

08-20-2001

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8-13-01

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(s).

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
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year

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)

- Individual General Partnership Limited Partnership

- Corporation Association

Other

- Citizenship/State of Incorporation/Organization

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.)

08/20/2001 AMMED1 00000051 023964 75955815

FOR OFFICE USE ONLY

01 FC:481 40.00 CH
02 FC:482 100.00 CH

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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: 002351 FRAME: 0026

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)

<input type="text" value="75/955,815"/>	<input type="text" value="75/955,813"/>	<input type="text" value="75/955,814"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text" value="75/955,812"/>	<input type="text" value="78/004,442"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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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

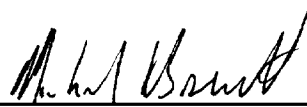


Statement and Signature

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.

MICHAEL K. BOSWORTH

Name of Person Signing



Signature

8/8/01

Date Signed

05-09-2001



101710307

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patent and Trademark, please return the attached original documents or copy thereof.

1. Name of conveying party(ies):

NATRIFICIAL LLC

- Individual(s)
- General Partnership
- Corporation-State
- Other LIMITED LIABILITY COMPANY
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other MERGER AND CONVERSION
- Merger
- Change of Name

Execution Date: 06.15.2000

2. Name and address of receiving party(ies)

Name: THEBRAIN TECHNOLOGIES CORPORATION

Internal Address:

Street Address: 1601 COLORADO AVENUE

City: SANTA MONICA State: CA Zip: 90404

Individual(s) citizenship

Association

General Partnership

Limited Partnership

Corporation-State DELAWARE

Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

75/351,615	75/934,504	75/955,814
75/351,743	75/955,812	75/955,815
75/529,674	75/955,813	75/955,923

Additional number(s) attached Yes No

B. Trademark Registration No.(s)

2,199,788	2,254,341
2,355,015	

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: MICHAEL K. BOSWORTH

Internal Address:

Street Address: OPPENHEIMER WOLFF & DONNELLY
1400 PAGE MILL ROAD

City: PALO ALTO State: CA Zip: 94304

6. Total number of applications and registrations involved: 12

7. Total fee (37 CFR 3.41).....\$ 480.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

02-3964

(Attach duplicate copy of this page if paying by deposit account)

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.

Michael K. Bosworth

Name of Person Signing

Signature

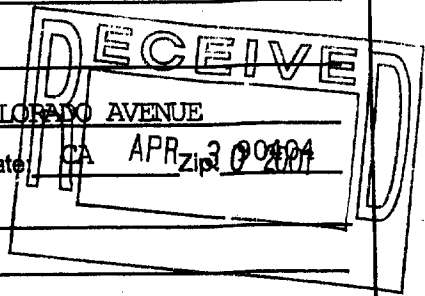
24 April 2001

Date

Total number of pages including cover sheet, attachments, and document: 13

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

TRADEMARK
REEL: 002351 FRAME: 0028



05/09/2001 L MUELLER 00000218 023764 75351815 40.00 CH 275.00 CH

Exhibit A

<u>Country</u>	<u>Mark</u>	<u>Serial No.</u>	<u>Date Filed</u>
United States	TEAMBRAIN	75/955,815	03/10/00
United States	MOBILEBRAIN	75/955,813	03/10/00
United States	PDABRAIN	75/955,814	03/10/00
United States	HANDHELDBRAIN	75/955,812	03/10/00
United States	BRAINSTATION	78/004,442	04/17/00

SV: 217961 v01 07/19/2001

TRADEMARK
REEL: 002351 FRAME: 0029

ASSIGNMENT OF TRADEMARK RIGHTS

WHEREAS, effective June 16, 2000, Natrifical, LLC, a California limited liability company, of 2644 30th Street, Second Floor, Santa Monica, California 90405 ("Assignor") is the record owner of all right, title and interest in and to the trademarks identified in Exhibit A, attached hereto (the "Marks"); and


WHEREAS, TheBrain Technologies Corporation, a Delaware corporation, of 2644 30th Street, Second Floor, Santa Monica, California 90405 ("Assignee") exists as the parent company of Assignor; and

WHEREAS Assignor and Assignee, as wholly owned subsidiary and parent company, have agreed that Assignee shall be successor to the portion of the business, including the associated goodwill, of said Marks and the applications and registrations thereof;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Assignor does hereby assign to Assignee all right, title and interest in and to the Marks, together with the goodwill and portion of the business symbolized by the Marks.

