. Voting Rights. Each Series A Preferred Stock shareholder is entitled to 1,666 votes per share of Series A Preferred Stock owned of record on all matters to be voted on by shareholders, including the election of directors.

3. Voluntary Conversion.

(a) In General. Subject to the provisions of this Section 3., each holder of record of any share or shares of Series A Preferred Stock shall have the right, at his option, at any time on or after January 1, 2000 to convert each share of Series A Preferred Stock then held by him into 1,666 shares of the Corporation's Common Stock.

(b) Procedure. Any holder of one or more shares of Series A Preferred Stock desiring to convert any such shares into Common Stock shall surrender each certificate representing one or more shares of such Series A Preferred Stock to be converted, duly endorsed to the Corporation or in blank, at the principal business office of the Corporation (or such other place as may be designated by the Corporation), and shall give written notice to the Corporation at that office of his election to convert the same, setting forth therein the name or names (with the address or addresses) in which the shares of Common Stock are to be issued.

(c) Additional Provisions. Conversion of Series A Preferred Stock shall be subject to the following additional terms and provisions:

(1) Replacement Certificates. As promptly as practicable after the surrender for conversion of any Series A Preferred Stock, the Corporation shall deliver or cause to be delivered at the principal office of the Corporation (or such other place as may be designated by the Corporation), to or upon the written order of the holder of such Series A Preferred Stock, one or more certificates representing the shares of Common Stock issuable upon such conversion, issued in such name or names as such holder may reasonably direct. Shares of the Series A Preferred Stock shall be deemed to have been converted as of the close of business on the date of the surrender of the Series A Preferred Stock for conversion, as provided above, and the rights of the holders of such Series A Preferred Stock shall cease at such time, and each person in whose name a certificate for such shares is to be issued shall be treated for all purposes as having become the record holder of such Common Stock at such time; ~~provided, however,~~ that any such surrender on any date when the stock transfer books of the Corporation shall be closed shall constitute the person in whose name each certificate for such shares is to be issued as the record holder thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open.

(2) Subdivisions or Combinations. In the event that the Corporation shall at any time prior to a particular conversion subdivide or combine its outstanding shares of Common Stock into a greater or lesser number of such shares, the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock shall be proportionately increased in the case of a subdivision or decreased in the case of a combination, effective in either case at the close of business on the date when such subdivision or combination shall become effective.

(3) Property Dividend. In the event that the Corporation shall at any time pay any dividend or make any other distribution on its Common Stock in

property, other than in cash or in Common Stock of the Corporation, provision shall be made as part of the terms of such dividend or distribution for each holder of any Series A Preferred Stock surrendered for conversion after the record date for determination of holders of Common Stock entitled to such dividend or distribution, but on or before the actual date of payment, to be entitled to receive the same kind and proportionate share of such property which he would have been entitled to receive had such Series A Preferred Stock been converted immediately prior to such record date.

(d) No Adjustments. No adjustment of the conversion ratio shall be made by reason of:

(1) the payment of any cash dividend on the Common Stock or any other class of the capital stock of the Corporation;

(2) the purchase, acquisition, redemption or retirement by the Corporation of any shares of the Common Stock or of any other class of the capital stock of the Corporation;

(3) the issuance, other than as provided in subdivision (c)(2) of this Section 3, of any shares of Common Stock of the Corporation, or of any securities convertible into shares of Common Stock or other securities of the Corporation, or of any rights, warrants or options to subscribe for or purchase shares of the Common Stock or other securities of the Corporation, or of any other securities of the Corporation, provided that in the event the Corporation offers any of its securities, or any rights, warrants or options to subscribe for or purchase any of its securities, to the holders of its Common Stock pursuant to any preemptive or preferential rights granted to holders of Common Stock by the Articles of Incorporation of the Corporation, or pursuant to any similar rights that may be granted to such holders of Common Stock by the Board of Directors of the Corporation, the Corporation shall mail written notice of such offer to the holders of the Series A Preferred Stock then of record at least 20 days prior to the record date for the determination of holders of the Common Stock entitled to receive any such offer so as to provide such holders with a reasonable period of time within which to determine whether to exercise their rights of conversion;

(4) any offer by the Corporation to redeem or acquire shares of its Common Stock by paying or exchanging therefor stock of another corporation or the carrying out by the Corporation of the transactions contemplated by such offer, provided that at least 20 days prior to the expiration of any such offer the Corporation shall mail written notice of such offer to the holders of the Series A Preferred Stock then of record; or

(5) the distribution to holders of Common Stock of stock or other securities of another issuer, if the issuer of such securities shall be engaged at the time of such distribution in a business (i) which shall have been previously operated on a divisional or subsidiary basis by an entity acquired by the Corporation and (ii) which shall be distinct from the principal businesses of the entity so acquired.

