



LE REGISTRAIRE DES MARQUES DE COMMERCE
THE REGISTRAR OF TRADE-MARKS

Citation: 2013 TMOB 142
Date of Decision: 2013-08-29

IN THE MATTER OF AN OPPOSITION
by Padres L.P. to application
No. 1,275,684 for the trade-mark SER
PADRES in the name of Meredith
Corporation

[1] On October 14, 2005, Meredith Corporation (the Applicant) filed an application to register the trade-mark SER PADRES (the Mark) in association with the following wares and services on the following bases:

WARES:

(1) Magazine directed to parents. *Based on proposed use and use and registration in the United States.*

(2) Computer software and multimedia software recorded on CD-ROM, namely, educational software featuring information in the field of pregnancy, childbirth, child rearing, child development, child-proofing, child safety and parenting; series of non-fiction books in the field of pregnancy, childbirth, child rearing, child development and parenting; calendars; home safety products, namely non-metal locks and latches for doors, cabinets, drawers, furniture corner cushions, finger pinch guards, cord wind-ups, door knob covers, and safety kits comprised of corner cushions for tables and chairs, small object tester, outlet plugs and home safety guide, all sold as a unit; home safety products, namely, covers and plugs for electric outlets, motion sensitive security lights and safety harness other than for vehicles or sports purposes; musical sound recordings, namely, audio compact discs and cassette tapes for children; infant development toys; children's multiple activity toys; footwear for children, namely, shoes, boots, sandals; layettes, namely sets of clothing and bedding for a newborn child; headwear, namely, hats, toques, caps; clothing for infants and children, namely, infantwear, shirts, t-shirts, sweatshirts, sweatpants, overalls, dresses, play suits, rompers, singlets, shorts, pants, jumpers, jackets, coats, gloves, scarves, underwear, pajamas, robes, sleepwear, rainwear,

socks, tights, bathing suits, baby bunting, cloth bibs and cloth diapers; bedding, namely, bed linen, bed sheets, quilts, bed blankets, comforters, duvet covers, mattress covers, mattress pads, pillow shams, pillow cases, bed skirts and crib bumpers. *Based on proposed use.*

SERVICES:

Computer services, namely, providing on-line magazines in the fields of child development and parenting. *Based on proposed use.*

[2] The application was advertised for opposition purposes in the *Trade-marks Journal* of May 30, 2007.

[3] On January 25, 2008, Padres L.P. (the Opponent) filed a statement of opposition. The grounds of opposition can be summarized as follows:

- Pursuant to sections 38(2)(a) and 30(a) of the *Trade-marks Act*, RSC 1985, c T-13 (the Act), the application for the Mark does not contain a statement in ordinary commercial terms of the specific wares and services in association with which the Mark is proposed to be used.
- Pursuant to sections 38(2)(a) and 30(i) of the Act, the Applicant could not have been satisfied of its entitlement to use the Mark as it was aware of the Opponent's confusingly similar PADRES trade-marks (identified below in the ground of opposition based on section 12(1)(d) of the Act);
- Pursuant to sections 38(2)(b) and 12(1)(d) of the Act, the Mark is not registrable as it is confusing with the Opponent's PADRES marks namely (full particulars attached to my decision at Schedule A):

- PADRES & Design – TMA337,134;



- SAN DIEGO PADRES & Design – TMA337,135;



- PADRES & Design – TMA461,112; and



- SAN DIEGO PADRES BASEBALL CLUB & Design – TMA487,042.



- Pursuant to sections 38(2)(c) and 16(2)(a) and 16(3)(a) of the Act, the Applicant is not the person entitled to registration of the Mark because the Mark is confusingly similar to the Opponent's PADRES marks which have been previously used or made known in Canada in association with wares and services the same or similar to the Applicant's wares and services;
- Pursuant to sections 38(2)(d) and 2 of the Act, the Mark is not distinctive of the Wares and Services nor was it adapted or is it adapted to distinguish the Wares and Services from the wares and services of others, including those of the Opponent.

[4] The Applicant served and filed a counter statement in which it denied the Opponent's allegations.

[5] In support of its opposition, the Opponent filed certified copies of the registration certificates for its PADRES marks (TMA337,134; TMA337,135; TMA461,112; and TMA487,042).

[6] In support of its application, the Applicant filed an affidavit of Ruth Gaviria, the Vice President of Hispanic Ventures with the Applicant.

