

ESTTA Tracking number: **ESTTA550314**

Filing date: **07/24/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Kittrich Corporation		
Entity	Corporation	Citizenship	California
Address	14555 Alondra Blvd. La Mirada, CA 90638 UNITED STATES		

Correspondence information	Mark Calkins Kittrich Corporation 14555 Alondra Blvd. La Mirada, CA 90638 UNITED STATES markc@kittrich.com, kevinr@kittrich.com Phone:(714) 736-1044		
----------------------------	---	--	--

Applicant Information

Application No	85659719	Publication date	07/23/2013
Opposition Filing Date	07/24/2013	Opposition Period Ends	08/22/2013
Applicant	Little Twigs LLC 2595 Wellesley Ave. Los Angeles, CA 90064 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2009/09/01 First Use In Commerce: 2009/09/01 All goods and services in the class are opposed, namely: On-line retail store services featuring childrens clothing and furnishings and toys; Retail clothing boutiques; Retail furniture stores; Retail store services featuring products in the nature of childrens clothing furniture, and toys
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3121155	Application Date	06/02/2003
Registration Date	07/25/2006	Foreign Priority Date	NONE
Word Mark	LITTLE TWIG		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 003. First use: First Use: 2003/06/02 First Use In Commerce: 2003/06/02 COSMETICS AND SOAPS, NAMELY SKIN BATHING AND CLEANSING SOLUTIONS, SHAMPOOS AND LOTIONS
----------------	---

U.S. Registration No.	3540114	Application Date	04/21/2008
Registration Date	12/02/2008	Foreign Priority Date	NONE
Word Mark	LITTLE TWIG NURTURING FAMILIES ORGANICALLY		
Design Mark			
Description of Mark	The mark consists of stylized words "little twig" in the color brown with a stylized leaf in the color green positioned to the left of and near, but not attached to, the tail of the "g"; and to the left of the "g", the words "Nurturing Families Organically" in the color green.		
Goods/Services	Class 003. First use: First Use: 2003/02/06 First Use In Commerce: 2003/02/06 Baby lotion; Baby oils; Baby powder; Cosmetic soaps; Hair conditioners for babies; Shampoos for babies; Baby shampoo; Bath lotion; Face and body lotions; Hair shampoos and conditioners; Hand lotions; Liquid soaps for hands, face and body; Skin cleansing lotion; Sun care lotions; Bath soaps		

Attachments	NOA_85_659719_LITTLE_TWIGS_Pleading.pdf(183377 bytes) NOA_85_659719_LITTLE_TWIGS_Exhibits_A-D.pdf(4468595 bytes) NOA_85_659719_LITTLE_TWIGS_Exhibits_E-F.pdf(1069309 bytes) NOA_85_659719_LITTLE_TWIGS_Exhibit_G.pdf(5578586 bytes) NOA_85_659719_LITTLE_TWIGS_Exhibits_H-J.pdf(2590647 bytes) NOA_85_659719_LITTLE_TWIGS_Exhibits_K-N.pdf(2759608 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	//Mark Calkins//
Name	Mark Calkins
Date	07/24/2013

1
2
3 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
4 **TRADEMARK TRIAL AND APPEAL BOARD**

5 Kittrich Corporation

6 Opposer,

7 vs.

8 Little Twigs, LLC

9 Applicant.

Trademark Application

Mark: LITTLE TWIGS BABY CHILD MAMA

Serial No. 85/659719

Filed: June 23, 2012

Published: July 23, 2013

Opposition No.: _____

10
11 **NOTICE OF OPPOSITION**

12 Commissioner for Trademarks
13 2900 Crystal Drive
14 Arlington, VA 22202-3514

15 Sir:

16 Kittrich Corporation, a California corporation, located and doing business at 14555 Alondra Blvd.,
17 La Mirada, CA 90638, believes that it will be damaged by registration of the mark shown in the
18 above-identified application, and hereby opposes the same.

19 As grounds for opposition, Opposer alleges:

20 1. Applicant Little Twigs, LLC filed to register the proposed design mark LITTLE
21 TWIGS BABY CHILD MAMA, Serial No. 85/659719, in IC 35 for “Retail clothing boutiques;
22 Retail furniture stores; Retail store services featuring green and eco-friendly products in the nature
23 of children[']s clothing[,] furniture, toys and goods” on June 23rd, 2012, claiming use in
24 commerce as early as September 1st, 2009.

25 2. Opposer Kittrich Corporation is a consumer products company who is the owner
26 of numerous marks that are used in the promotion of the LITTLE TWIG brand, which are
27 registered on the Principal Register of the United States Patent and Trademark Office. U.S. Reg.

1 No. 3,121,155 – for the standard character mark LITTLE TWIG – was registered on July 25th,
2 2006 in IC 03 for “Cosmetics and soaps, namely skin bathing and cleanings solutions, shampoos
3 and lotions.” See Exhibit A. Moreover, U.S. Reg. No. 3,540,114 – for the design mark LITTLE
4 TWIG NURTURING FAMILIES ORGANICALLY – was registered on December 2nd, 2008 in
5 IC 03 for “Baby lotion; Baby oils; Baby Powder; Cosmetic soaps; Hair conditioners for babies;
6 Shampoos for babies; Baby shampoo; Bath lotion; Face and body lotions; Hair shampoos and
7 conditioners; Hand lotions; Liquid soaps for hands, face and body.” See Exhibit B. In addition to
8 these U.S. Registrations, the Opposer has registered other marks incorporating stylized logos and
9 cartoon characters that are used in connection with the advertising, sale, and promotion of the
10 LITTLE TWIG brand of infant and family care products. A list of these U.S. Registrations is
11 attached as Exhibit C. Collectively, the “LITTLE TWIG Marks.”

12 3. Opposer acquired ownership of the LITTLE TWIG Marks on or about December
13 23rd, 2010 by virtue of a licensing and purchasing agreement regarding the assets of Little Twig,
14 Inc. U.S. Trademark Reg. Nos. 3,121,155 for LITTLE TWIG, and 3,540,114 for LITTLE TWIG
15 NURTURING FAMILIES ORGANICALLY, were assigned to the benefit of Kittrich Corporation
16 after completion of the asset purchase agreement, and recorded with the USPTO on December
17 31st, 2012. One copy of the Trademark Assignment Abstract of Title for each of the Opposer’s
18 Marks is attached hereto as Exhibits D and E.

19 4. Opposer, including its predecessors in interest, has continually used the LITTLE
20 TWIG Marks within interstate and international commerce since as early as February 6th, 2003.
21 Opposer has a common law right to the LITTLE TWIG Mark in IC 35, as Little Twig, Inc.
22 registered the <littletwig.com> domain name on May 6th, 2002, and the on-line retail destination
23 has been active for over eleven years. A copy of the “Whois” record is attached hereto as Exhibit
24 F. To be sure, the LITTLE TWIG Marks and corresponding domain name have been widely
25 publicized in newspapers and periodicals, such as *The Los Angeles Times*, *The Sydney Sunday*
26 *Telegraph*, along with *People*, *Australian Parents*, and *Natural Health* magazines. See Exhibits
27 G, H, I, J, and K.

1 5. Opposer continues to invest substantial effort and expense in the advertising and
2 promotion of the LITTLE TWIG Marks. Opposer has also dedicated significant resources to
3 create valuable goodwill and consumer recognition of the LITTLE TWIG Marks through on-line
4 social networking services such as Facebook[®], Twitter[®] and Pinterest[®].

