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2009 OCT 12 PM 1:38
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

C. LEWIS

Oct. 13 2009

EXAMINER

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: Kabuki Brands LLC

(Name of Surviving Party)

The enclosed Certificate of Merger and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to:

David B. Deutsch, Esq.

(Contact Person)

Lipson, Neilson, Cole, Seltzer & Garin, P.C.

(Firm/Company)

3910 Telegraph Road, Suite 200

(Address)

Bloomfield Hills, Michigan 48302

(City, State and Zip Code)

For further information concerning this matter, please call:

David B. Deutsch, Esq. at (248) 593-5000

(Name of Contact Person)

(Area Code and Daytime Telephone Number)

☐ Certified copy (optional) \$30.00

STREET ADDRESS:

Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

MAILING ADDRESS:

Registration Section
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314



FLORIDA DEPARTMENT OF STATE
Division of Corporations

September 24, 2009

DAVID B. DEUTSCH, ESQ.
3910 TELEGRAPH ROAD
SUITE 200
BLOOMFIELD HILLS, MI 48302

SUBJECT: KABUKI BRANDS, LLC
Ref. Number: W09000042832

We have received your document for KABUKI BRANDS, LLC and check(s) totaling \$25.00. However, the document has not been filed and is being retained in this office for the following reason(s):

There is a balance due of \$25.00. Refer to the attached fee schedule for the breakdown of fees. Please return a copy of this letter to ensure your money is properly credited.

Please return the corrected original and one copy of your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6047.

Carolyn Lewis
Regulatory Specialist II
Registration/Qualification Section

Letter Number: 909A00031250

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**Certificate of Merger
For
Florida Limited Liability Company**

The following Certificate of Merger is submitted to merge the following Florida Limited Liability Company(ies) in accordance with s. 608.4382, Florida Statutes.

FIRST: The exact name, form/entity type, and jurisdiction for each merging party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
Kabuki Brands, LLC	Florida ^{L07000113279}	limited liability company
Kabuki Brands LLC	Michigan	limited liability company
_____	_____	_____
_____	_____	_____

SECOND: The exact name, form/entity type, and jurisdiction of the surviving party are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
Kabuki Brands LLC	Michigan	limited liability company

THIRD: The attached plan of merger was approved by each domestic corporation, limited liability company, partnership and/or limited partnership that is a party to the merger in accordance with the applicable provisions of Chapters 607, 608, 617, and/or 620, Florida Statutes.

FOURTH: The attached plan of merger was approved by each other business entity that is a party to the merger in accordance with the applicable laws of the state, country or jurisdiction under which such other business entity is formed, organized or incorporated.

FIFTH: If other than the date of filing, the effective date of the merger, which cannot be prior to nor more than 90 days after the date this document is filed by the Florida Department of State:

SIXTH: If the surviving party is not formed, organized or incorporated under the laws of Florida, the survivor's principal office address in its home state, country or jurisdiction is as follows:

14177 Telegraph Road, Suite A

Redford, Michigan 48239

SEVENTH: If the survivor is not formed, organized or incorporated under the laws of Florida, the survivor agrees to pay to any members with appraisal rights the amount, to which such members are entitled under ss.608.4351-608.43595, F.S.

EIGHTH: If the surviving party is an out-of-state entity not qualified to transact business in this state, the surviving entity:

a.) Lists the following street and mailing address of an office, which the Florida Department of State may use for the purposes of s. 48.181, F.S., are as follows:

Street address: 335 S. Biscayne Boulevard

#2304

Miami, Florida 33131

Mailing address: 335 S. Biscayne Boulevard

#2304

Miami, Florida 33131

09/10/2009 18:22

Received:

-313-387-4090

LIPSON, NEILSON, COLE

Fax: 248-593-5040

Sep 10 2009 05:33pm

MR. ALAN'S SPORTSWEAR

Sep 10 2009 05:33pm P002/002

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

b.) Appoints the Florida Secretary of State as its agent for service of process in a proceeding to enforce obligations of each limited liability company that merged into such entity, including any appraisal rights of its members under ss.608.4351-608.43595, Florida Statutes.

NINTH: Signature(s) for Each Party:

Name of Entity/Organization:	Signature(s):	Typed or Printed Name of Individual:
Kabuki Brands, LLC		Adam S. Bishop
Kabuki Brands LLC		Adam S. Bishop

Corporations:	Chairman, Vice Chairman, President or Officer (If no directors selected, signature of incorporator.)
General partnerships:	Signature of a general partner or authorized person
Florida Limited Partnerships:	Signatures of all general partners
Non-Florida Limited Partnerships:	Signature of a general partner
Limited Liability Companies:	Signature of a member or authorized representative

<u>Fees:</u> For each Limited Liability Company:	\$25.00
For each Corporation:	\$35.00
For each Limited Partnership:	\$52.50
For each General Partnership:	\$25.00
For each Other Business Entity:	\$25.00

<u>Certified Copy (optional):</u>	\$30.00
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Plan and Agreement of Merger

2009 OCT 12 PM 1:30

This Plan and Agreement of Merger (hereinafter referred to as the "Agreement"), made and adopted on 9-9, 2009 by and between **Kabuki Brands LLC**, a Michigan limited liability company, having an address at 14177 Telegraph Road, Suite A, Redford, Michigan 48239 (the "Surviving Company") and **Kabuki Brands LLC**, a Florida limited liability company (the "Merged Company"), having an address at 1850 N.W. 94th Avenue, Miami, Florida 33172. The "Surviving Company" and the "Merged Company" are sometimes collectively referred to as the "Constituent Companies".