Dated June 16, 2000.

NATRIFICIAL, LLC

By: 
Peter Fuchs
Chief Executive Officer
TheBrain Technologies Corporation,
Sole Member of Natrifical, LLC

AGREEMENT OF MERGER

This Agreement of Merger is entered into as of June 15, 2000 by and between Natrifical LLC, a California limited liability company (the "Surviving Limited Liability Company"), and Natrifical Acquisition, LLC, a Delaware limited liability company (the "Disappearing Limited Liability Company").

1. The Disappearing Limited Liability Company shall be merged with and into the Surviving Limited Liability Company.

2. The outstanding interests of the Surviving Limited Liability Company shall be converted into and represent the right to receive securities of the Disappearing Limited Liability Company's parent corporation, TheBrain Technologies Corporation, a Delaware corporation (the "Parent Corporation"), as follows:

a. Common Stock. By virtue of the merger and without any action on the part of the holder thereof, each Class C Unit of the Surviving Limited Liability Company outstanding immediately prior thereto shall be changed and converted into two (2) fully paid and nonassessable shares of Common Stock, par value \$.001, of the Parent Corporation.

b. Preferred Stock.

(i) Series A. By virtue of the merger and without any action on the part of the holder thereof, each Class A Unit of the Surviving Limited Liability Company outstanding immediately prior thereto shall be changed and converted into one (1) fully paid and nonassessable share of Series A Convertible Preferred Stock, par value \$.001, of the Parent Corporation.

(ii) Series B. By virtue of the merger and without any action on the part of the holder thereof, each Class B Unit of the Surviving Limited Liability Company outstanding immediately prior thereto shall be changed and converted into one (1) fully paid and nonassessable share of Series B Convertible Preferred Stock, par value \$.001, of the Parent Corporation.

(iii) Series P. By virtue of the merger and without any action on the part of the holder thereof, each Class P Unit of the Surviving Limited Liability Company outstanding immediately prior thereto shall be changed and converted into one (1) fully paid and nonassessable share of Series P Convertible Redeemable Participating Preferred Stock, par value \$.001, of the Parent Corporation.

(iv) Options and Warrants. By virtue of the merger and without any action on the part of the holder thereof, each outstanding option, warrant or other right to purchase interests of the Surviving Limited Liability Company, including without limitation those options granted under the 2000 Unit Award Plan (the "Option Plan") of the Surviving Limited Liability Company, shall be converted into and become an option, warrant, or right to purchase two (2) shares of Common Stock, par value \$.001, of the Parent Corporation at a price per share equal to fifty percent (50%) of the exercise price of the option, warrant or right to

purchase interests of the Surviving Limited Liability Company and otherwise upon the same terms and subject to the same conditions as set forth in the Option Plan, and any other agreements entered into by the Surviving Limited Liability Company pertaining to such options, warrants, or rights. A number of shares of Common Stock of the Parent Corporation shall be reserved for purposes of such options, warrants, and rights that is not less than the product of (A) two (2) and (B) the number of interests of the Surviving Limited Liability Company so reserved immediately prior to the merger. The Parent Corporation shall assume all obligations of the Surviving Limited Liability Company under agreements pertaining to such options, warrants, and rights, including the Option Plan, and the outstanding options, warrants, or other rights, or portions thereof, granted pursuant thereto.

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3. Each outstanding interest of the Disappearing Limited Liability Company shall be converted into and represent the right to receive one (1) Class C Unit of the Surviving Limited Liability Company.

4. The Articles of Organization of the Surviving Limited Liability Company shall be amended upon the effective date of the merger to provide that the Surviving Limited Liability Company will be managed by its members.