5 6. Opposer's Filing Date and the First Use Date for U.S. Trademark Reg. Nos.
6 3,121,155 for LITTLE TWIG, and 3,540,114 for LITTLE TWIG NURTURING FAMILIES
7 ORGANICALLY, are both earlier than the Applicant's Alleged First Use Date for the Applicant's
8 Mark.

9 7. Opposer's Filing Date and the First Use Date for U.S. Trademark Reg. Nos.
10 3,121,155 for LITTLE TWIG, and 3,540,114 for LITTLE TWIG NURTURING FAMILIES
11 ORGANICALLY, are both earlier than the Applicant's Filing Date for the Applicant's Mark.

12 8. Opposer's registration and sponsorship of the <littletwig.com> domain name, and
13 corresponding common law use of the LITTLE TWIG Mark within Opposer's on-line retail
14 destination, predate the Applicant's Filing Date and First Use Date for the Applicant's Mark in IC
15 35.

16 9. Priority is not an issue in this case because the Opposer's Filing Dates and the
17 Opposer's First Use Dates for U.S. Trademark Reg. Nos. 3,121,155 and 3,540,114 – along with
18 the Opposer's common law use of the LITTLE TWIG Mark in IC 35 – all precede the Applicant's
19 Filing Date and the Applicant's Alleged First Use Date for the Applicant's Mark.

20 10. The literal elements of the Applicant's design mark LITTLE TWIGS BABY
21 CHILD MAMA are identical or nearly identical to the Opposer's standard character mark
22 LITTLE TWIG. The Applicant's LITTLE TWIGS BABY CHILD MAMA Mark is confusingly
23 similar in sound, meaning, and appearance to the Opposer's LITTLE TWIG Mark, as each mark
24 contains the terms "LITTLE" and "TWIG(S)" as the first wording in the mark, with the only
25 appreciable difference being the letter "S" to signify a plural form of the word "TWIG" within the
26 Applicant's Mark. The Applicant's registration and use of the LITTLE TWIGS BABY CHILD
27 MAMA Mark would likely create confusion, mistake, or deception in the minds of prospective
28

29

1 purchasers as to the origin or source of the Opposer's Goods associated with the LITTLE TWIG
2 Mark.

3 11. The literal elements and trade dress of the Applicant's design mark LITTLE
4 TWIGS BABY CHILD MAMA are also identical or nearly identical to the Opposer's design
5 mark LITTLE TWIG NURTURING FAMILIES ORGANICALLY. The salient terms "LITTLE"
6 and "TWIG(S)" not only appear as the first wording within each mark, but are rendered in a
7 similar brown color. The salient terms also consist of stylized words that are shown in a
8 significantly larger typeface than the descriptive, generic or disclaimed words contained within
9 each mark. Moreover, each mark features visual elements that include the use of stylized leaf
10 designs which are equivalently depicted in a similar contrasting green or yellow-green color. The
11 Applicant's LITTLE TWIGS BABY CHILD MAMA Mark is not only confusingly similar in
12 sound, meaning, and appearance to the Opposer's LITTLE TWIG NURTURING FAMILIES
13 ORGANICALLY Mark, but the Applicant's Mark is composed of the same number of words as
14 the Opposer's Mark, thereby conveying a comparable rhythmic pattern that is analogous to the
15 pronunciation of the Opposer's Mark. The Applicant's registration and use of the LITTLE
16 TWIGS BABY CHILD MAMA Mark would likely create confusion, mistake, or deception in the
17 minds of prospective purchasers as to the origin or source of the Opposer's Goods associated with
18 the LITTLE TWIG NURTURING FAMILIES ORGANICALLY Mark.

19 12. The Applicant's Goods and Services are closely related to and/or are in the natural
20 zone of expansion of the Opposer's Goods. On September 5th, 2009, the Applicant registered a
21 domain name <littletwigs.com> that not only copied the salient features of the Opposer's standard
22 character mark LITTLE TWIG, but also emulated the Opposer's <littletwig.com> domain name
23 that was previously registered on May 6th, 2002. See Exhibits L and F. To be sure, the Applicant
24 used the LITTLE TWIGS BABY CHILD MAMA Mark to promote "bath products" on its
25 <littletwigs.com> website, which are the same class of goods recited within Opposer's U.S.
26 Trademark Reg. Nos. 3,121,155 and 3,540,114 in IC 03. The Applicant's domain name was
28 calculated to create a false association with the Opposer's LITTLE TWIG Marks, and generated
29 confusion by misleading Internet users into visiting the Applicant's website. The Applicant

1 profited from the Internet traffic to the unauthorized site by selling third-party goods and services
2 similar to those offered by the Opposer. See Exhibit M.

3 13. On May 23rd, 2013, Opposer filed a Complaint with the National Arbitration
4 Forum in accordance with the policy of the Internet Corporation for Assigned Names and
5 Numbers (“ICANN”). On July 9th, 2013, the Panel found that the Applicant attempted to obtain
6 commercial gain by misleading and diverting Internet users to the <littletwigs.com> website, and
7 that the Applicant registered the domain name in bad faith. See Exhibit N.

8 14. On April 26th, 2013, Opposer filed a Letter of Protest with the Commissioner of
9 Trademarks, pursuant to TMEP § 1715.01(a)(2), concerning Serial No. 85/659719 for the design
10 mark LITTLE TWIGS BABY CHILD MAMA. Within the Letter of Protest, the Opposer alleged
11 that the applied-for Mark incorporates the entire registered LITTLE TWIG Mark found within
12 U.S. Trademark Reg. Nos. 3,121,155 and 3,540,114. Moreover, the Opposer claimed that the
13 goods offered in connection both marks feature similar “green” or “eco-friendly” marketing
14 claims, and utilize many of the same channels of distribution as the Applicant’s applied-for Mark.

15 15. On May 8th, 2013, the Office of the Deputy Commissioner for Trademark
16 Examining Policy accepted the Letter of Protest and withdrew the previous May 7th, 2013
17 allowance for publication of Serial No. 85/659719 in the *Official Gazette*.

18 16. On May 15th, 2013, the Trademark Examining Attorney refused registration of
19 Serial No. 85/659719, pursuant to Section 2(d), 15 U.S.C. §1052(d) of the Trademark Act,
20 because of a likelihood of confusion with the Opposer’s Marks in U.S. Trademark Reg. Nos.
21 3,121,155 and 3,540,114. Since each mark contains the words LITTLE TWIG(S) as the first
22 wording in the mark, the Examining Attorney concluded that the additional disclaimed or
23 descriptive wording contained within the applied-for Mark does not obviate the strong shared
24 commercial impressions created by the salient literal elements of the Applicant’s Mark. The
25 Examining Attorney further concluded that since the Applicant’s applied-for services include the
26 phrase “children’s...goods” – which would include all types of goods for children, including
28 those listed in the registration – it is therefore presumed that these goods and/or services “travel in
29 the same channel of trade and to the same class of purchasers” as those offered by the Opposer.

1 Among other applied-for services recited within the instant application, “On-line retail store
2 services featuring children[’]s clothing and furnishings and toys” is clearly stated. Within the
3 May 15th Office Action, the Examining Attorney provided additional evidence of third party web
4 pages showing retail stores that sell children’s furniture, clothing, toys and baby care products
5 offered in the same channels of trade.

6 17. On May 21st, 2013, the Applicant amended the applied-for services language to
7 traverse the Examining Attorney’s Section 2(d) Refusal of the proposed design Mark. The
8 proposed services for Serial No. 85/659719 in IC 35 were revised to include “On-line retail store
9 services featuring children[’]s clothing and furnishings and toys; Retail clothing boutiques; Retail
10 furniture stores; Retail store services featuring products in the nature of children[’]s clothing,
11 furniture, and toys.” On June 13th, 2013, the amended application was approved for publication
12 in the *Official Gazette*.