[7] Both parties filed written arguments but an oral hearing was not conducted.

Onus and Material Dates

[8] The Applicant bears the legal onus of establishing, on a balance of probabilities, that its application complies with the requirements of the Act. However, there is an initial evidential burden on the Opponent to adduce sufficient admissible evidence from which it could reasonably

be concluded that the facts alleged to support each ground of opposition exist [see *John Labatt Limited v The Molson Companies Limited* (1990), 30 CPR (3d) 293 (FCTD) at 298].

[9] The material dates that apply to the grounds of opposition are as follows:

- sections 38(2)(a)/30 - the date of filing the application [see *Georgia-Pacific Corp v Scott Paper Ltd* (1984), 3 CPR (3d) 469 at 475 (TMOB) and *Tower Conference Management Co v Canadian Exhibition Management Inc* (1990), 28 CPR (3d) 428 at 432 (TMOB)];
- sections 38(2)(b)/12(1)(d) - the date of my decision [see *Park Avenue Furniture Corporation v Wickes/Simmons Bedding Ltd and The Registrar of Trade Marks* (1991), 37 CPR (3d) 413 (FCA)];
- sections 38(2)(c)/16(2) and (3) - the date of filing the application [see section 16(2) and (3) of the Act]; and
- sections 38(2)(d)/2 - the date of filing of the opposition [see *Metro-Goldwyn-Mayer Inc v Stargate Connections Inc* (2004), 34 CPR (4th) 317 (FC)].

Summary Dismissal of Grounds of Opposition

[10] The Opponent has not provided any evidence or submissions in support of its section 30(a) ground of opposition and thus I find that the Opponent has failed to meet its evidential burden and I dismiss this ground of opposition accordingly.

[11] With respect to the ground of opposition based on section 30(i) of the Act, I note that where an applicant has provided the statement required by section 30(i), a section 30(i) ground should only succeed in exceptional cases such as where there is evidence of bad faith on the part of the applicant [see *Sapodilla Co Ltd v Bristol-Myers Co* (1974), 15 CPR (2d) 152 (TMOB) at 155]. The Applicant has provided the necessary statement and this is not an exceptional case; the section 30(i) ground is accordingly dismissed.

[12] The Opponent has failed to provide any evidence of use of or reputation in Canada for its pleaded PADRES marks. I note that any reference to use in the Opponent's registrations for the PADRES marks (TMA337,134; TMA337,135; TMA461,112; and TMA487,042) is not sufficient to satisfy the Opponent's evidential burden under section 16(2)(a) or 16(3)(a) of the Act [see *Roxxs, Inc v Edit-SRL* (2002), 23 CPR (4th) 265 (TMOB)]. The same is true with

respect to the non-distinctiveness ground. Accordingly, I find that the Opponent has failed to meet its evidential burden with respect to both the non-entitlement and non-distinctiveness grounds of opposition.

[13] Based on the foregoing, I dismiss the grounds of opposition based on sections 38(2)(a) and 30(a); 38(2)(a) and 30(i); 38(2)(c) and 16(2)(a)/(3)(a); and 38(2)(d) and 2 of the Act.

Non-registrability Ground – section 12(1)(d) of the Act

[14] An opponent's initial onus is met with respect to a section 12(1)(d) ground of opposition if the registration relied upon is in good standing as of the date of the opposition decision. The Registrar has discretion to check the register in order to confirm the existence of the registration(s) relied upon by an opponent [see *Quaker Oats of Canada Ltd/La Compagnie Quaker Oats du Canada Ltée v Menu Foods Ltd* (1986), 11 CPR (3d) 410 (TMOB)]. I have exercised that discretion and confirm that the registrations for the Opponent's PADRES marks (TMA337,134; TMA337,135; TMA461,112; and TMA487,042) all remain valid and therefore the Opponent has satisfied its evidential burden. I must now assess whether the Applicant has met its legal burden.

[15] The test for confusion is one of first impression and imperfect recollection. Section 6(2) of the Act indicates that use of a trade-mark causes confusion with another trade-mark if the use of both trade-marks in the same area would be likely to lead to the inference that the wares or services associated with those trade-marks are manufactured, sold, leased, hired or performed by the same person, whether or not the wares or services are of the same general class.