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

RECITALS

- A. The Merged Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Florida.
- B. The Surviving Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Michigan.
- C. The Merged Company's members and manager, and the Surviving Company's members and manager all deem it advisable to merge the Merged Company with and into the Surviving Company pursuant to this Agreement, pursuant to Section 705 of the Michigan Limited Liability Company Act (the "Michigan LLC Act"), MCL §450.4705, and pursuant to Section 438 of the Florida Limited Liability Company Act (the "Florida LLC Act"), FS § 608.438 (both provisions being referred to herein as the "Governing Statutes").

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Merged Company and the Surviving Company hereby adopt the following plan of merger intended to qualify under the Governing Statutes:

1. **Surviving Entity**. Pursuant to the Governing Statutes the Merged Company and the Surviving Company shall be merged, and the surviving entity shall be the Surviving Company, having an address at 14177 Telegraph Road, Suite A, Redford, Michigan 48239. As such, the Surviving Company shall continue its existence, and shall be referred to herein as the "Surviving Entity". The parties adopt and agree to perform the terms and conditions of this Agreement for the merger (the "Merger").

2. **Effective Date of Merger**. Pursuant to the Governing Statutes, the parties shall cause a Certificate of Merger in substantially the form delivered herewith to be signed and delivered to the Michigan Department of Consumer and Industry Services - Corporation, Securities and Land Development Bureau for filing. The Merger shall be effective on the date of filing the Certificate of Merger with the Michigan Department of

Consumer and Industry Services - Corporation, Securities and Land Development Bureau (the "Effective Date").

3. Cessation of Company Existence. As of the Effective Date, the separate existence of the Merged Company shall cease, and the Merged Company shall no longer exist as a legal entity.

4. Conversion of Membership Interests.

(a) All membership interests in the Surviving Company which are issued and outstanding shall, by virtue of this merger and without any action on the part of the holder thereof, remain issued and outstanding without modification, in consideration of the Surviving Company having exactly the same ownership as the Merged Company.

(b) All membership interests in the Merged Company which are issued and outstanding shall, by virtue of this merger and without any action on the part of the holder thereof, be deemed surrendered and canceled.

(c) Upon consummation of the Merger in accordance with the provisions of this Agreement, the members of the Surviving Entity and each member's membership interest shall be as follows:

<u>Name of Member</u>	<u>Class A (Voting) Membership Interest Membership Percentage</u>	<u>Class B (Non-Voting) Membership Interest Membership Percentage</u>	<u>Total</u>
Mr. Alan's	90%	0%	90%
Pyung Chang Corp	0%	10%	10%
TOTAL	90%	10%	100%

5. Effect of the Merger. Upon the Effective Date of the Merger, the Surviving Entity shall succeed to, without other transfer, and shall possess and enjoy, all the rights, privileges, immunities, powers and franchises, both of a public and private nature, and be subject to all the restrictions, disabilities and duties of each of the Constituent Companies, and all property, whether real, personal or mixed, and all debts due to any of said Constituent Companies on whatever account and all other things in action or belonging to each of said Constituent Companies, shall be vested in the Surviving Entity. The title to any real estate vested by deed or otherwise in any of said Constituent Companies shall not revert or be in any way impaired by reason of the Merger, and shall be vested in the Surviving Entity. All rights of creditors and all liens upon any property of any of said Constituent Companies shall be preserved unimpaired, limited in lien to the property affected by such liens at the Effective Date of the Merger. All debts, liabilities and duties of

said Constituent Companies shall attach to the Surviving Entity and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted directly by the Surviving Entity.

6. **Accounting Matters.** The assets and liabilities of the Constituent Companies, as of the Effective Date of the Merger, shall be taken upon the books of the Surviving Entity at the amounts at which they are carried at that time on the books of the respective Constituent Companies.

7. **Approval of Constituent Companies.** This Agreement has been submitted to the members of the Merged Company and the members of the Surviving Company, as provided by law. The execution and delivery of this Agreement and the performance by the parties of the terms and conditions hereof have been approved by the members of the Merged Company and the members of the Surviving Company.