13 18. On information and belief, Opposer alleges that the Opposer’s Goods and the
14 Applicant’s Services are offered or will be offered in similar channels of commerce, and offered
15 to similar customers.

16 19. Purchasers familiar with the Opposer’s Goods and LITTLE TWIG Marks are likely
17 to mistakenly believe that the Applicant’s Services are sponsored by, authorized, endorsed,
18 affiliated with or otherwise approved by the Opposer.

19 20. Applicant’s use of and application to register the LITTLE TWIGS BABY CHILD
20 MAMA Mark is without consent or permission of Opposer.

21 21. Applicant’s use of the LITTLE TWIGS BABY CHILD MAMA Mark and attempt
22 to register the present application is likely to cause confusion with Opposer’s LITTLE TWIG
23 Marks.

24 22. Applicant’s Application should not be granted because it was not filed based on
25 Applicant’s actual use of Applicant’s Mark as a trademark with each and every one of
26 Applicant’s Services, and on information and belief, Applicant failed to satisfy the requirements
27 of Trademark Act Section 1(a) and related Trademark Rules and Regulations.
28

EXHIBIT A

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,121,155

Registered July 25, 2006

**TRADEMARK
PRINCIPAL REGISTER**

LITTLE TWIG

LITTLE TWIG (CALIFORNIA CORPORATION)
217B 32ND
MANHATTAN BEACH, CA 90266

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: COSMETICS AND SOAPS, NAMELY SKIN
BATHING AND CLEANSING SOLUTIONS, SHAM-
POOS AND LOTIONS, IN CLASS 3 (U.S. CLS. 1, 4, 6,
50, 51 AND 52).

SN 76-523,577, FILED 6-2-2003.

FIRST USE 6-2-2003; IN COMMERCE 6-2-2003.

NAAKWAMA ANKRAH, EXAMINING ATTORNEY

EXHIBIT B

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,540,114

Registered Dec. 2, 2008

TRADEMARK
PRINCIPAL REGISTER

Little twig
Nurturing Families Organically 

LITTLE TWIG (CALIFORNIA CORPORATION)
217B 32ND STREET
MANHATTAN BEACH, CA 90266

FOR: BABY LOTION; BABY OILS; BABY POWDER; COSMETIC SOAPS; HAIR CONDITIONERS FOR BABIES; SHAMPOOS FOR BABIES; BABY SHAMPOO; BATH LOTION; FACE AND BODY LOTIONS; HAIR SHAMPOOS AND CONDITIONERS; HAND LOTIONS; LIQUID SOAPS FOR HANDS, FACE AND BODY; SKIN CLEANSING LOTION; SUN CARE LOTIONS; BATH SOAPS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 2-6-2003; IN COMMERCE 2-6-2003.

OWNER OF U.S. REG. NO. 3,121,155.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ORGANICALLY", APART FROM THE MARK AS SHOWN.

THE COLOR(S) BROWN AND GREEN IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF STYLIZED WORDS "LITTLE TWIG" IN THE COLOR BROWN WITH A STYLIZED LEAF IN THE COLOR GREEN POSITIONED TO THE LEFT OF AND NEAR, BUT NOT ATTACHED TO, THE TAIL OF THE "G"; AND TO THE LEFT OF THE "G", THE WORDS "NURTURING FAMILIES ORGANICALLY" IN THE COLOR GREEN.

SER. NO. 77-453,559, FILED 4-21-2008.

WILLIAM VERHOSEK, EXAMINING ATTORNEY

EXHIBIT B

EXHIBIT C

EXHIBIT C
LITTLE TWIG® MARKS – PAGE 1 OF 2

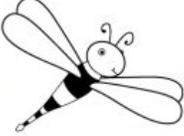
U.S. Serial No.	Filing Date	U.S. Registration No.	Registration Date	Trademark
76523577	June 2, 2003	3,121,155	July 25, 2006	LITTLE TWIG
77453559	April 21, 2008	3,540,114	December 2, 2008	
85393838	August 9, 2011	4,321,650	April 16, 2013	
85605755	April 23, 2012	4,336,164	May 14, 2013	
85605854	April 23, 2012	4,336,165	May 14, 2013	
85606559	April 24, 2012	4,336,167	May 14, 2013	
85606790	April 24, 2012	4,336,168	May 14, 2013	

EXHIBIT C
LITTLE TWIG® MARKS – PAGE 2 OF 2

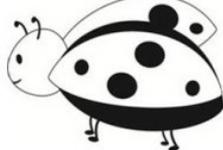
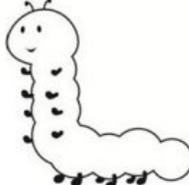
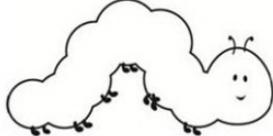
U.S. Serial No.	Filing Date	U.S. Registration No.	Registration Date	Trademark
85606855	April 24, 2012	4,336,169	May 14, 2013	
85606929	April 24, 2012	4,336,170	May 14, 2013	
85606976	April 24, 2012	4,336,171	May 14, 2013	
85607013	April 24, 2012	4,336,172	May 14, 2013	
85607041	April 24, 2012	4,336,173	May 14, 2013	
85878720	March 18, 2013			<p style="text-align: center;">SQUIRT FRIENDS</p>

EXHIBIT D

**United States Patent and Trademark Office**

Home | Site Index | Search | Guides | Contacts | eBusiness | eBiz alerts | News | Help

**Assignments on the Web > Trademark Query****Trademark Assignment Abstract of Title****Total Assignments: 1**Serial #: [76523577](#)

Filing Dt: 06/02/2003

Reg #: [3121155](#)

Reg. Dt: 07/25/2006

Registrant: LITTLE TWIG

Mark: LITTLE TWIG

Assignment: 1Reel/Frame: [4933/0100](#)

Received: 12/31/2012

Recorded: 12/31/2012

Pages: 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [LITTLE TWIG, INC.](#)

Exec Dt: 12/21/2012

Entity Type: CORPORATION

Citizenship: CALIFORNIA

Assignee: [KITTRICH CORPORATION](#)

14555 ALONDRA BLVD.

LA MIRADA, CALIFORNIA 90638

Entity Type: CORPORATION

Citizenship: CALIFORNIA

Correspondent: DAVID M. KOHN

10935 VISTA SORRENTO PARKWAY

SUITE 370

SAN DIEGO, CA 92130

Search Results as of: 05/22/2013 11:55 AM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v2.3.2
Web interface last modified: July 10, 2012 v2.3.2[.HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)**EXHIBIT D**

EXHIBIT E

**United States Patent and Trademark Office**[Home](#) | [Site Index](#) | [Search](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Assignments on the Web > Trademark Query****Trademark Assignment Abstract of Title****Total Assignments: 1****Serial #:** [77453559](#)**Filing Dt:** 04/21/2008**Reg #:** [3540114](#)**Reg. Dt:** 12/02/2008**Registrant:** Little Twig**Mark:** LITTLE TWIG NURTURING FAMILIES ORGANICAL**Assignment: 1****Reel/Frame:** [4933/0100](#)**Received:** 12/31/2012**Recorded:** 12/31/2012**Pages:** 5**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** [LITTLE TWIG, INC.](#)**Exec Dt:** 12/21/2012**Entity Type:** CORPORATION**Citizenship:** CALIFORNIA**Entity Type:** CORPORATION**Citizenship:** CALIFORNIA**Assignee:** [KITTRICH CORPORATION](#)

