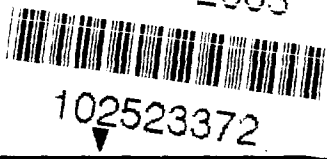


08-13-2003

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings



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

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

1. Name of conveying party(ies): Eight in One Pet Products, Inc. 8-7-03 [] Individual(s) [] Association [] General Partnership [] Limited Partnership [X] Corporation-State New York [] Other Additional name(s) of conveying party(ies) attached? [] Yes [X] No

2. Name and address of receiving party(ies) Name: United Pet Group, Inc. Internal Address: Street Address: 2100 Pacific Street City: Hauppauge State NY Zip: 11788-4737 [] Individual(s) citizenship [] Association [] General Partnership [] Limited Partnership [X] 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

3. Nature of conveyance: [] Assignment [X] Merger [] Security Agreement [] Change of Name [] Other Execution Date: July 8, 1999

4. Application number(s) or registration number(s): A. Trademark Application No.(s) 78/133,337 B. Trademark Registration No.(s) Additional number(s) attached [X] Yes [] No

6. Total number of applications and registrations involved: 7

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Susan M. Daly Internal Address: Greenberg Traurig Suite 700 Street Address: 2375 E. Camelback Road City: Phoenix State: AZ Zip:

7. Total fee (37 CFR 3.41).....\$ 190.00 [] Enclosed [X] Authorized to be charged to deposit account

8. Deposit account number: 150184

DO NOT USE THIS SPACE

9. Signature. Susan M. Daly Name of Person Signing

[Signature] Signature

August 1, 2003 Date

OFFICE OF PATE... RECORDS 2003 AUG -7 AM 10:59 FINANCE SECTION

08/12/2003 LINDLELL 00000207 1501AA 78133337 Total number of pages including cover sheet, attachments, and document: 21

01 FC:8521 40.00 DA 02 FC:8522 150.00 DA

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

TRADEMARK REEL: 002799 FRAME: 0649

GREENBERG TRAUIG, LLP
ATTORNEYS AT LAW
2375 EAST CAMELBACK RD., STE. 700
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(602) 445-8000 phone
(602) 445-8100 fax

Steven M. Weinberg
Susan M. Daly
Attorneys for Applicant
Attorney Docket No. 53503.010000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ASSIGNMENT RECORDATION DIVISION

Additional Trademark Application Numbers
In re Recordation of Merger
Eight in One Pet Products, Inc. into and with United Pet Group, Inc.

76/062,253
76/062,449
76/119,470
76/119,471
78/205,844
78/207,148

\\phx-srv01\1412349v02\53503.010000

TRADEMARK
REEL: 002799 FRAME: 0650

AGREEMENT AND PLAN OF MERGER

BY AND AMONG

UNITED PET GROUP, INC.,
a Delaware corporation

AND

EIGHT IN ONE PET PRODUCTS, INC.,
a New York corporation

THIS AGREEMENT AND PLAN OF MERGER (the "Merger Agreement") is made and entered into as of July 7, 1999 by and among United Pet Group, Inc., a Delaware corporation (the "Subsidiary" or "Surviving Corporation"), and Eight in One Pet Products, Inc., a New York corporation (the "Parent") formerly incorporated under the names S&S Pet Products, Inc. and 8 In 1 Pet Products, Inc..

WHEREAS, the Parent and the Subsidiary are corporations duly organized and existing under the laws of the State of New York and the State of Delaware, respectively;