4. Mandatory Conversion.

(a) In General. Contemporaneously with the consummation of a Qualified Public Offering (as defined below), each share of Series A Preferred Stock then outstanding shall be converted into 1,666 shares of the Corporation's Common Stock, subject only to the provisions of Sections 3(c)(2) and 3(d) hereof. Contemporaneously with the consummation of a Qualifying Sale (as defined below), subject only to the provisions of Sections 3(c)(2) and 3(d) hereof, each share of Series A Preferred Stock then outstanding shall be (i) converted into 1,666 shares of the Corporation's Common Stock, and, (ii) if the event triggering such Qualifying Sale is a merger, share exchange, recapitalization, reorganization, or the sale of substantially all the assets of the Corporation, each share of Common Stock shall then be converted into the number of shares of stock or other securities or cash or other property receivable upon such capital reorganization, reclassification of capital stock, consolidation, merger, sale or conveyance, as the case may be, by a holder of the number of shares of Common Stock into which such shares of Series A Preferred Stock shall have then been converted.

(b) Qualifying Sale Defined. A "Qualifying Sale" shall be deemed to occur when Steven A. MacDonald and Charles T. O'Neill and their affiliates (collectively the "Majority Shareholders") agree to sell their shares of the outstanding voting stock of the Corporation to a third party purchaser in one or a related group of transactions or vote for a merger, share exchange, recapitalization, reorganization, or the sale of substantially all the assets of the Corporation, in a transaction after the consummation of which the Majority Shareholders, after completion of the transactions contemplated hereby, own or control, directly or indirectly, less than 50.1% of the outstanding voting stock of the entity surviving or purchasing the assets, as the case may be.

(c) Qualified Public Offering Defined. As used herein, the term "Qualified Public Offering" shall mean the first fully underwritten, firm commitment public offering, by way of an effective registration statement under the Securities Act of 1933 (or successor legislation), of shares of Common Stock, pursuant to which the aggregate price paid by the public for the purchase of all shares of Common Stock sold by the Corporation and any selling shareholders subject thereto shall be at least \$10,000,000.

(d) Procedure. The Corporation shall give notice of the date of the consummation of such Qualified Public Offering or Qualifying Sale (the "Mandatory

Conversion Date") to each holder of record of Series A Preferred Stock, no later than 14 business days before the Mandatory Conversion Date, by certified mail, return receipt requested, addressed to such holder at its post office address as shown on the records of the Corporation, specifying that the shares will be converted and calling upon such holder to surrender to the Corporation each certificate representing its shares of Series A Preferred Stock, duly endorsed or accompanied by proper instruments of transfer.

Within 7 business days before the Mandatory Conversion Date, each holder of shares of Series A Preferred Stock shall present and surrender his share certificate(s) to the Corporation, at its principal executive office, and within 30 days after such presentation shall be issued new certificates representing the shares of Common Stock issuable upon such conversion or the number of shares of stock or other securities or cash or other property receivable upon a capital reorganization, reclassification of capital stock, consolidation, merger, sale or conveyance, as the case may be, by a holder of the number of shares of Common Stock into which such share of Series A Preferred Stock shall have been converted immediately prior to such capital reorganization, reclassification of capital stock, consolidation, merger, sale or conveyance. Upon the Mandatory Conversion Date, each holder of Series A Preferred Stock shall be deemed to have become the holder of the Common Stock to be issued on conversion and not of the Series A Preferred Stock being converted, and all rights of such holder shall cease with respect to such Series A Preferred Stock except for rights in connection therewith which have become matured obligations to such holder prior to such conversion and the right to receive the certificates representing the shares of Common Stock to be issued upon such conversion (or the number of shares of stock or other securities or cash or other property receivable upon a capital reorganization, reclassification of capital stock, consolidation, merger, sale or conveyance, as the case may be).

5. **Priority in the Event of Liquidation or Dissolution.** In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or otherwise, after payment or provision for payment of the debts and other liabilities of the Corporation and before any distribution shall be made to the holders of any class of the common stock of the Corporation, each holder of Series A Preferred Stock shall be entitled to receive, out of the net assets of the Corporation, the sum of \$10,000 in cash for each share of Series A Preferred Stock so held plus an amount equal to all dividends, if any, accrued and unpaid on each such share up to the date fixed for distribution. After payment shall have been made in full to the holders of Series A Preferred Stock, or funds necessary for such payment shall have been set aside in trust for the exclusive benefit of such holders, the holders of the Series A Preferred Stock shall be entitled to no further participation in any distribution of the assets of the Corporation.