14555 ALONDRA BLVD.

LA MIRADA, CALIFORNIA 90638

Correspondent: DAVID M. KOHN

10935 VISTA SORRENTO PARKWAY

SUITE 370

SAN DIEGO, CA 92130

Search Results as of: 05/22/2013 11:59 AM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v2.3.2
Web interface last modified: July 10, 2012 v2.3.2[.HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)**EXHIBIT E**

EXHIBIT F

littletwig.com

Current Registrar: NETWORK SOLUTIONS, LLC.
IP Address: [208.69.123.253](#) (ARIN & RIPE IP search)
Record Type: Domain Name
Server Type: Apache 1
Lock Status: clientTransferProhibited
WebSite Status: Active

Visit AboutUs.org for more information about LITTLETWIG.COM
[AboutUs: LITTLETWIG.COM](#)

Registrant: [Make this info private](#)
Kittrich Corp
14555 Alondra Blvd
La Mirada, CA 90638
US

Domain Name: LITTLETWIG.COM

Administrative Contact , Technical Contact :
Kittrich Corp
davisw@kittrich.com
14555 Alondra Blvd
La Mirada, CA 90638
US
Phone: 714-736-2055

Record expires on 06-May-2019
Record created on 20-Sep-2012
Database last updated on 20-Sep-2012

Domain servers in listed order: [Manage DNS](#)

DBRU.BR.NS.ELS-GMS.ATT.NET	68.94.156.134
DMTU.MT.NS.ELS-GMS.ATT.NET	99.99.99.134

Registry Data

littletwig.com

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information.

Domain Name: LITTLETWIG.COM
Registrar: NETWORK SOLUTIONS, LLC.
Whois Server: whois.networksolutions.com
Referral URL: http://www.networksolutions.com/en_US/
Name Server: DBRU.BR.NS.ELS-GMS.ATT.NET
Name Server: DMTU.MT.NS.ELS-GMS.ATT.NET
Status: clientTransferProhibited
Updated Date: 05-mar-2013
Creation Date: 06-may-2002
Expiration Date: 06-may-2019

>>> Last update of whois database: Wed, 22 May 2013 16:03:35 UTC <<<

EXHIBIT G

Museum execs to get lofty

[Property, from B1] completed more than four decades ago that grew tattered before a \$34-million renovation by its owner, the Ratkovich Co., in 2005. The landlord restored the building's 1960s vibe in hope of appealing to creative firms.

Variety magazine agreed to become its signature tenant in 2009 but is in the process of moving its offices to the Westside following the sale of its parent company last year. For now its name is still atop the building.

The departure of LACMA executives from museum grounds will help clear space for a new structure that will be part of the future Academy of Motion Picture Arts and Sciences Museum at Wilshire and Fairfax Avenue.

Terms of LACMA's 10-year, 22,200-square-foot lease were not disclosed, but average rent at the building is \$3.23 a square foot monthly, according to real estate data provider CoStar Group. Digital marketing firm Phenomenon also agreed to rent a floor at 5900 Wilshire and plans to move there next month, the landlord said.

Kittrich gets new home in Pomona

The maker of Con-Tact adhesive paper shelf liners, Little Twig baby bath products and other household items will move to a manufacturing and warehouse building being built on the site of a defunct defense industry plant in Pomona.

Kittrich Corp. — which also manufactures pens, highlighters and other school supplies — will make the new 240,000-square-foot building its headquarters when it relocates there from La Mirada by the end of the year.

It will be in the largest building erected in the San Gabriel Valley since the 2010 construction of a manufacturing plant for Huy Fong Foods Inc. in Irwindale, said Craig Furniss of Seventh Street Development in Long Beach. Seventh Street, also built the Huy Fong plant, where the popular Sriracha hot sauce is made.

The Kittrich building will rise on the site of a General Dynamics Corp. missile plant that closed in 1996. General Dynamics was once Pomona's largest employer, but it started laying off workers in the late 1980s as the



Los Angeles Times

Cold War ended. By the time the defense contractor left Pomona in 1994, about 7,000 jobs had been eliminated.

Recent demand for new warehouse and distribution centers in the region put the old General Dynamics site in play. Seventh Street bought land there from the federal government and is erecting industrial buildings for sale or lease in what it calls Mission-7 Business Park for its location at Mission Boulevard and California 71.

Other occupants of the business park include industrial sling manufacturing company Lift-It, boiler maker Dawson Co. and Filipino food products distributor Martin Purefoods Corp.

There is a shortage of industrial space in the area, real estate brokers said.

"No new construction in the past three years has created a significant lack of product, making the San Gabriel Valley industrial market one of the tightest markets in the entire L.A. region," broker Lynn Knox of CBRE said.

The General Dynamics site is one of many that local governments and developers are laboring to redevelop, Los Angeles real estate attorney Andrew Kirsh said.

"In Southern California, the defense industry prospered over nearly the entire 20th century," said Kirsh, who represents a home builder at the former El Toro Marine Corps Air Station now known as the Orange County Great Park. Such obsolete properties offer both headaches and potential rewards.

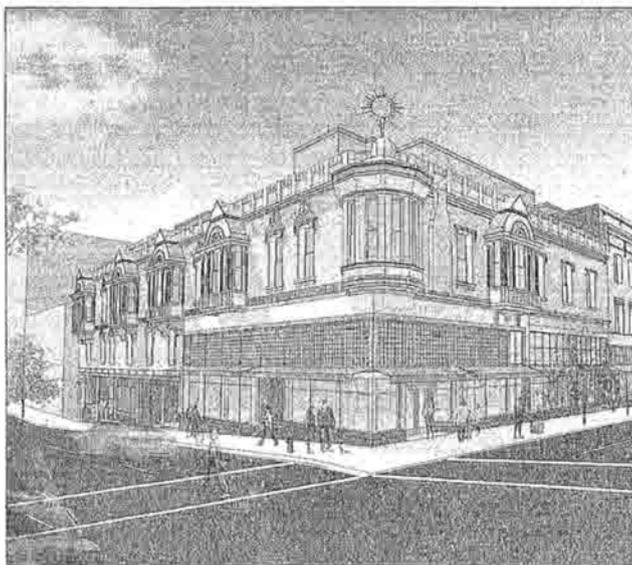
"They take up a lot of land and can become eyesores," he said, "but are also a great opportunity for developers to invigorate the local economy."

New life for 1889 building in L.A.

The Victorian-era facade of one of the oldest buildings in downtown Los Angeles



COUNTY ART MUSEUM officials will occupy the 14th floor and the shire Blvd., high above the museum campus. The building underwent



AN ARTIST'S RENDERING of what the Charnock Block building at 5th streets in downtown Los Angeles will look like after a \$15-million

will be preserved as part of a \$15-million project to provide housing for the needy.

Civil War veteran and real estate developer Charles Charnock erected what is the Charnock Block building at Main and 5th streets in

1889. The three-story complex later known as the Pershing Hotel was built with shops at street level and residences with bay windows above.

The property is on a once-thriving stretch of 5th

Street that a Southern Pacific station at Central downtown. It closed after it opened nearby day 5th Street economic upswi

EXHIBIT H

Record: 1**Title:** GEAR UP**Source:** Sunday Telegraph, The (Sydney), 08/26/2007**Accession Number:** 20070826M010318730**Database:** Newspaper Source Plus**GEAR UP****Edition:** M**Section:** Features, pg. 010**LIKE FATHER, LIKE SON**

Have what Dad's having this Father's Day.

