

G-39360

**ARTICLES OF MERGER
Merger Sheet**

MERGING:

MYLEX CORPORATION, a Florida corporation, G39360

INTO

MYLEX MERGER SUB, INC., a Delaware corporation not qualified in Florida

File date: December 31, 1996

Corporate Specialist: Joy Moon-French

G39360

TODD A. STERZOY
Holland and Knight

(Requestor's Name)	
315 South Calhoun Street	Suite 600
(Address)	
Tallahassee, Florida	32302
(City, State, Zip)	(Phone #)
	425-5625

400002043024--1
-12/31/96--01107--021
****122.50 ****122.50

OFFICE USE ONLY

CORPORATION NAME(S) & DOCUMENT NUMBER(S) (if known):

1. Mylex Corp
(Corporation Name) (Document #)
2. Mylex Merger Sub, Inc
(Corporation Name) (Document #)
3. _____
(Corporation Name) (Document #)
4. _____
(Corporation Name) (Document #)

☒ Walk in ☒ Pick up time 3:00

☐ Mail out ☐ Will wait ☐ Photocopy

☒ Certified Copy
☐ Certificate of Status

NEW FILINGS	
<input type="checkbox"/>	Profit
<input type="checkbox"/>	NonProfit
<input type="checkbox"/>	Limited Liability
<input type="checkbox"/>	Domestication
<input type="checkbox"/>	Other

AMENDMENTS	
<input type="checkbox"/>	Amendment
<input type="checkbox"/>	Resignation of R.A. Officer/Director
<input type="checkbox"/>	Change of Registered Agent
<input type="checkbox"/>	Dissolution/Withdrawal
<input checked="" type="checkbox"/>	Merger

OTHER FILINGS	
<input type="checkbox"/>	Annual Report
<input type="checkbox"/>	Fictitious Name
<input type="checkbox"/>	Name Reservation

REGISTRATION/ QUALIFICATION	
<input type="checkbox"/>	Foreign
<input type="checkbox"/>	Limited Partnership
<input type="checkbox"/>	Reinstatement
<input type="checkbox"/>	Trademark
<input type="checkbox"/>	Other

FILED
96 DEC 31 PM 4:26
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

RECEIVED
5 DEC 31 AM 4:01
DIVISION OF CORPORATION

Mylex Merger

Examiner's Initials

**ARTICLES OF MERGER
FOR MYLEX CORPORATION (Florida)
AND
MYLEX MERGER SUB, INC. (Delaware)**

FILED

96 DEC 31 PH 4:26

SECRETARY OF STATE
TALLAHASSEE FLORIDA

Pursuant to Sections 607.1105 and 607.1107 of the Florida Business Corporation Act, and Section 251 of the Delaware General Corporation Law, Mylex Corporation, a Florida corporation ("Mylex") and Mylex Merger Sub, Inc. (the "Surviving Corporation") hereby adopt the following Articles of Merger.

ARTICLE I. CONSTITUENT CORPORATIONS

The names of the Corporations proposing to merge and their state of incorporation are as follows:

1. Mylex Corporation, a Florida corporation ("Mylex")
2. Mylex Merger Sub, Inc., a Delaware corporation ("Surviving Corporation").

ARTICLE II. STATE LAW REQUIREMENTS

The laws of the State of Florida and the laws of the State of Delaware permit the merger of the constituent corporations.

ARTICLE III. SURVIVING CORPORATION

The name of the Surviving Corporation will be Mylex Merger Sub, Inc., a Delaware corporation.

ARTICLE IV. PLAN OF MERGER

Attached hereto as Exhibit "A" and incorporated herein by this reference is the Agreement and Plan of Merger between the constituent corporations.

ARTICLE V. AUTHORIZATION FOR MERGER

The Agreement and Plan of Merger was approved by a majority of the shareholders of Mylex entitled to vote, in accordance with the applicable requirements of the Florida Business Corporation Act, and by the unanimous written consent of the Board of Directors of the Surviving Corporation in accordance with the requirements of the Delaware General Corporation Law. The Agreement and Plan of Merger was adopted by the shareholders of Mylex as of April 30, 1996, and by the Board of Directors of the Surviving Corporation as of December 30, 1996. Such consent and the number of votes cast are sufficient to approve the Merger by each of the constituent corporations.

ARTICLE VI. SERVICE OF PROCESS ON SURVIVING CORPORATION

The Surviving Corporation hereby agrees that upon and after the completion of the Merger, that it may be served with process in

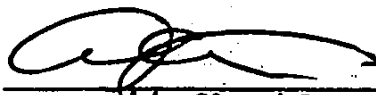
any proceeding for the enforcement of any obligation or the enforcement of rights of dissenting shareholders of Mylex by service upon the Secretary of State. The Surviving Corporation also agrees to comply with the requirements of Section 607.1107 of the Florida Business Corporation Act.

ARTICLE VII. EFFECTIVE DATE


The effective date of the merger shall be the date on which these Articles of Merger are filed with the Secretary of State of Florida and Delaware.

IN WITNESS WHEREOF, the undersigned have executed these Articles of Merger this 30th day of December, 1996.