[16] In applying the test for confusion, the Registrar must have regard to all the surrounding circumstances, including those specifically enumerated in section 6(5) of the Act, namely: (a) the inherent distinctiveness of the trade-marks and the extent to which they have become known; (b) the length of time each has been in use; (c) the nature of the wares, services or business; (d) the nature of the trade; and (e) the degree of resemblance between the trade-marks in appearance or sound or in the ideas suggested by them. These enumerated factors need not be attributed equal weight. [See, in general, *Mattel, Inc v 3894207 Canada Inc* (2006), 49 CPR (4th) 321 (SCC) and *Masterpiece Inc v Alavida Lifestyles Inc* (2011), 92 CPR (4th) 361 (SCC).]

[17] I will assess the section 12(1)(d) ground of opposition based on confusion between the Mark and the Opponent's two PADRES & Design marks (TMA337,134 and TMA461,112) as in my view the Opponent's case is strongest with respect to these trade-marks. These marks are registered in association with the following relevant wares (the full list of registered wares and services is found in Schedule A):

TMA337,134 – boy's and men's tank tops, sweatshirts, hats, caps; helmets; girls' shirts, nightshirts; infants' shirts; jewelry, namely pins; photo trading cards, collector albums; buttons, felt pennants

TMA461,112 – clothing, namely jackets, coats, ponchos, raincoats, pants, overalls, jeans, coveralls, shorts, sweatpants, t-shirts, shirts, tops, jerseys, turtlenecks, pullovers, sweaters, vests, tank tops, sweatshirts, jogging suits, warm-up suits, skirts, short sets, diaper sets, dress and pant sets, pant sets, sweater sets, sunsuits, swimsuits, sleepers, snowsuits, underwear, housecoats, bath robes, bath wraps, undershirts, bibs, pyjamas, nightgowns, nightshirts, boxer shorts, layette sets, socks, hosiery, hats, caps, visors, headbands, wristbands, mitts, gloves, scarves, handkerchiefs, belts, suspenders, ties, buckles, footwear and accessories, namely shoelaces, shoe bags, shoes, boots, slippers, sneakers, running shoes, baby booties, ... games, toys and play things, namely inflatable toys, balls, bats, gloves, ... calendars, ... bed, bath, kitchen and table linen, namely sheets, pillow cases, pillows, blankets, quilts, comforters, duvets, bedspreads, curtains, bumper pads, sleeping bags and sacks, cushions, shower curtains, towels, tablecloths, placemats, napkins, oven mitts, potholders, aprons, chef hats, carpets, rugs, mats, ...

[18] If there is no likelihood of confusion between the Mark and registration Nos. TMA337,134 or TMA461,112 then there would be no likelihood of confusion with respect to the other registrations. As a result, my determination of a likelihood of confusion as between the Mark and the Opponent's registration Nos. TMA337,134 and TMA461,112 will be determinative of the section 12(1)(d) ground of opposition.

Section 6(5)(a) – the inherent distinctiveness of the trade-marks and the extent to which they have become known

[19] In the application for the Mark the Applicant states that the Mark translates into English as “to be parents”. The Opponent does not provide a translation for the word PADRES in its registrations; however, it submits in its written argument that the word is Spanish for “father”. I have no evidence that the average Canadian consumer speaks or understands Spanish. As a result, the average Canadian would be more likely to infer that the parties' marks are made up of coined words. In any event, given the inclusion of the common word PADRES (and the minimal

importance of the design elements in the Opponent's marks), I find that the parties' marks possess the same degree of inherent distinctiveness.

[20] A trade-mark may acquire distinctiveness through use or promotion. However, in the present case neither party has filed evidence to show use or promotion of its marks in Canada.

[21] The Applicant has filed evidence of its adoption and use of the Mark in the United States; however, insufficient evidence has been provided to support a finding that the Mark has developed any reputation in Canada. With respect to the printouts from the Applicant's website (Gaviria affidavit, Exhibits B and C), I have not been provided with any evidence as to the number of Canadians who have viewed the website and thus this evidence is insufficient to enable me to make a finding as to the extent to which the Mark has become known in Canada [see *Candrug Health Solutions Inc v Thorkelson* (2007), 60 CPR (4th) 35 (FC), rev'd on other grounds (2008), 64 CPR (4th) 431 (FCA)].