WHEREAS, the authorized capital stock of the Parent consists of (i) one hundred ninety-nine million nine hundred ninety-nine thousand nine hundred ninety-nine (199,999,999) shares of common stock, par value \$.001 per share ("Parent Common Stock"), of which three hundred ninety-five thousand seven hundred fifty-nine (395,759) shares are issued and outstanding and entitled to vote; (ii) two million (2,000,000) shares of Class A (non-voting) Common Stock, par value \$.001 per share ("Parent Class A Common Stock"), of which fifteen thousand (15,000) shares are issued and outstanding; (iii) two million eight hundred fifty-five thousand seven hundred ninety-nine (2,855,799) shares of Class B Common Stock, par value \$.001 per share, of which there are no shares issued and outstanding; (iv) six hundred ninety-four thousand nine hundred fifty (694,950) shares of Convertible Participating Preferred Stock, par value \$.001 per share ("Parent CPS"), of which six hundred ninety-four thousand nine hundred fifty (694,950) shares are issued and outstanding and entitled to vote; (v) six hundred sixty thousand two hundred three (660,203) shares of (non-voting) Redeemable Preferred Stock, par value \$.001 per share ("Parent RPS"), of which there are no shares issued and outstanding; and (vi) six hundred ninety-seven thousand (697,000) shares of Class A (non-voting) Redeemable Preferred Stock, par value \$.001 per share ("Parent Class A RPS"), of which six hundred ninety-seven thousand (697,000) shares are issued and outstanding;

WHEREAS, the authorized capital stock of the Surviving Corporation consists of (i) one hundred ninety-nine million nine hundred ninety-nine thousand nine hundred ninety-nine (199,999,999) shares of common stock, par value \$.01 per share ("Surviving Corporation Common Stock"), of which one hundred (100) shares are issued and outstanding and entitled to vote; (ii) two million (2,000,000) shares of Class A (non-voting) Common Stock, par value \$.01

per share ("Surviving Company Class A Common Stock"), of which there are no shares issued and outstanding; (iii) six hundred ninety-four thousand nine hundred fifty (694,950) shares of Convertible Participating Preferred Stock, par value \$.01 per share ("Surviving Corporation CPS"), of which there are no shares issued and outstanding; (iv) six hundred sixty thousand two hundred three (660,203) shares of (non-voting) Redeemable Preferred Stock, par value \$.01 per share ("Surviving Corporation RPS"), of which there are no shares issued and outstanding; and (v) six hundred ninety-seven thousand (697,000) shares of Class A (non-voting) Redeemable Preferred Stock, par value \$.01 per share ("Surviving Corporation Class A RPS"), of which there are no shares issued and outstanding;

WHEREAS, the Board of Directors of each of the Parent and the Subsidiary have determined that it is advisable to merge upon the terms and conditions herein provided, in accordance with the applicable provisions of the Delaware General Corporation Law and the New York Business Corporation Law;

WHEREAS, the Boards of Directors of the Parent and the Subsidiary, as required by the applicable provisions of the Delaware General Corporation Law and the New York Business Corporation Law, have approved and adopted this Merger Agreement and recommended that their respective shareholders approve and adopt this Merger Agreement; and

WHEREAS, the respective shareholders of the Parent and the Subsidiary, as required by the applicable provisions of the Delaware General Corporation Law and the New York Business Corporation Law, have approved and adopted this Merger Agreement.

NOW THEREFORE, in consideration of the mutual agreements and covenants set forth herein, the parties hereto agree as follows:

ARTICLE I

The Merger

1.01. **The Merger**. In accordance with the provisions of this Merger Agreement and the applicable provisions of the Delaware General Corporation Law and the New York Business Corporation Law, the Parent will be merged with and into the Subsidiary (the "Merger") as of the Effective Time (as hereinafter defined). Following the Effective Time, the identity and separate existence of the Parent shall cease, and the Subsidiary shall continue its existence as the Surviving Corporation of the Merger.

1.02. **Name**. The name of the Surviving Corporation shall be United Pet Group, Inc.

1.03. **Effective Time and Date**. The Merger shall become effective (the "Effective Time") immediately upon the later to occur of (a) filing of a Certificate of Merger, together with any other documents required to be filed to consummate the Merger, with the Secretary of State of the State

of Delaware, or (b) upon filing of a Certificate of Merger, together with any other documents required to be filed to consummate the Merger, with the Secretary of State of the State of New York.