Feeling fashionable. Dunlop Argyle Jumbo volleys, \$39.95 and Argyle infant volleys, \$19.95

Wild child. Henleys hoodie with diamante skull, \$79.99 and Rock Your Baby skull top, \$26

For the well groomed. Anthony Logistics For Men Shave Cabinet includes Glycolic Facial Cleanser, Shave Cream, Astringent, After Shave Balm and a fogless shaving mirror, \$99. Little Twig bath mitt, \$6, Giggle Shampoo, \$23, Unscented Bubble Bath, \$24.95 and Unscented Body Milk, \$24.95

"Snagalicious". Coleman RoadTrip Grill, \$299 and ELC Sizzling Barbecue Set, \$55

Phone a friend. Nokia N95, \$1379 and Playskool Flip 'n Play Cell Phone, \$16.99

Keepin' it cool. Freshjive shorts, \$89.95 and Oobi Grandpa corduroy shorts, \$39.95

STOCKISTS

Anthony Logistics www.brandmakers.com.au

Coleman 1800 224 350

Dunlop 1800 700 227

ELC 1300 850 123; www.earlylearningcentre.com.au

Freshjive (03) 9681 9681

Henleys (02) 9256 8450

Little Twig www.babysgotstyle.com.au

Nokia (02) 9429 9000

Oobi www.oobi.com.au

Playskool at Hasbro 1300 138 697

Rock Your Baby www.rockyourbaby.com

Copyright 2007 / The Sunday Telegraph

Source: Sunday Telegraph, The (Sydney), AUG 26, 2007

Item: 20070826M010318730

EXHIBIT I

Record: 1**Title:** WEECOLOGY!**Source:** People, 9/15/2008, Vol. 70 Issue 11, p140-140, 1p, 8 Color Photographs**Document Type:** Article**Subject Terms:** ORGANIC living
CHILDREN of celebrities
ALBA, Jessica, 1981-
FISHER, Isla, 1976-
MESSING, Debra, 1968-
HALO Furnishings Ltd.
SERENA & Lily Inc.
LITTLE Twig (Company)**Abstract:** The article presents examples along with accompanying pictures of environmentally friendly products used by celebrities, including organic blankets manufactured by Serena and Lily used by actress Jessica Alba, an organic cotton SleepSack by Halo used by actress Isla Fisher, and organic bath products by Little Twig used by actress Debra Messing.**Full Text Word Count:** 162**ISSN:** 00937673**Accession Number:** 34223234**Database:** MasterFILE Premier**Section:** BABIES OF THE YEAR '08**WEECOLOGY!****These celeb-tested products are gentle on the environment****SERENA AND LILY**

Jessica Alba cradles Honor in an organic cotton Market sling. \$129; serenaandlily.com.

HALO

Isla Fisher was gifted with Halo's organic cotton SleepSack for baby Olive. \$32.95; halosleep.com.

TASTYBABY

Salma Hayek and Trista Sutter are fans of this frozen organic baby food. \$5.99; wholefoodsmarket.com for stores.

GROWING UP GREEN! SEVENTH GENERATION

Rocker Sheryl Crow keeps Wyatt's bottom clean with these chlorine-free wipes. \$5.49; drugstore.com.

LITTLE TWIG

Debra Messing swears by their organic bath products for son Roman, 4. \$10.99-\$16.49; littletwig.com.

ROBBIE ADRIAN

These organic cotton blankets are a favorite of Mariska Hargitay and August, 2. \$44-\$130; robbieadrian.com.

PHOTO (COLOR)

Correction

On page 145 of our Sept. 15 issue, we said Isla Fisher received Halo's organic cotton SleepSack but incorrectly ran a photo of a Sage Creek SleepSack. We regret the error.

Copyright © Time Inc., 2008. All rights reserved. No part of this material may be duplicated or disseminated without permission.

EXHIBIT J

Record: 1**Title:** Heavenly unscented.**Source:** Australian Parents, Aug/Sep2007, p23-23, 1/8p**Document Type:** Product Review**Subject Terms:** INFANTS' supplies -- Evaluation
CHILDREN'S paraphernalia -- Evaluation
PERFUMES -- Evaluation
DETERGENTS -- Evaluation
LITTLE Twig (Company)**Abstract:** The article features a range of baby care products from Little Twig, including fragrances, mineral oils and detergents.**Full Text Word Count:** 72**ISSN:** 07265026**Accession Number:** 25978058**Database:** MasterFILE Premier**Section:** reporter
what's new**Heavenly unscented****News, views and updates on all the latest products**

Little Twig has released a new addition to its beautiful babycare range. They are completely free from synthetic fragrances, mineral oils, and detergents. This Travel Basics pack, includes a cute scrubby bug mitt, bubble bath, body milk and baby wash, for RRP\$34.95. Visit www.littletwig.com for more information on the range.

PHOTO (COLOR)

Copyright of Australian Parents is the property of FPC Magazines and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.

EXHIBIT K

Record: 1**Title:** Q What's the best sunscreen for kids?**Authors:** Pollar, Amy S.**Source:** **Natural Health, Jul2009**, Vol. 39 Issue 7, p22-22, 1/6p, 1 Color Photograph**Document Type:** Article**Subject Terms:** SKIN -- Care & hygiene
SUNSCREENS (Cosmetics)
SUNBURN
CHILDREN -- Health
PROTECTIVE clothing**Abstract:** The article presents information on protecting children's skin from sunburn. Pediatric dermatologist Amy S. Pollar suggests to make children wear sunscreen, a hat, sunglasses and protective clothing to protect their skin from the sun. **He considers Little Twig SPF 30 Sunscreen**, Neutrogena Pure & Free Baby Sunblock Lotion SPF 60+ with PureScreen and California Baby SPF 30+ Sunblock Stick as the best sunscreen for children.**Full Text Word Count:** 145**ISSN:** 10679588**Accession Number:** 43203389**Database:** MasterFILE Premier**Section:** vital beauty**Q What's the best sunscreen for kids?**

I PREFER physical sunblocks — which contain only titanium dioxide and zinc oxide. Because they sit on top of the skin and block UV rays (they don't get absorbed the way chemical sunscreens do), they work right away. To encourage children to protect their skin from the sun, be a good model: Wear sunscreen, a hat, sunglasses, and protective clothing. To make applying sunscreen fun for little kids, sing a special song together while slathering it on.

BEST BLOCKS: Little Twig SPF 30 Sunscreen (\$21; littletwig.com); Neutrogena Pure & Free Baby Sunblock Lotion SPF 60+ with PureScreen (\$10; at drugstores); California Baby SPF 30+ Sunblock Stick (\$15; [California baby.com](http://Californiababy.com))