[22] While it is true that the registrations for the Opponent's PADRES & Design marks claim use in Canada in the absence of evidence of actual evidence of use or making known of the marks, at most this entitles me to assume minimal use of these marks [see *Entre Computer Centers Inc v Global Upholstery Co* (1991), 40 CPR (3d) 427 (TMOB) at 430]. Minimal use does not support a conclusion that the Opponent's PADRES & Design marks had become known to any significant extent.

[23] As a result, this factor does not favour either party to any significant extent.

Section 6(5)(b) – the length of time each has been in use

[24] As discussed further above in the analysis of the section 6(5)(a) factor, the Opponent's registrations only enable me to assume minimal use of the pleaded PADRES & Design marks. While it may be true that minimal use is more than no use, in the absence of evidence of actual use of either party's marks, this factor does not significantly favour either party.

Sections 6(5)(c) and (d) – the nature of the wares, services or business and trade

[25] There is some degree of similarity between the Applicant's wares and the Opponent's registered wares. Specifically, the application includes the following overlapping wares (the Overlapping Wares):

calendars; ... musical sound recordings, namely, audio compact discs and cassette tapes for children; infant development toys; children's multiple activity toys; footwear for children, namely, shoes, boots, sandals; layettes, namely sets of clothing and bedding for a newborn child; headwear, namely, hats, toques, caps; clothing for infants and children, namely, infantwear, shirts, t-shirts, sweatshirts, sweatpants, overalls, dresses, play suits, rompers, singlets, shorts, pants, jumpers, jackets, coats, gloves, scarves, underwear, pajamas, robes, sleepwear, rainwear, socks, tights, bathing suits, baby bunting, cloth bibs and cloth diapers; bedding, namely, bed linen, bed sheets, quilts, bed blankets, comforters, duvet covers, mattress covers, mattress pads, pillow shams, pillow cases, bed skirts and crib bumpers.

[26] In light of the similarity between the parties' wares, this factor favours the Opponent but only with respect to the Overlapping Wares.

[27] The remaining wares and services share no similarity with the Opponent's registered wares and services and thus this factor favours the Applicant with respect to the remaining wares and services.

Section 6(5)(e) – the degree of resemblance between the marks in appearance or sound or in the ideas suggested by them

[28] The parties' marks share some degree of similarity in sound and idea suggested by virtue of the inclusion of the word element PADRES. The Opponent submits that its PADRES marks suggest the idea of a father given the prominence of the word PADRES. Relying on the Applicant's translation, the Opponent submits that the Mark suggests the idea of parents. By virtue of these translations, the Opponent submits that the parties' marks suggest the same idea. However, as noted above, I have no evidence that the average Canadian can speak or understand Spanish and would thus know what these words mean. Rather, I am of the view that the parties' marks are more likely to be interpreted as being made up of coined words and thus lacking any particular meaning. The design elements in the Opponent's marks serve to create some differences between the parties' marks in terms of appearance.

[29] Based on the foregoing, I find that the parties' marks share some degree of similarity, particularly in sound by virtue of the inclusion of the common word PADRES. The marks also share some similarity, albeit to a less extent, in appearance. Finally, I find that the inclusion of the word PADRES in both parties' marks, regardless of the meaning ascribed thereto, serves to create some degree of similarity in ideas suggested as well.

Conclusion

[30] In *Masterpiece* the Supreme Court of Canada highlighted the importance of the section 6(5)(e) factor in the analysis of the likelihood of confusion [see *Masterpiece, supra* at para 49]. In the present case, I have found some similarity between the Mark and the Opponent's PADRES & Design marks by virtue of the inclusion of the common word PADRES. I am of the view that with respect to the Overlapping Wares none of the other factors assist the Applicant in overcoming this similarity between the marks. As a result, I am not satisfied that the Applicant has discharged its burden of showing, on a balance of probabilities, that there is no reasonable likelihood of confusion between the marks at issue with respect to the Overlapping Wares.

[31] With respect to the remaining wares and services, I find that the difference in the nature of the parties' wares and services is sufficient to shift the balance of probabilities in the Applicant's favour and the ground of opposition is dismissed with respect to the remaining wares and services.

[32] Having regard to the foregoing, the ground of opposition based on section 12(1)(d) of the Act is successful with respect to the Overlapping Wares but dismissed with respect to the remaining wares and services.