1.04. Certificate of Incorporation. The Certificate of Incorporation of the Subsidiary, as in effect at the Effective Time, shall be the Certificate of Incorporation of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable law.

1.05. Bylaws. The Bylaws of the Subsidiary, as in effect at the Effective Time, shall be the Bylaws of the Surviving Corporation until thereafter changed or amended as provided therein, by the Certificate of Incorporation of the Surviving Corporation, or by applicable law.

1.06. Purposes. The purposes of the Surviving Corporation shall be as set forth in the Subsidiary's Certificate of Incorporation as in effect at the Effective Time until such time as such purposes may be changed or amended as provided in the Surviving Corporation's Certificate of Incorporation and by applicable law.

1.07. Directors and Officers. The director(s) and officer(s) of the Subsidiary at the Effective Time shall be the director(s) and officer(s) of the Surviving Corporation until their earlier death, resignation or removal or until their respective successors are duly appointed and qualified, as the case may be.

1.08. Conversion of Securities.

(a) At the Effective Time and without any action on the part of the Parent, the Subsidiary, the Surviving Corporation, or any holder of securities of any of those corporations:

(i) each share of Parent Common Stock issued and outstanding immediately prior to the Effective Time shall be extinguished and converted into one (1) validly issued, fully paid and nonassessable share of Surviving Corporation Common Stock;

(ii) each share of Parent Class A Common Stock issued and outstanding immediately prior to the Effective Time shall be extinguished and converted into one (1) validly issued, fully paid and nonassessable share of Surviving Corporation Class A Common Stock;

(iii) each share of Parent CPS issued and outstanding immediately prior to the Effective Time shall be extinguished and converted into one (1) validly issued, fully paid and nonassessable share of Surviving Corporation CPS;

(iv) each share of Parent RPS issued and outstanding immediately prior to the effective time shall be extinguished and converted into one (1) validly issued, fully paid and nonassessable share of Surviving Corporation RPS;

(v) each share of Parent Class A RPS issued and outstanding immediately prior to the Effective Time shall be extinguished and converted into one (1) validly issued, fully paid and nonassessable share of Surviving Corporation Class A RPS;

(vi) each share of Surviving Corporation Common Stock issued to the Parent and outstanding immediately prior to the Effective Time shall be canceled; and

(b) Each person who, as a result of the Merger, holds one or more certificates representing one or more shares of Parent Common Stock, Parent Class A Common Stock, Parent CPS or Parent Class A RPS may surrender any such certificate to the Surviving Corporation, and, upon such surrender, the Surviving Corporation shall, within a reasonable time, deliver to such person, in substitution and exchange thereof, one or more certificates evidencing the securities that such person is entitled to receive in accordance with the terms of this Merger Agreement; provided, however, that no such holder shall be required to surrender any such certificate until such certificate otherwise would be surrendered for transfer on the books of the issuing corporation in the ordinary course of business. Until so surrendered, each such Parent stock certificate shall, by virtue of the Merger, be deemed for all purposes to evidence ownership of the like number and class of Surviving Corporation shares.

(c) At the Effective Time and without any action on the part of the Parent, the Subsidiary, the Surviving Corporation, or any holder of options to purchase securities of Parent, Surviving Corporation shall assume all options issued under the Eight in One Per Products, Inc. Restated 1997 Stock Option and Grant Plan (the "Plan"). All outstanding options under the Plan shall be adjusted to reflect, upon exercise, the issuance of Surviving Corporation Class A Common Stock in the amount equal to the number of shares of Parent Class A Common Stock entitled to be received by the holder of the exercised options immediately prior to the Effective Time. Upon consummation of the Merger the total number of shares of Surviving Corporation Class A Common Stock reserved for issuance under the Plan as in effect for the Surviving Corporation shall be fifty-seven thousand one hundred fifty-one (57,151).