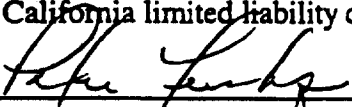
5. The Disappearing Limited Liability Company shall from time to time, as and when requested by the Surviving Limited Liability Company, execute and deliver all such documents and instruments and take all such action necessary or desirable to evidence or carry out this merger.

6. The effect of the merger and the effective date of the merger are as prescribed by law. It is intended by the parties hereto that the merger constitute a contribution to the capital of the Parent Corporation meeting the requirements of Section 351 of the Internal Revenue Code of 1986, as amended.


* * * * *

IN WITNESS WHEREOF, the parties have executed this Agreement.

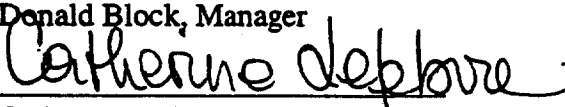
Natrifical LLC,
a California limited liability company




Peter Fuchs, Manager



Donald Block, Manager



Catherine Lefebvre, Manager

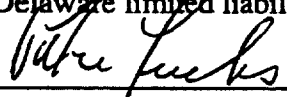


Harlan Hugh, Manager

Robin Neustein, Manager

Randall Kaplan, Manager

NATRIFICIAL ACQUISITION, LLC,
a Delaware limited liability company



Peter Fuchs, Manager

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IN WITNESS WHEREOF, the parties have executed this Agreement.

Natrificial LLC,
a California limited liability company

Peter Fuchs, Manager

Donald Block, Manager

Catherine Lefebvre, Manager

Harlan Hugh, Manager



Robin Neustein, Manager

Randall Kaplan, Manager

NATRIFICIAL ACQUISITION, LLC,
a Delaware limited liability company

Peter Fuchs, Manager

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IN WITNESS WHEREOF, the parties have executed this Agreement.

Natrificial LLC,
a California limited liability company

Peter Fuchs, Manager

Donald Block, Manager

Catherine Lefebvre, Manager

Harlan Hugh, Manager

Robin Neustein, Manager



Randall Kaplan, Manager

NATRIFICIAL ACQUISITION, LLC,
a Delaware limited liability company

Peter Fuchs, Manager

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TRADEMARK
REEL: 002351 FRAME: 0035

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 DESIGNATION OF "THEBRAIN TECHNOLOGIES CORPORATON", FILED IN THIS OFFICE ON THE FOURTEENTH DAY OF JUNE, A.D. 2000, AT 6 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.

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Edward J. Freel

Edward J. Freel, Secretary of State

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001302872

AUTHENTICATION: 0500223

DATE: 06-15-00

TRADEMARK
REEL: 002351 FRAME: 0036

CERTIFICATE OF DESIGNATION

of

Series A Convertible Preferred Stock

of

TheBrain Technologies Corporation

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TheBrain Technologies Corporation, a Delaware corporation (the "Corporation"), certifies that pursuant to the authority contained in its Certificate of Incorporation (the "Certificate of Incorporation"), the Board of Directors of the Corporation has duly adopted the following recitals and resolution:

WHEREAS, Article IV of the Certificate of Incorporation provides that the Corporation may issue Preferred Stock, par value \$0.001 per share ("Preferred Stock") from time to time in one or more series or classes, having such voting powers and such designations, preferences and relative, participating, optional and other special rights and qualifications, limitations or restrictions, as the Board of Directors determines;

WHEREAS, pursuant to Article IV of the Certificate of Incorporation and in accordance with the provisions of Section 151(g) of the General Corporation Law of the State of Delaware, the Board of Directors has adopted the following resolution creating a series of its Preferred Stock, designated as Series A Convertible Preferred Stock;

RESOLVED, that a series of this class of authorized Preferred Stock of the Corporation be hereby created, and that the voting powers and designation, preferences and relative, participating, optional and other special rights of the shares of such series, and the qualifications, limitations and restrictions thereof are as follows:

Series A Convertible Preferred Stock

Section 1. Designation and Amount. The shares of such series of preferred stock shall be designated as the Series A Convertible Preferred Stock (the "Series A Preferred Stock") and the number of shares initially constituting such series shall be 50,000, which number may be increased or decreased by the Board of Directors without a vote of stockholders; provided, however, that no decrease shall reduce the number of shares of Series A Preferred Stock to a number less than the number of shares of Series A Preferred Stock then outstanding plus the number of shares of Series A Preferred Stock reserved for issuance upon the exercise of outstanding options, rights or warrants for, or upon the conversion of any outstanding securities issued by the Corporation convertible into, Series A Preferred Stock.