Disposition

[33] Pursuant to the authority delegated to me under section 63(3) of the Act, I refuse the application for the Mark with respect "calendars; ... musical sound recordings, namely, audio compact discs and cassette tapes for children; infant development toys; children's multiple activity toys; footwear for children, namely, shoes, boots, sandals; layettes, namely sets of clothing and bedding for a newborn child; headwear, namely, hats, toques, caps; clothing for


infants and children, namely, infantwear, shirts, t-shirts, sweatshirts, sweatpants, overalls, dresses, play suits, rompers, singlets, shorts, pants, jumpers, jackets, coats, gloves, scarves, underwear, pajamas, robes, sleepwear, rainwear, socks, tights, bathing suits, baby bunting, cloth bibs and cloth diapers; bedding, namely, bed linen, bed sheets, quilts, bed blankets, comforters, duvet covers, mattress covers, mattress pads, pillow shams, pillow cases, bed skirts and crib bumpers” and I reject the opposition with respect to “magazine directed to parents; computer software and multimedia software recorded on CD-ROM, namely, educational software featuring information in the field of pregnancy, childbirth, child rearing, child development, child-proofing, child safety and parenting; series of non-fiction books in the field of pregnancy, childbirth, child rearing, child development and parenting; ...; home safety products, namely non-metal locks and latches for doors, cabinets, drawers, furniture corner cushions, finger pinch guards, cord wind-ups, door knob covers, and safety kits comprised of corner cushions for tables and chairs, small object tester, outlet plugs and home safety guide, all sold as a unit; home safety products, namely, covers and plugs for electric outlets, motion sensitive security lights and safety harness other than for vehicles or sports purposes; computer services, namely, providing on-line magazines in the fields of child development and parenting” pursuant to section 38(8) of the Act [see *Produits Menagers Coronet Inc v Coronet-Werke Heinrich Schlerf GmbH* (1986), 10 CPR (3d) 492 (FCTD) as authority for a split decision].

Andrea Flewelling
Member
Trade-marks Opposition Board
Canadian Intellectual Property Office

SCHEDULE "A"

Trade-mark	Registration No.	Wares/Services
PADRES & Design 	TMA337,134	<p><u>Wares:</u> Boys' and men's tank tops, sweatshirts, hats, caps; helmets; girls' shirts, nightshirts; infants' shirts; jewelry, namely pins; photo trading cards, collector albums; buttons, felt pennants.</p> <p><u>Services:</u> Entertainment services in the nature of the performance, presentation and promotion of baseball games rendered live and through the media of radio and television.</p>
SAN DIEGO PADRES & Design 	TMA337,135	<p><u>Wares:</u> Boys' and men's tank tops, sweatshirts, hats, caps; helmets; girls' shirts, nightshirts; infants' shirts; jewelry, namely pins; photo trading cards, collector albums; buttons, felt pennants.</p> <p><u>Services:</u> Entertainment services in the nature of the performance, presentation and promotion of baseball games rendered live and through the media of radio and television.</p>
PADRES & Design 	TMA461,112	<p><u>Wares:</u> Clothing, namely jackets, coats, ponchos, raincoats, pants, overalls, jeans, coveralls, shorts, sweatpants, t-shirts, shirts, tops, jerseys, turtlenecks, pullovers, sweaters, vests, tank tops, sweatshirts, jogging suits, warm-up suits, skirts, short sets, diaper sets, dress and pant sets, pant sets, sweater sets, sunsuits, swimsuits, sleepers, snowsuits, underwear, housecoats, bath robes, bath wraps, undershirts, bibs, pyjamas, nightgowns, nightshirts, boxer shorts, layette sets, socks, hosiery, hats, caps, visors, headbands, wristbands, mitts, gloves, scarves, handkerchiefs, belts, suspenders, ties, buckles, footwear and accessories, namely shoelaces, shoe bags, shoes, boots, slippers, sneakers, running shoes, baby booties, thongs sporting goods and athletic equipment, namely baseball jerseys, jerseys, baseball pants, sports pants, baseball uniforms, balls, baseballs, ball holders, ball bags, helmets, protective pads, gloves, golf bags, sports bags, equipment bags, golf club head covers, golf tees, golf clubs, batting gloves, masks games, toys and play things, namely inflatable toys, balls, bats, gloves, helmets sold individually or in sets, card games, video games, computer games, board games, flying disks,</p>