1.09. Additional Actions. If, at any time on and after the Effective Time, the Surviving Corporation or its successors and assigns shall consider or be advised that any further assignments or assurances in law or any organizational or other acts are necessary or desirable (a) to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation title to and possession of any property or right of the Parent acquired or to be acquired by reason of, or as a result of, the Merger, or (b) otherwise to carry out the purposes of this Merger Agreement, the Parent and its officers and shareholders shall be deemed to have granted to the Surviving Corporation an irrevocable power of attorney to execute and deliver all such proper deeds, assignments and assurances in law and to do all acts necessary or proper to vest, perfect or confirm title to and possession of such property or rights in the Surviving Corporation and otherwise to carry out the purposes of this Merger Agreement; and the director(s) and officer(s) of the Surviving Corporation are fully authorized in the name of the Parent or otherwise to take any and all such action.

ARTICLE II

Amendment and Abandonment

2.01. Amendment and Abandonment. Subject to applicable law, at any time prior to the Effective Time, the director(s) and officer(s) of the Parent and the director(s) and officer(s) of the Subsidiary may amend or abandon this Merger Agreement, without the vote of the shareholders of their respective corporations.

ARTICLE III

Miscellaneous

3.01. Successors and Assigns. The provisions of this Merger Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Merger Agreement without the consent of the other party hereto.

3.02. Governing Law. This Merger Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, without giving effect to principles of conflicts of law.


3.03. Counterparts Effectiveness. This Merger Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Merger Agreement shall become effective when each party hereto shall have received the counterpart hereof signed by the other party hereto.

[END OF TEXT]

IN WITNESS WHEREOF, this Merger Agreement is hereby executed as of the date first above written on behalf of the undersigned parties.

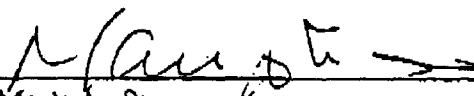
PARENT

EIGHT IN ONE PET PRODUCTS, INC.
a New York corporation

By: 
Mark A. Stern
President

SUBSIDIARY

UNITED PET GROUP, INC.
a Delaware corporation

By: 
Mark A. Stern
President

CERTIFICATE OF THE SECRETARY OF UNITED PET GROUP, INC.

I, David L. Stern, the Secretary of United Pet Group, Inc., a Delaware corporation (the "Subsidiary"), hereby certify that the Agreement and Plan of Merger to which this certificate is attached, after having been first duly signed on behalf of the Subsidiary by the President under the corporate seal of said Subsidiary, was duly approved and adopted by consent resolution of the stockholder of the Subsidiary effective as of July 8, 1999 pursuant to the vote of the holder of all of the outstanding stock entitled to vote thereon.

WITNESS my hand and seal this 8th day of July, 1999.




David L. Stern
Secretary

CERTIFICATE OF THE SECRETARY OF EIGHT IN ONE PET PRODUCTS, INC.

I, David L. Stern, the Secretary of Eight in One Pet Products, Inc., a New York corporation (the "Parent"), hereby certify that the Agreement and Plan of Merger to which this certificate is attached, after having been first duly signed on behalf of the Parent by the President under the corporate seal of said Parent, was duly approved and adopted by consent resolution of the stockholders of Parent effective as of July 8, 1999 pursuant to the vote of the holders of all of the outstanding stock entitled to vote thereon.

WITNESS my hand and seal this 8th day of July, 1999.


David L. Stern
Secretary

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State of Delaware
Office of the Secretary of State

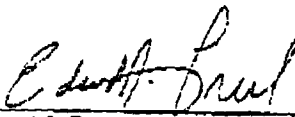
PAGE 1

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 MERGER, WHICH MERGES:

"EIGHT IN ONE PET PRODUCTS, INC.", A NEW YORK CORPORATION, WITH AND INTO "UNITED PET GROUP, INC." UNDER THE NAME OF "UNITED PET GROUP, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE EIGHTH DAY OF JULY, A.D. 1999, AT 12:02 O'CLOCK P.M.