8. **Representations and Warranties.** Each of the Constituent Companies hereby represents and warrants to the other Constituent Company as follows:

(a) **Organization, Capitalization and Ownership.** The statements concerning organization, capitalization and ownership made in the recitals to this Agreement are true, correct and complete.

(b) **Standing.** The Surviving Company is duly organized, validly existing, and in good standing under the laws of the State of Michigan and the Merged Company is duly organized, validly existing, and in good standing under the laws of the State of Florida, with full power and authority to own property and carry on its business as it is now being conducted.

(c) **Financial Statements.** Each Constituent Company has provided copies of its most current financial statements to the other Constituent Company. All of such financial statements are true and complete.

(d) **Marketable Title to Assets.** Each Constituent Company has good and marketable title to the assets shown on its respective balance sheet, subject only to the liabilities reflected thereon and subject to the terms of any agreements governing the same, copies of which have been furnished to the other Constituent Company.

(e) **Taxes.** All taxes imposed upon the Constituent Companies by the United States, any state, municipality or any subdivision thereof or any other taxing authority which are due or have become a liability of any Constituent Company have been paid or adequate reserves have been established therefor.

(f) **Other Agreements.** This Agreement and the consummation of the transactions herein contemplated will not result in the breach of any term or provision of any material agreement to which any Constituent Company is a party.

(g) **Litigation and Proceeding.** There are no suits, actions or legal or administrative proceedings pending or threatened against any Constituent Company which, if adversely determined, might have a materially adverse effect upon the financial condition of said Constituent Company or its ability to conduct business.

(h) **Material Agreement.** No Constituent Company is in default in any material respect under the terms of any material outstanding contract, agreement, lease or other instrument.

(i) **Governmental Authorities.** Each Constituent Company has obtained all licenses, franchises, permits and other governmental authorizations required to carry on its business, except as otherwise disclosed to the other Constituent Company.

9. General Provisions.

(a) **Agreement Binding.** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, administrators, executors, personal representatives, successor trustees, successors and assigns.

(b) **Further Assurances.** The parties hereto shall take such further steps and execute such further documents and instruments as may be necessary or appropriate to carry this Agreement into force and effect or to effectuate the intention hereof.

(c) **Entire Agreement.** This Agreement contains all the covenants, promises, agreements, conditions, representations and understandings between the parties hereto, and supersedes any prior agreements between the parties hereto, with respect to the subject matter hereof. There are no covenants, promises, agreements, conditions, representations or understandings, either oral or written, between the parties hereto, other than those set forth herein or provided for herein, with respect to the subject matter hereof.

(d) **Amendment.** This Agreement shall not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

(e) **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of Michigan.

(f) **Counterparts and Fax Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. A copy of a signature received through telefax transmission shall bind the party whose signature is so received as if such signature were an original.

(g) **Gender and Number.** As the context of any provision may require, nouns and pronouns of any gender and number shall be construed in any other gender and number.

(h) **Notices, Statements, Etc.** All notices, statements or other communications which are required or contemplated by this Agreement shall be in writing (unless otherwise expressly provided herein) and shall be either personally served at or mailed to the last known mailing address of the person entitled thereto. In addition, a copy of each such notice, statement or communication intended for a party shall be furnished to such single additional addressee for that party as may be specified herein or specified in a like notice. All such notices, statements and other communications (or copies thereof) shall be deemed furnished to the person entitled thereto (a) on the date of service, if personally served at the last known mailing address of such person, or (b) on the date on which mailed, if mailed to such person in accordance with the terms of this Section. For purposes hereof, an item shall be considered mailed if the sender can establish that it was sent by means including, but not limited to, the following: (i) by United States Postal Service, postage prepaid; (ii) by air courier service (Federal Express or the like); or (iii) by telefax or other means of electronic communication, provided the sender obtains written confirmation or proof of such communication (such as a telefax transmission report, written acknowledgment from the recipient, or other reliable proof of delivery).

(i) **Severability.** Should any covenant, condition, term or provision of this Agreement be deemed to be illegal, or if the application thereof to any person or in any circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such covenant, condition, term or provision to persons or in circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby; and each covenant, condition, term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(j) **Captions.** Captions used herein are inserted for reference purposes only and shall not affect the interpretation or construction of this Agreement.

(k) **Survival.** The parties acknowledge and agree that this Agreement contains substantial terms and provisions which are intended to govern the rights, duties and obligations of the parties following the Effective Date of the Merger. Accordingly, this Agreement shall survive and shall not be deemed merged into, the execution, delivery or filing of the Certificate of Merger, and this Agreement shall remain in full force and effect following the filing thereof.


[Signatures on Following Page]

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

SURVIVING COMPANY:

Kabuki Brands LLC, a Michigan limited liability company

By:


Adam S. Bishop, Manager

MERGED COMPANY:

Kabuki Brands LLC, a Florida limited liability company

By:


Adam S. Bishop, Manager

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TALLAHASSEE, FLORIDA