PHOTO (COLOR)

~~~~~

By Amy S. Pollar, M.D., pediatric dermatologist and professor of pediatrics in the dermatology department at **Northwestern University**

---

Copyright of Natural Health is the property of Weider Publications, LLC and its content may not be copied or

emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.

# EXHIBIT L

Registered through: GoDaddy.com, LLC (<http://www.godaddy.com>)  
Domain Name: LITTLETWIGS.COM  
Created on: 05-Sep-09  
Expires on: 05-Sep-13  
Last Updated on: 22-Jun-12

Registrant:  
Domains By Proxy, LLC

DomainsByProxy.com  
14747 N Northsight Blvd Suite 111, PMB 309  
Scottsdale, Arizona 85260  
United States

Administrative Contact:  
Private, Registration LITTLETWIGS.COM@domainsbyproxy.com  
Domains By Proxy, LLC  
DomainsByProxy.com  
14747 N Northsight Blvd Suite 111, PMB 309  
Scottsdale, Arizona 85260  
United States  
(480) 624-2599 Fax -- (480) 624-2598

Technical Contact:  
Private, Registration LITTLETWIGS.COM@domainsbyproxy.com  
Domains By Proxy, LLC  
DomainsByProxy.com  
14747 N Northsight Blvd Suite 111, PMB 309  
Scottsdale, Arizona 85260  
United States  
(480) 624-2599 Fax -- (480) 624-2598

Domain servers in listed order:  
NS1.GREENGEEKS.COM  
NS2.GREENGEEKS.COM

Registry Status: clientDeleteProhibited  
Registry Status: clientRenewProhibited  
Registry Status: clientTransferProhibited  
Registry Status: clientUpdateProhibited

WHOIS search results for: LITTLETWIGS.COM (Registered)