MYLEX CORPORATION, a Florida corporation

By: 
Name: AL MONTROSS
Title: PRESIDENT

MYLEX MERGER SUB, INC.,
Delaware corporation

By: 
Name: AL MONTROSS
Title: PRESIDENT

MIA3-457314

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Agreement") dated December 30, 1996 is entered into between Mylex Corporation, a Florida corporation ("Mylex"), and Mylex Merger Sub, Inc., a Delaware corporation ("Mylex-Delaware").

Background

Mylex has an aggregate authorized capital stock of 40,000,000 shares of Common Stock, par value \$.01 per share (the "Mylex Common Stock"), and as of April 30, 1996, 19,631,550 shares of Mylex Common Stock were issued and outstanding.

Mylex-Delaware has an aggregate authorized capital stock of 40,000,000 shares of Common Stock, par value \$.01 per share (the "Mylex-Delaware Common Stock"), of which 100 shares were duly issued and are now outstanding, all of which are held by Mylex.

The respective Boards of Directors of Mylex and Mylex-Delaware believe that the best interests of Mylex and Mylex-Delaware and their respective stockholders will be served by the merger of Mylex with and into Mylex-Delaware under and pursuant to the provisions of this Agreement, the Florida Business Corporation Act and the Delaware General Corporation Law.

Agreement

In consideration of the mutual agreements and covenants contained in this Agreement, the parties agree as follows:

1. **Merger.** On the Effective Date (as defined below) Mylex shall be merged with and into Mylex-Delaware (the "Merger").

2. **Effective Date.** The Merger shall become effective immediately upon the later of the filing of this Agreement or a certificate of merger with the Secretary of State of Delaware in accordance with the provisions of the Delaware General Corporation Law. The time of such effectiveness is hereinafter called the "Effective Date."

3. **Surviving Corporation.** Mylex-Delaware shall be the surviving corporation of the Merger and shall continue to be governed by the laws of the State of Delaware. On the Effective Date, the separate corporate existence of Mylex shall cease.

4. **Name of Surviving Corporation.** On the Effective Date, the Certificate of Incorporation of Mylex-Delaware shall be amended to change the name of Mylex-Delaware to "Mylex Corporation".

5. **Certificate of Incorporation.** Except as provided in Section 4, the Certificate of Incorporation of Mylex-Delaware as it exists on the Effective Date shall be the Certificate of Incorporation of Mylex-Delaware following the Effective Date,

unless and until the same shall thereafter be amended or repealed in accordance with the laws of the State of Delaware.

6. Bylaws. The Bylaws of Mylex-Delaware as they exist on the Effective Date shall be the Bylaws of Mylex-Delaware following the Effective Date, unless and until the same shall be amended or repealed in accordance with the provisions thereof and the laws of the State of Delaware.

7. Board of Directors and Officers. The members of the Board of Directors and the officers of Mylex immediately prior to the Effective Date shall be the members of the Board of Directors and the officers, respectively, of Mylex-Delaware following the Effective Date, and such persons shall serve in such offices for the terms provided by law or in the Mylex-Delaware Bylaws, or until their respective successors are elected and qualified.

8. Retirement of Outstanding Mylex-Delaware Stock. On the Effective Date, each of the 100 shares of the Mylex-Delaware Common Stock presently issued and outstanding shall be retired, and no shares of Mylex-Delaware Common Stock or other securities of Mylex-Delaware shall be issued in respect thereof.

9. Conversion of Outstanding Mylex Common Stock. On the Effective Date, each issued and outstanding share of Mylex Common Stock and all rights in respect thereof shall be converted into one fully-paid and nonassessable share of Mylex-Delaware Common Stock, and each certificate representing shares of Mylex Common Stock shall for all purposes be deemed to evidence the ownership of the same number of shares of Mylex-Delaware Common Stock as are set forth in such certificate. After the Effective Date, each holder of an outstanding certificate representing shares of Mylex capital stock may surrender the same to Mylex-Delaware's registrar and transfer agent for cancellation, and each such holder shall be entitled to receive in exchange therefor a certificate(s) evidencing the ownership of the same number and class of shares of Mylex-Delaware capital stock as are represented by the certificate(s) of Mylex Common Stock surrendered to Mylex-Delaware's registrar and transfer agent.

10. Stock Options, Warrants, Etc. On the Effective Date, each stock option, stock warrant, and other right to subscribe for or purchase shares of Mylex Common Stock shall be converted into a stock option, stock warrant, or other right to subscribe for or purchase the same number of shares of Mylex-Delaware Common Stock, and each certificate, agreement, note or other document representing such stock option, stock warrant, or other right to subscribe for or purchase shares of Mylex Common Stock shall for all purposes be deemed to evidence the ownership of a stock option, stock warrant, or other right to subscribe for or purchase shares of Mylex-Delaware Common Stock on the same terms and subject to the same conditions applicable to the stock option, stock warrant or

other right to subscribe for a purchase shares of Mylex Common Stock.