	<p>figurines, vehicles, playsets, playing cards, windup toys, balloons, audio cassettes, video cassettes, computer disks, puzzles, kites, stuffed animals, plush toys, dolls, beachballs, puppets, rattles, colouring books, activity books, return tops, luggage and luggage accessories, namely bags, duffel bags, backpacks, knapsacks, suitcases, carrying cases, card holders, wallets, coin purses, money clips, key chains, key rings, key fobs, key cases, key tags, key holders, umbrellas, luggage tags, pet leashes; pet collars, paper products, namely paper plates, paper cups, napkins, placemats, table covers, party hats, bags, wrapping paper, ribbons, party favors, housewares and household accessories, namely mugs, steins, tumblers, glasses, cups, tankards, shot glasses, apothecary jars, pitchers, beverages coolers, cooler bags, mug hangers, candles, plates, bowls, dishes, lunch kits, coasters, handles for coasters, bottle openers, spoons, salt and pepper shakers, vacuum bottles, thermo mugs, and steins, water bottles, flasks, air fresheners, wastebaskets, food containers, tins, beverage holders, condiment sets, lunch boxes, chimes, lamps, telephones, nightlights, barbeque grills, shovels, bottles, trays, candlesticks, baby bottles, training cups, ice buckets, door hangers, picture frames, toothbrushes, wallpaper, baby pacifiers, souvenirs and novelties, namely flags, banners, pennants, pom-poms, buttons, windsocks, coins, banks, helmets, alphabet letters, megaphones, party baskets, Christmas tree decorations and ornaments, figurines, zipper pulls, engravings, bats, balls, ball stands, foam hand shaped glove which can be waved, smokers supplies and accessories, namely lighters and ashtrays, eyewear and accessories, namely eyeglasses, sunglasses, eyeglass cases, eyeglass cords, eyeglass holders, eyeglass sportsband, binoculars, radios, stationery and school articles, namely pens, pencils, crayons, markers, coloured pencils, mechanical pencils, highlighters, erasers, sharpeners, rulers, pencil cases, note pads, memo pads, report covers, portfolios, greeting cards, invitations, bookmarks pencil holders, magnets, stamp pads, paperweights, letter openers, paper clips, postcards, binders, bulletin boards, display boards, tape measures, school bags, tags, desk sets and writing kits</p>
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		<p>comprised of memo pads, pen, pencil and pencil caddy, decals, stickers, stamps, tattoos, bumper stickers, emblems, patches, badges, crests, baseball cards, trading cards, trivia cards, autograph books, albums, scrapbooks, booklets, programs, magazines, books, folders, book covers, portfolios, date books, calendars, storage devices namely trunks, cans, chests, boxes and albums related to cards and booklets, card holders, signs, time pieces namely watches, clocks, thermometers, car mats, bed, bath, kitchen and table linen, namely sheets, pillow cases, pillows, blankets, quilts, comforters, duvets, bedspreads, curtains, bumper pads, sleeping bags and sacks, cushions, shower curtains, towels, tablecloths, placemats, napkins, oven mitts, potholders, aprons, chef hats, carpets, rugs, mats, clothes organizers, furniture namely chairs, tables, stools, rocking chairs, cushions, sunshades; automobile sun screens, jewellery namely costume and precious metal jewellery, charms, medallions, coins, rings, pendants, necklaces, tie tacks, earrings, pins, pin sets, license plate holders, pictures, photographs, prints, posters, wall hangings, plaques, needlepoint kits; embroidery kits, fabric, alimentary products and beverages, namely candy, chocolate, gum, sunflower seeds, peanuts, popcorn, ice cream, ice milk, yogurt.</p> <p><u>Services:</u> Entertainment services in the nature of the performance, presentation and promotion of baseball games rendered live and through the media of radio and television.</p>
<p>SAN DIEGO PADRES BASEBALL CLUB & Design</p> 	<p>TMA487,042</p>	<p><u>Wares:</u> Clothing, namely jackets, coats, ponchos, raincoats, pants, overalls, jeans, coveralls, shorts, sweatpants, t-shirts, shirts, tops, jerseys, pullovers, sweaters, vests, tank tops, sweatshirts, jogging suits, warm-up suits, skirts, short sets, diaper sets, dress and pant sets, pant sets, sweater sets, sunsuits, swimsuits, sleepers, snowsuits, underwear, housecoats, bath robes, bath wraps, undershirts, bibs, pyjamas, nightgowns, nightshirts, boxer shorts, layette sets, socks, hosiery, hats, caps, visors, headbands, wristbands, mitts, gloves, scarves, handkerchiefs, belts, suspenders, ties, buckles; footwear and accessories, namely, shoelaces, shoe bags, shoes, boots, slippers, sneakers, athletic shoes,</p>