Section 2. Voting Rights. Except as required by law, holders of the Series A Preferred Stock shall have no voting rights and their consent shall not be required for the taking of any corporate action. In those circumstances when the holders of the Series A Preferred Stock are entitled to vote, each share of Series A Preferred Stock shall have a number of votes equal to the number of votes to which the Common Stock into which it is convertible. Each holder of the Series A Preferred Stock shall be entitled to an aggregate number of votes with respect to his or its Series A Preferred Stock determined in accordance with the previous sentence and rounded up to the nearest whole number.

Section 3. Dividends. The holders of the Series A Preferred Stock shall not be entitled to receive any dividend or distribution (whether of evidence of indebtedness of the Corporation, cash, assets, securities or options in respect thereof) upon the Series A Preferred Stock.

Section 4. Liquidation.

(a) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation, and after payment or provision for payment of any liquidation preference to the holders of the Corporation's Series P Convertible Redeemable Participating Preferred Stock (the "Series P Preferred Stock"), the shares of Series A Preferred Stock shall be entitled, before any distribution or payment is made upon any Junior Stock, to be paid in cash in full an amount equal to \$100 per share of Series A Preferred Stock (the "Series A Base Liquidation Preference Amount").

(b) If, upon a liquidation, the net assets of the Corporation distributable among the holders of all outstanding Series A Preferred Stock shall be insufficient to permit the payment in full of the amounts described in Section 4(a), then the entire net assets of the Corporation remaining after the provision for the payment of the Corporation's debts and other liabilities (including the payment of liquidation preference to the holders of the Corporation's Series P Preferred Stock and any other series of Preferred Stock designated as senior to the Series A Preferred Stock with respect to liquidation) shall be distributed among the holders of the Series A Preferred Stock ratably in proportion to the full preferential amounts to which they would otherwise be respectively entitled on account of their Series A Preferred Stock.

(c) After payment in full by the Corporation of the Series P Base Liquidation Preference Amount, the Series A Base Liquidation Preference Amount, the Series B Base Liquidation Preference Amount and the liquidation preference of any other series of Preferred Stock designated as senior in liquidation preference to the Common Stock, the entire net assets of the Corporation remaining after the provision for the payment of the Corporation's debts and other liabilities shall be distributed among the holders of the Company's Series P Preferred Stock and Common Stock ratably as if all shares of Series P Preferred Stock had been converted into shares of Common Stock.

(d) For the purposes of this Section 4, the voluntary sale, lease, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the Corporation's property or assets to, or a consolidation or merger of the Corporation with, any

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other Person shall not be deemed to be a liquidation, dissolution or winding up of the affairs of the Corporation.

Section 5. Conversion.

(a) Conversion of Series A Preferred Stock. Each share of Series A Preferred Stock shall automatically convert concurrently with the consummation of a Qualified Initial Public Offering, in each case without the payment of additional consideration by the holder thereof (any such conversion, a "Conversion"), into a number of shares of Common Stock equal to (i) \$100 divided by (ii) the offering price to the public of the Common Stock in a Qualified Initial Public Offering.

(b) Conversion Procedures. From and after a Conversion, (i) each certificate formerly representing shares of Series A Preferred Stock which were converted pursuant to such Conversion shall thereafter be deemed to represent the number of shares of Common Stock into which such shares of Series A Preferred Stock have been converted pursuant to such Conversion (and no holder shall thereafter have any rights in respect of such shares of Series A Preferred Stock) and (ii) upon any surrender for transfer of any such certificate accompanied by a written notice certifying that a Conversion has occurred and specifying the number of shares so converted, the Corporation will issue and deliver a certificate or certificates representing the shares of Common Stock into which such shares of Series A Preferred Stock have been converted pursuant to such Conversion.