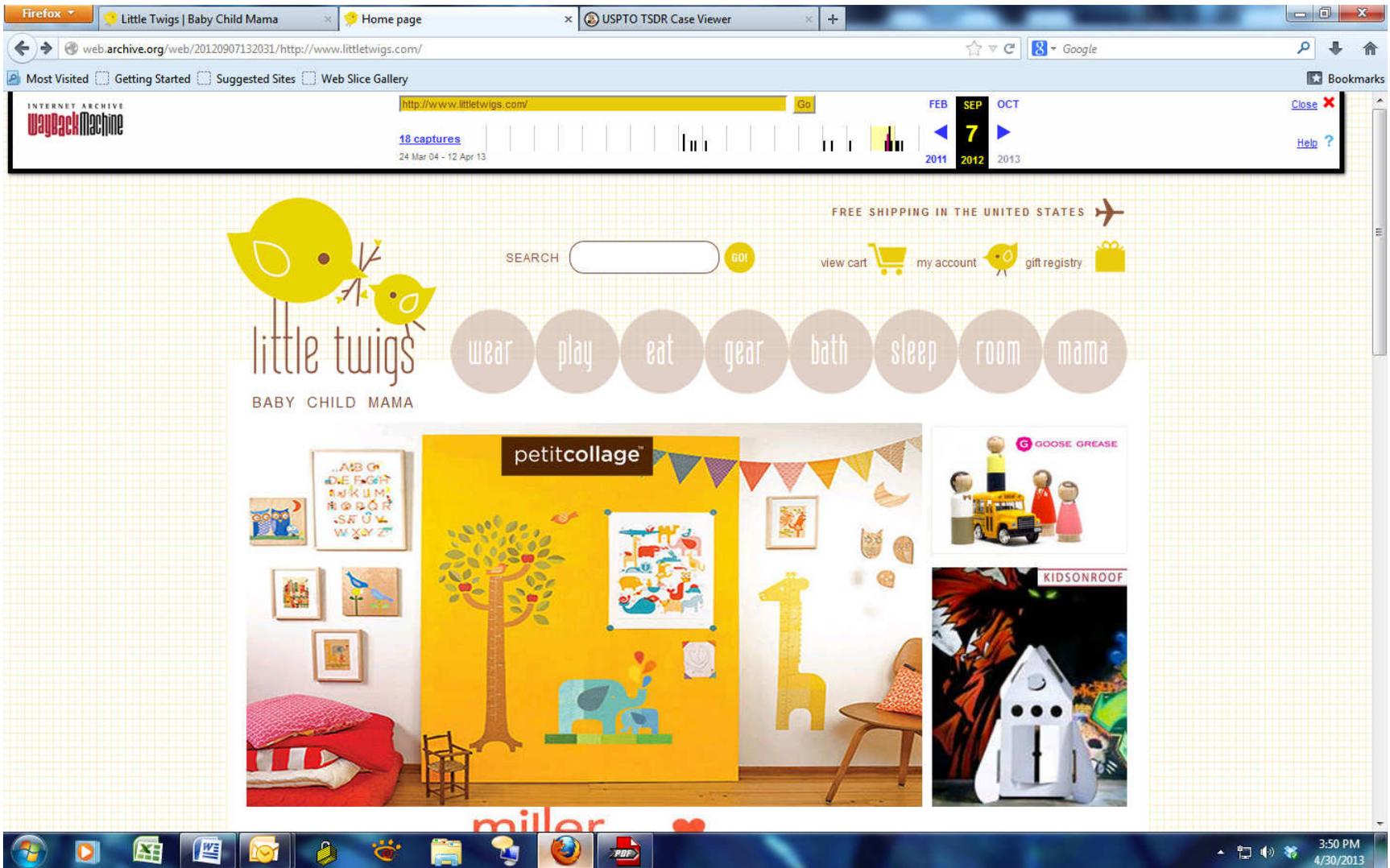
Whois Server Version 2.0

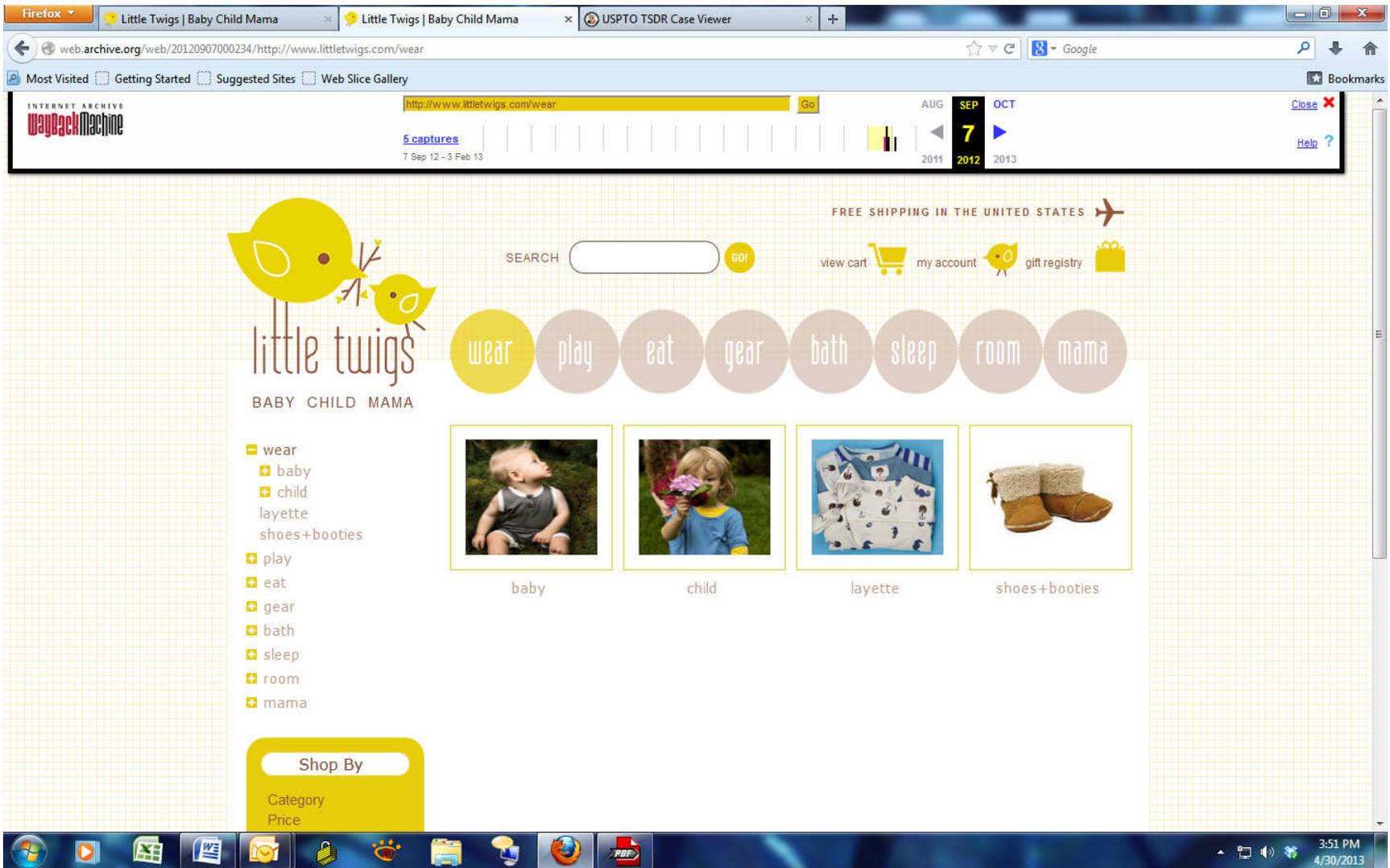
Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information.

Domain Name: LITTLETWIGS.COM  
Registrar: GODADDY.COM, LLC  
Whois Server: whois.godaddy.com  
Referral URL: <http://registrar.godaddy.com>  
Name Server: NS1.GREENGEEKS.COM  
Name Server: NS2.GREENGEEKS.COM  
Status: clientDeleteProhibited  
Status: clientRenewProhibited  
Status: clientTransferProhibited  
Status: clientUpdateProhibited  
Updated Date: 22-jun-2012  
Creation Date: 05-sep-2009  
Expiration Date: 05-sep-2013

>>> Last update of whois database: Wed, 22 May 2013 16:40:22 UTC <<<

# EXHIBIT M





Firefox | Little Twigs | Baby Child Mama | Little Twigs | Baby Child Mama | USPTO TSDR Case Viewer

web.archive.org/web/20120906235830/http://www.littletwigs.com/play

Most Visited | Getting Started | Suggested Sites | Web Slice Gallery

INTERNET ARCHIVE wayBackMachine

http://www.littletwigs.com/play

5 captures 8 Sep 12 - 3 Feb 13

AUG SEP OCT 6 2011 2012 2013

Close Help

FREE SHIPPING IN THE UNITED STATES

SEARCH  GO!

view cart my account gift registry

wear play eat gear bath sleep room mama

little twigs BABY CHILD MAMA

- wear
- play
  - arts+crafts
  - bath toys
  - blocks
  - books
  - coloring
  - dolls+plush toys
  - pretend play toys
  - puzzles+learning
  - rattles+teethers
  - ride+push toys
- eat
- gear
- bath
- sleep
- room