6. **Limitations on Corporation: Shareholder Consent.** So long as any shares of Series A Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote or the written consent as provided by law, of 80% of the holders of the outstanding shares of Series A Preferred Stock, voting as a class, change the preferences, rights or limitations with respect to

such series in any material respect prejudicial to the holders thereof, or increase the authorized number of shares of such series, but nothing herein contained shall require such a class vote or consent (a) in connection with any increase in the total number of authorized shares of Common Stock, or (b) in connection with the authorization, designation, increase or issuance of any class or series of stock holding a ranking subordinate to the Series A Preferred Stock. The provisions of this Section 6. shall not in any way limit the right and power of the Corporation to issue any bonds, notes, mortgages, debentures and other obligations, and to incur indebtedness to banks and to other lenders.

7. Reservation. The Corporation shall at all times reserve and keep available out of its authorized but unissued Common Stock, the full number of shares of Common Stock deliverable upon the conversion of all outstanding shares of Series A Preferred Stock.

8. No Fractional Shares. The Corporation shall not be required to issue any fractions of shares of Common Stock upon conversions of Series A Preferred Stock. If any interest in a fractional share of Common Stock would otherwise be deliverable upon the conversion of any Series A Preferred Stock, the Corporation shall make adjustment for such fractional share interest by payment to the converting shareholder of cash in an amount bearing the same ratio to the fair market value of a whole share of Common Stock of the Corporation, as determined by the Corporation's Board of Directors, as the fractional interest to which the shareholder would otherwise be entitled bears to a whole share of Common Stock.

9. Validly Issued. All shares of Common Stock which may be issued upon conversion of the shares of Series A Preferred Stock will upon issuance by the Corporation be validly issued, fully paid, nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof.

10. Expenses. The issuance of certificates representing shares of Common Stock upon conversion of the Series A Preferred Stock shall be made to each applicable shareholder without charge for any excise tax in respect of such issuance. However, if any certificate is to be issued in a name other than that of the holder of record of the Series A Preferred Stock so converted, the person or persons requesting the issuance thereof shall pay to the Corporation the amount of any tax which may be payable in respect of any transfer involved in such issuance, or shall establish to the satisfaction of the Corporation that such tax has been paid or is not due and payable.

11. Status of Converted Stock. In case any shares of Series A Preferred Stock shall be converted, the shares so converted shall resume the status of authorized but unissued shares of preferred stock.

12. Notices. All notices or other communications required or permitted to be given pursuant to this resolution shall be in writing and shall be considered as properly given or made if hand delivered, mailed by certified mail, return receipt requested, or sent by facsimile or overnight courier or delivery service, if to the Corporation at its address indicated in its Annual

Report as most recently filed with the Florida Department of State, and if to a holder of Series A Preferred Stock at the address set forth in the shareholder records as maintained by the Corporation, or to such other address as any such shareholder may have designated by like notice forwarded to the Corporation. All notices, except notices of change of address, shall be deemed given when mailed, hand delivered or sent by facsimile or overnight courier or delivery services, and notices of change of address shall be deemed given when received.

.....

The foregoing amendment shall become effective as of the close of business on the date these Articles of Amendment are accepted for filing by the Florida Department of State and all filing fees then due have been paid, all in accordance with the corporation laws of the State of Florida.

IN WITNESS WHEREOF, 1:1 MEDIA, INC. has caused these Articles of Amendment to be prepared under the signature of its Co-Chief Executive Officers this 24 day of Sept. 1999.

1:1 MEDIA, INC.

By: Charles T. O'Neill
Charles T. O'Neill, Co-Chief
Executive Officer

By: Steven A. MacDonald
Steven A. MacDonald, Co-Chief
Executive Officer

184755.1

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me, under oath, this 24 day of September, 1999 by Charles T. O'Neill, an individual known to me or who has produced _____ as identification, in his capacity as Co-Chief Executive Officer of 1:1 Media, Inc., a Florida corporation, on behalf of the corporation and for the uses and purposes described therein.



Jennifer Riddle
Commission # CG 859495
Expires Aug. 21, 2003
Bonded Thru
Atlantic Bonding Co., Inc.

sign Jennifer Riddle
print _____

NOTARY PUBLIC, State of Florida
at Large

My Commission Expires:

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me, under oath, this _____ day of September, 1999 by Steven A. MacDonald, an individual known to me or who has produced _____ as identification, in his capacity as Co-Chief Executive Officer of 1:1 Media, Inc., a Florida corporation, on behalf of the corporation and for the uses and purposes described therein.



Jennifer Riddle
Commission # CG 859495
Expires Aug. 21, 2003
Bonded Thru
Atlantic Bonding Co., Inc.

sign Jennifer Riddle
print _____

NOTARY PUBLIC, State of Florida
at Large

My Commission Expires:

184755.1