11. **Rights and Liabilities of Mylex-Delaware.** At and after the Effective Date, and in the manner and as more fully set forth in Section 259 of the Delaware General Corporation Law and Section 607.1106 of the Florida Business Corporation Act, the title to all real estate and other property, or any interest therein, whether owned by Mylex or Mylex-Delaware shall be vested in Mylex-Delaware without reversion or impairment; Mylex-Delaware shall succeed to and possess, without further act or deed, all estates, rights, privileges, powers, and franchises, both public and private, and all of the property, real, personal, intangible and mixed, of each of Mylex and Mylex-Delaware without reversion or impairment; Mylex-Delaware shall thenceforth be responsible and liable for all the liabilities and obligations of each of Mylex and Mylex-Delaware; any claim existing or action or proceeding pending by or against Mylex or Mylex-Delaware may be continued as if the Merger did not occur or Mylex-Delaware may be substituted for Mylex in the proceeding; neither the rights of creditors nor any liens upon the property of Mylex or Mylex-Delaware shall be impaired by the Merger; and Mylex-Delaware shall indemnify and hold harmless the officers and directors of each of the parties hereto against all such debts, liabilities and duties and against all claims and demands arising out of the Merger.

12. **Termination.** This Agreement may be terminated and abandoned by action of the respective Boards of Directors of Mylex and Mylex-Delaware at any time prior to the Effective Date, whether before or after approval by the stockholders of either or both of the parties hereto.

13. **Amendment.** The Boards of Directors of the parties hereto may amend this Agreement at any time prior to the Effective Date; provided that an amendment made subsequent to the approval of this Agreement by the stockholders of either of the parties hereto shall not: (a) alter or change the number or kind of shares to be received in exchange for or on conversion of all or any of the shares of the parties hereto, (b) change any term of the Certificate of Incorporation of Mylex-Delaware (except as contemplated below), or (c) change any other terms or conditions of this Agreement if such change would adversely affect the holders of any capital stock of either party hereto.

14. **Conditions.** The obligations of the parties to consummate the Merger are subject to the satisfaction of the following conditions: (i) no action, suit or proceeding shall be pending before any court or quasijudicial or administrative agency of any federal, state or foreign jurisdiction or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling or charge would (a) prevent consummation of the Merger, (b) cause the Merger to be rescinded following consummation, or (c) adversely

affect the business, assets, properties, operations (financial or otherwise), or prospects of Mylex-Delaware as a result of the Merger (and no such injunction, judgment, order, decree, ruling or charge shall be in effect); and (ii) the parties shall have received all consents of third parties that have agreements with Mylex and whose consent is required for the assumption of such agreements by Mylex-Delaware.

15. Registered Office. The registered office of Mylex-Delaware in the State of Delaware is located at 1013 Centre Road, Wilmington, Delaware 19805, and Corporate Service Company is the registered agent of Mylex-Delaware at such address.

16. Service of Process. On and after the Effective Date, Mylex-Delaware agrees that it may be served with process in Florida in any proceeding for enforcement of any obligation of Mylex or Mylex-Florida arising from the Merger.

17. Designation of Florida Secretary of State as Agent for Service of Process. On and after the Effective Date, Mylex-Delaware irrevocably appoints the Secretary of State of Florida as its agent to accept service of process in any suit or other proceeding to enforce the rights of any stockholders of Mylex or Mylex-Delaware arising from the Merger. The Florida Secretary of State is requested to mail a copy of such process to Mylex-Delaware at Mylex Corporation 34551 Ardenwood Blvd., Fremont, CA 94555, Attention: Colleen M. Gray, Chief Financial Officer, Telephone No. (510) 796-6100.

18. Governing Law. This Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of Florida.

IN WITNESS WHEREOF, each of the parties hereto has caused this Plan and Agreement of Merger to be executed as of the date first written above.

ATTEST:

MYLEX MERGER SUB, INC.,
a Delaware corporation

By: Colleen Gray, Secretary

By: [Signature]
Title: PRESIDENT

[CORPORATE SEAL]

MYLEX CORPORATION,
a Florida corporation

By: Colleen Gray, Asst. Secretary

By: [Signature]
Title: PRESIDENT

[CORPORATE SEAL]

MIA3-391171.2

SECRETARY'S CERTIFICATE

The undersigned, duly appointed Secretary of MYLEX MERGER SUB, INC., A Delaware corporation (the "Corporation"), hereby certifies that:

1. The undersigned is duly authorized to issue this Certificate;

2. The Merger was adopted pursuant to the requirements of Section 251 of the Delaware General Corporation Law ("DGCL");

3. Pursuant to the requirements of Section 251(f) of the DGCL, the Merger was adopted by resolution of the Board of Directors of the Corporation without a vote of the stockholders;

4. No shares of stock of the Corporation have been issued as of the date the Board of Directors authorized the adoption of Merger; and

5. The execution, delivery and filing of the Agreement and Plan of Merger was duly authorized by the unanimous written consent of the Corporation's Board of Directors.

This Certificate is executed as of the 30th day of December, 1996.

By: Colleen Gray
NAME: Colleen Gray
Title: Secretary

[CORPORATE SEAL]