(c) Reservation of Shares. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock or its treasury shares, solely for the purpose of issuance upon the conversion of the Series A Preferred Stock, such number of shares of Common Stock as may be issued upon conversion of all outstanding shares of Series A Preferred Stock not previously converted.

(d) Cancellation of Shares. All shares of Series A Preferred Stock which shall have been converted pursuant to this Section 5 shall no longer be deemed to be outstanding and shall be canceled and shall not be reissued as shares of Series A Preferred Stock.

(e) No Charge. The issuance of certificates for shares of Common Stock upon conversion of shares of the Series A Preferred Stock shall be made without charge to the holders of such shares for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and/or the issuance of shares of Common Stock; provided, however, that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the Series A Preferred Stock converted.

Section 6. Adjustments. If the Corporation shall be a party to any reorganization, reclassification or change of the Common Stock (including without limitation a merger, consolidation, statutory share exchange, or recapitalization of the Common Stock), in each case that results in the exchange of outstanding shares of the Corporation for securities or other consideration issued or paid or caused to be issued or paid by any entity or affiliate thereof which results in the holders of the Corporation's outstanding capital stock possessing a majority of the

voting power (under ordinary circumstances) to elect the Corporation's Board of Directors immediately prior to such occurrence ceasing to own a majority of the Corporation's capital stock possessing the voting power (under ordinary circumstances) to elect the Corporation's Board of Directors, each share of Series A Preferred Stock shall thereafter be convertible into, (but only if the holders of the Series P Preferred Stock have received the full amount of the kind and amount of different securities and other property (including cash) to which such holders are entitled pursuant to Section 6(b)(i) of the Certificate of Designation for the Corporation's Series P Convertible Redeemable Participating Preferred Stock), in lieu of Common Stock, the kind and amount of different securities and other property (including cash) receivable upon the consummation of such transaction by a holder of that number of shares of Common Stock into which one share of Series A Preferred Stock was convertible on the record date for such transaction. For the purposes of this Section 6, the number of shares of Common Stock into which one share of Series A Preferred Stock was convertible on the record date for such transaction shall be determined by dividing (i) \$100 by (ii) the fair market value of the Common Stock on the date of consummation of such transaction. The Corporation shall not be a party to any such transaction unless the terms of such transaction are consistent with the provisions of this Section 6. The provisions of this Section 6 shall similarly apply to successive such transactions.

Section 7. Definitions. As used herein, the following terms shall have the meanings shown below:

"Common Stock" shall mean the Corporation's common stock, par value \$0.001 per share.

"Junior Stock" shall mean any of the Corporation's Common Stock, the Series B Convertible Preferred Stock, and all other equity securities of the Corporation hereafter issued and designated as junior to the Series A Preferred Stock.

"Person" or "person" shall be construed broadly and shall include an individual, a partnership, a limited liability company, a corporation, a trust, a joint venture, an unincorporated organization or other entity or a government or any department or agency thereof.

"Public Offering" means any underwritten sale of Common Stock to the public pursuant to an effective registration statement under the Securities Act of 1933, as amended.

"Qualified Initial Public Offering" means a Public Offering in which there are sales of shares of Common Stock for an aggregate offering price of not less than \$20 million.

"Series B Base Liquidation Preference Amount" means the liquidation preference of the holders of Series B Convertible Preferred Stock without giving effect to the provisions of Section 4(c) hereof.

"Series P Base Liquidation Preference Amount" means the liquidation preference of the holders of Series P Preferred Stock without giving effect to the provisions of Section 4(c) hereof.

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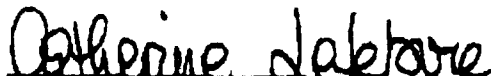
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IN WITNESS WHEREOF, we have executed and subscribed this Certificate and do affirm the foregoing as true under the penalty of perjury this 12th day of June, 2000.


Name: AARLAN HUGH
Title: President


Name: CATHERINE LEFEBVRE
Title: Secretary

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Can. of Designation (Series A)

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RECORDED: 08/16/2001

TRADEMARK
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