		<p> baby booties, thongs; sporting goods and athletic equipment, namely, baseball jerseys, jerseys, baseball pants, sports pants, baseball uniforms, umpire uniforms, balls, baseballs, ball holders, ball bags, helmets, protective pads, gloves, golf bags, sports bags, equipment bags, golf club head covers, golf ties, golf clubs, batting gloves, catcher's equipment, namely masks, chest protectors, shin guard, umpire's equipment, namely, masks, chest protectors, shin guards, baseball bases, masks; games, toys and play things, namely inflatable, toys, balls, bats, gloves, helmets sold individually or in sets, card games, video games, computer games, board games, flying disks, figurines, playing cards, windup toys, balloons, audio cassettes, namely pre-recorded audio cassette tapes, video cassettes, namely pre-recorded video cassette tapes, computer disks, puzzles, kites, stuffed animals, plush toys, dolls, beachballs, pinwheels, puppets, rattles, colouring books, activity books, return tops; luggage and luggage accessories, namely, bags, duffel bags, backpacks, knapsacks, suitcases, carrying cases, wallets, coin purses, money clips, key chains, key rings, key cases, key tags, key holders, umbrellas, luggage tags; pet leashes; pet collars; paper products, namely, paper plates, paper cups, napkins, placemats, table covers, party hats, bags, wrapping paper, party favors; housewares and household accessories, namely, mugs, steins, tumblers, glasses, cups, tankards, pitchers, beverages coolers, cooler bags, mug hangers, candles, plates, bowls, dishes, lunch kits, coasters, handles for coasters, bottle openers, spoons, salt and pepper shakers, vacuum bottles, air fresheners, wastebaskets, food containers, beverage holders, condiment sets, lunch boxes, chimes, lamps, telephones, nightlights, barbeque grills, bottles, trays, candlesticks, baby bottles, training cups, ice buckets, door hangers, picture frames, toothbrushes; baby pacifiers; souvenirs and novelties, namely, flags, banners, pennants, pom-poms, buttons, windsocks, coins, banks, helmets, alphabet letters, megaphones, party baskets, Christmas ornaments, figurines, zipper pulls, engravings, bats, balls, ball stands, hand waving souvenirs; smokers supplies and accessories, namely lighters and ashtrays; eyewear and accessories, </p>
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	<p>namely, eyeglasses, sunglasses, eyeglass cases, eyeglass cords, eyeglass holders, eyeglass sportsband, binoculars; radios; stationery and school articles, namely, pens, pencils, marking pens, erasers, sharpeners, rulers, pencil cases, note pads, desk sets, paper, namely stationery and writing paper, writing kits, namely, kits comprised of writing paper or stationery, pens, pencils, contained within a folder or other holder, greeting cards, invitations, bookmarks, pencil holders, magnets, stamp pads, paperweights, letter openers, paper clips, postcards, binders, bulletin boards, display boards, tape measures, school bags, tags; decals, stickers, stamps, tattoos, bumper stickers, emblems, patches, badges, crests, transfers, baseball cards, trading cards, trivia cards, autographs books, albums, scrapbooks, booklets, programs, magazines, books, folders, book covers, portfolios, date books, calendars, card holders, signs, displays; time pieces namely watches, clocks, wrist watch/wallet combinations; thermometers; car mats; bed, bath, kitchen and table linen, namely sheets, pillow cases, pillows, blankets, quilts, comforters, bedspreads, curtains, bumper pads, sleeping bags and sacks, cushions, shower curtains, towels, tablecloths, placemats, napkins, oven mitts, potholders, aprons, chef hats, carpets, rugs, mats; clothes organizers; furniture namely, chairs, tables, stools, rocking chairs, cushions; sunshades; automobile sun screens; jewellery namely, costume and precious metal jewellery, charms, medallions, rings, pendants, tie tacks, earrings, pins; license plate holders; pictures, photographs, prints, posters, wall hangings, plaques, maps; needlepoint kits; embroidery kits; fabric; alimentary products and beverages, namely, candy, gum, sunflower seeds, peanuts, popcorn, ice cream, ice milk, yogurt.</p> <p><u>Services</u>: Entertainment services in the nature of baseball games and exhibitions.</p>
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