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




Edward J. Freel, Secretary of State

3066897 8100M

991278467

AUTHENTICATION: 9853238

DATE: 07-08-99

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REEL: 002799 FRAME: 0659

CERTIFICATE OF MERGER**OF EIGHT IN ONE PET PRODUCTS, INC. (a New York corporation)****WITH AND INTO****UNITED PET GROUP, INC. (a Delaware corporation)**

The undersigned corporation **DOES HEREBY CERTIFY:**

FIRST: That the name and state of incorporation of each of the constituent corporations of the merger herein certified is as follows:

<u>NAME</u>	<u>STATE OF INCORPORATION</u>
United Pet Group, Inc. (hereinafter referred to as "UPG")	Delaware
Eight in One Pet Products, Inc. (hereinafter referred to as "Eight in One")	New York

SECOND: That an Agreement and Plan of Merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 252 of the General Corporation Law of Delaware by UPG and in accordance with the laws of the State of its incorporation by Eight in One.

THIRD: That, upon the effectiveness of the merger herein certified, the surviving corporation shall be UPG, which will continue its existence as said surviving corporation under the name "United Pet Group, Inc." upon the effective date of said merger pursuant to the provisions of the General Corporation Law of the State of Delaware.

FOURTH: That the Certificate of Incorporation [REDACTED] of LPG shall be the Certificate of Incorporation of the surviving corporation until further amended and changed in accordance with the provisions of the General Corporation Law of the State of Delaware.

FIFTH: That the executed Agreement and Plan of Merger is on file at an office of the surviving corporation, the address of which is 2100 Pacific Street, Hauppauge, New York, 11788-4737.

SIXTH: That a copy of the Agreement and Plan of Merger will be furnished by the surviving corporation, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: That the authorized capital stock of Eight in One is as follows:

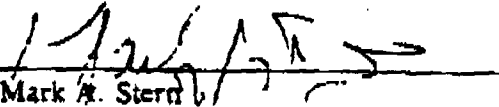
<u>Corporation</u>	<u>Class</u>	<u>Number of Shares</u>	<u>Par value per share or statement that shares are without par value</u>
Eight in One Pet Products, Inc., a New York corporation	Common	199,999,999	\$0.001
	Class A Common	2,000,000	\$0.001
	Class B Common	2,855,799	\$0.001
	Convertible Participating Preferred	694,950	\$0.001
	Redeemable Preferred	660,203	\$0.001
	Class A Redeemable Preferred	697,000	\$0.001

EIGHTH: That this Certificate of Merger shall be effective upon filing this Certificate of Merger with the Secretary of State of the State of Delaware.

(Signature page to follow)

Dated: July 8, 1999

UNITED PET GROUP, INC.,
a Delaware corporation

By: 
Mark A. Stern
President

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State of New York }
Department of State } *ss:*

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on JUL 09 1999



Special Deputy Secretary of State

DOS-1266 (5/96)

CT-07

F 990708000709

CERTIFICATE OF MERGER
of
EIGHT IN ONE PET PRODUCTS, INC., a New York corporation
WITH AND INTO
UNITED PET GROUP, INC., a Delaware corporation
UNDER SECTION 907 OF THE BUSINESS CORPORATION LAW

I, the undersigned, Mark A. Stern, being the President of Eight in One Pet Products, Inc., a New York corporation, and being the President of United Pet Group, Inc., a Delaware corporation, hereby certify:

1. (a) The name of each constituent corporation is as follows:
 - (i) Eight in One Pet Products, Inc., a New York corporation (hereinafter referred to as "Eight in One"), formerly incorporated as S & S Pet Products, Inc. and 8 In 1 Pet Products, Inc.; and
 - (ii) United Pet Group, Inc., a Delaware corporation (hereinafter referred to as "UPG").
 - (b) The name of the surviving corporation is United Pet Group, Inc., a Delaware corporation.
2. As to each constituent corporation, the designation and number of outstanding shares of each class and series and the voting rights thereof are as follows:

	Designation and number of shares in each class or series <u>constituting</u>	Class or series of shares entitled to <u>vote</u>	Shares entitled to vote as a class or series
Eight in One	395,759 shares of Common Stock	N/A	395,759
	15,000 shares of Class A Common Stock	Class A	0
	694,950 shares of Convertible Participating Preferred Stock	N/A	694,950
	687,000 shares of Class A Redeemable Preferred Stock	Class A	0
UPG	100 shares of Common Stock	N/A	100

3. The merger was adopted by Eight in One in the following manner:
 - (a) As to Eight in One, by the affirmative vote of the holders of a majority of all outstanding shares entitled to vote thereon.
 - (b) The merger was approved by the shareholders of Eight in One in accordance with Paragraph (a) of Section 903 of the New York Business Corporation Law.
4. The merger is permitted by the laws of the jurisdiction of UPG and is in compliance therewith. UPG has complied as follows:
 - (a) UPG has complied with the applicable provisions of the laws of the State of Delaware under which it is incorporated, and this merger is permitted by such laws.
5. The surviving corporation is UPG, a corporation organized under the laws of the State of Delaware, incorporated on the 8th day of July, 1999. UPG was first incorporated under the name United Pet Group, Inc. United Pet Group, Inc. filed for authority to do business in New York on July 8th, 1999.
6. The date when the Certificate of Incorporation of Eight in One was filed by the Department of State of the State of New York was the 26th day of January, 1976.
7. The shareholders of Eight in One will receive a pro rata issuance of shares UPG.
8. UPG agrees that it may be served with process in the State of New York in any action or special proceeding for the enforcement of any liability or obligation of any constituent corporation, previously amenable to suit in the State of New York, and for the enforcement under the Business Corporation Law, of the right of shareholders of any constituent domestic corporation to receive payment for their shares against the surviving corporation; and it designates the Secretary of State of New York as its agent upon whom process may be served in the manner set forth in paragraph (b) of Section 306 of the Business Corporation Law, in any action or special proceeding. The post office address to which the Secretary of State shall mail a copy of any process against it served upon him is 2100 Pacific Street, Hanppage, New York 11788-4737. Such post office address shall supersede any prior address designated as the address to which process shall be mailed.

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9. UPG agrees that, subject to the provision of Section 623 of the Business Corporation Law, it will promptly pay to the shareholders of Eight in One the amount, if any, to which they shall be entitled under the provisions of the Business Corporation Law, relating to the right of the shareholders to receive payment for their shares.
10. Eight in One certifies that all fees and taxes (including penalties and interest) administered by the Department of Taxation and Finance of the State of New York which are now due and payable by Eight in One have been paid and that a cessation franchise tax report (estimated or final) through the anticipated date of the merger has been filed by Eight in One. The said report, if estimated, is subject to amendment. UPG hereby agrees that it will within thirty (30) days after the filing of this Certificate of Merger file the cessation franchise tax report, if an estimated report was previously filed, and promptly pay to the Department of Taxation and Finance of the State of New York all fees and taxes (including penalties and interest), if any, due to the Department of Taxation and Finance by Eight in One.
11. The merger shall be effective upon filing of this Certificate of Merger with the Secretary of State of the State of New York.
12. The executed Agreement and Plan of Merger is on file at an office of UPG, the address of which is 2100 Pacific Street, Hauppauge, New York, 11788-4737.

(The remainder of this page has been intentionally left blank.)

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IN WITNESS WHEREOF, I have signed this certificate on the 8th day of July, 1999,
and I affirm the statements contained therein as true under penalties of perjury.

**EIGHT IN ONE PET PRODUCTS, a
New York corporation**

By: Mark A. Stern
Mark A. Stern
President

**UNITED PET GROUP, INC., a Delaware
corporation**

By: Mark A. Stern
Mark A. Stern
President

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