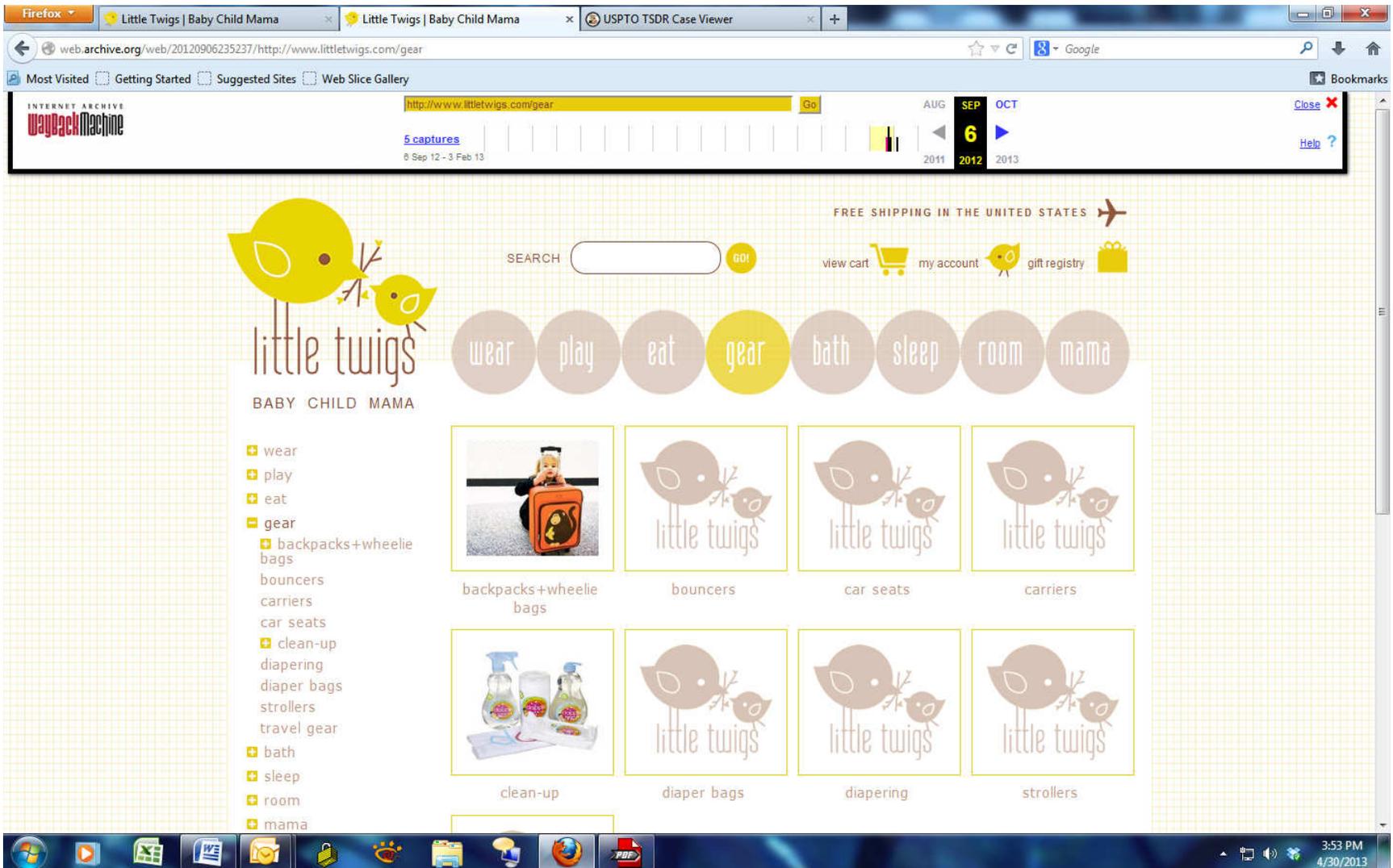
arts+crafts bath toys blocks books

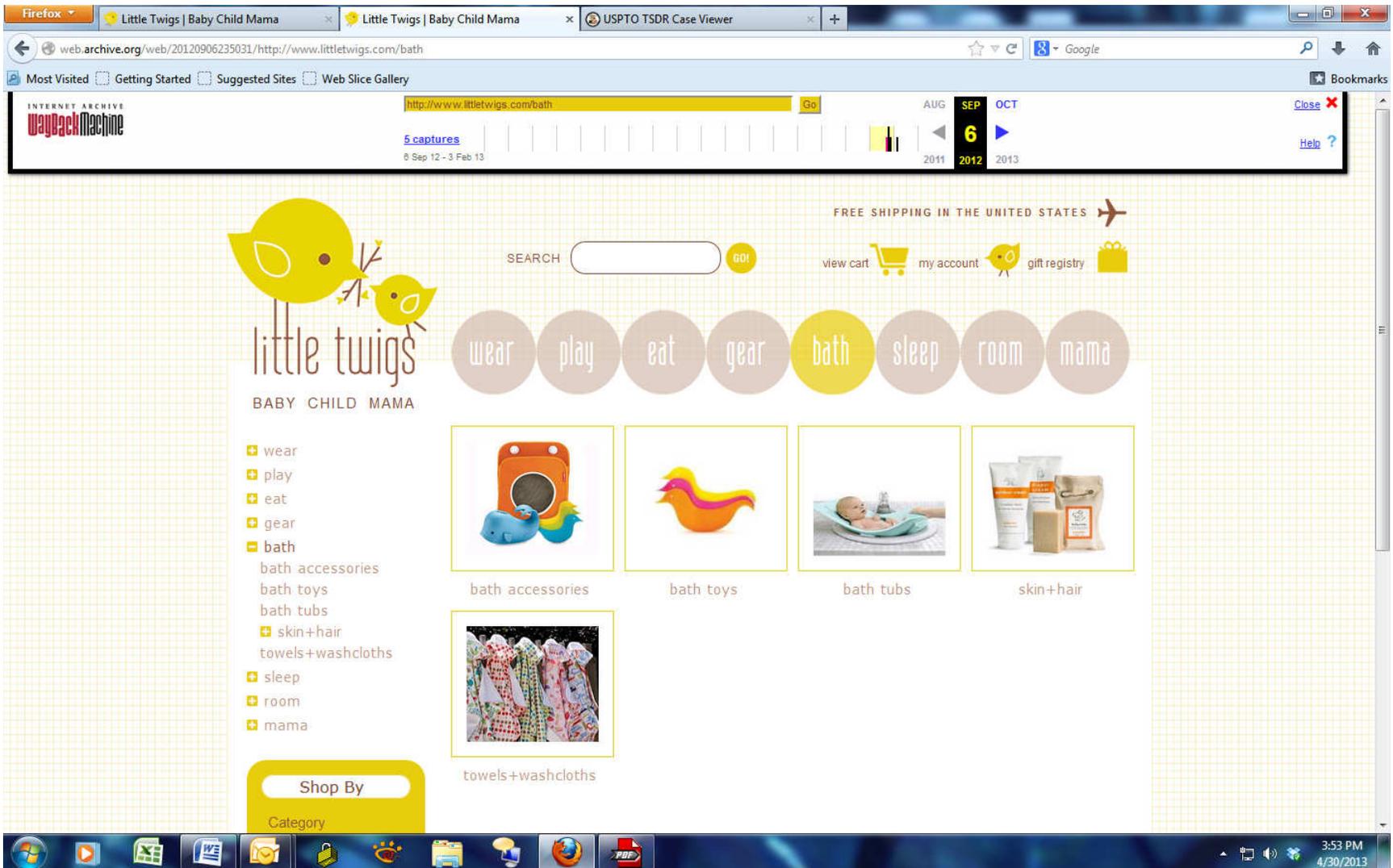
coloring dolls+plush toys pretend play toys puzzles+learning

web.archive.org/web/20120906235830/http://www.littletwigs.com/gear

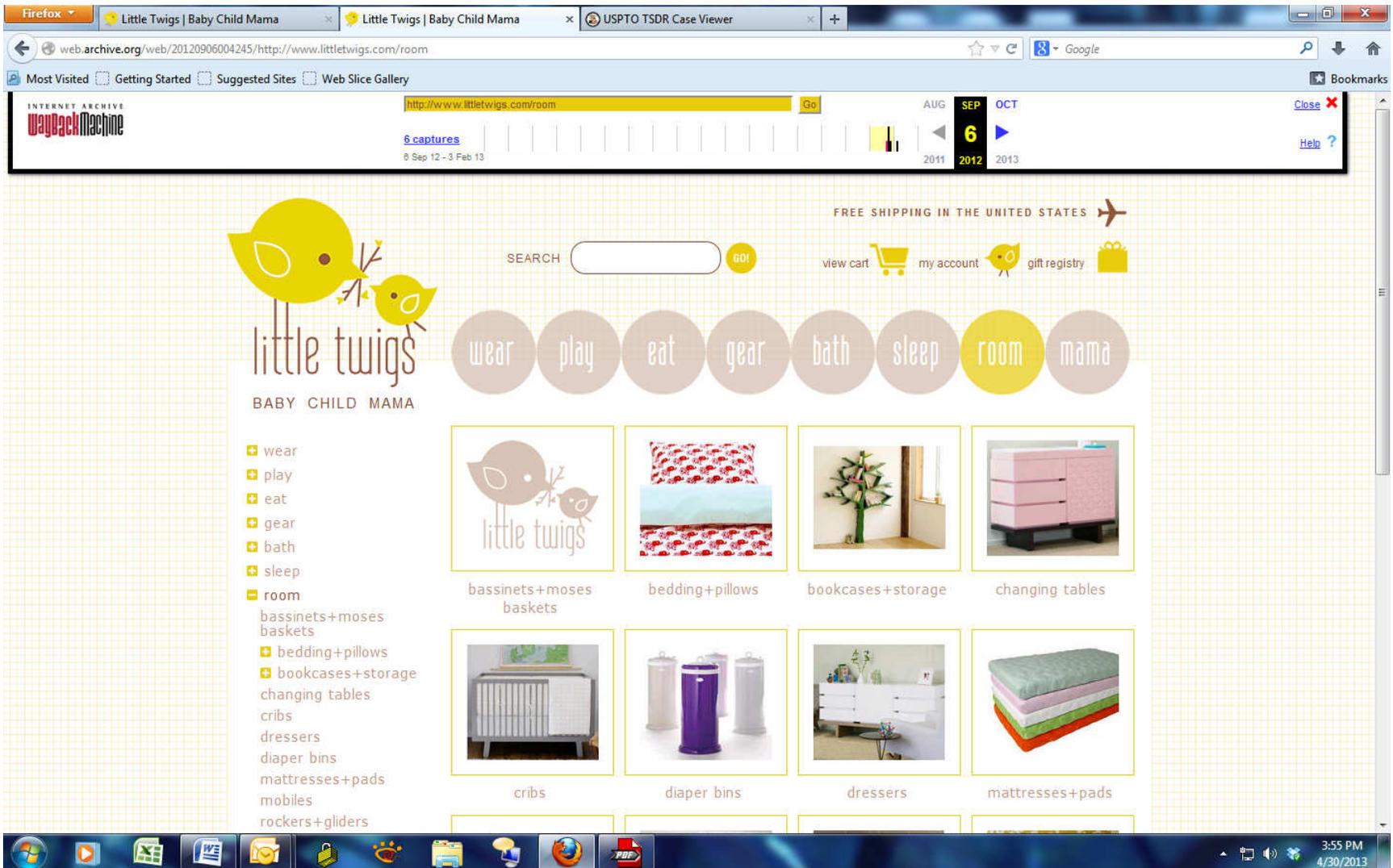
3:52 PM 4/30/2013













# EXHIBIT N



## NATIONAL ARBITRATION FORUM

### DECISION

Kittrich Corporation v. lisa julian  
Claim Number: FA1305001501380

#### PARTIES

Complainant is **Kittrich Corporation** ( “Complainant” ), represented by **Mark A. Calkins**, California, USA. Respondent is **lisa julian** ( “Respondent” ), California, USA.

#### REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is **<littletwigs.com>**, registered with **GoDaddy.com, LLC**.

#### PANEL

The undersigned certifies that he or she has acted independently and impartially and to the best of his or her knowledge has no known conflict in serving as Panelist in this proceeding.

John J. Upchurch as Panelist.

#### PROCEDURAL HISTORY

Complainant submitted a Complaint to the National Arbitration Forum electronically on May 23, 2013; the National Arbitration Forum received payment on May 23, 2013.

On May 28, 2013, GoDaddy.com, LLC confirmed by e-mail to the National Arbitration Forum that the **<littletwigs.com>** domain name is registered with GoDaddy.com, LLC and that Respondent is the current registrant of the name. GoDaddy.com, LLC has verified that Respondent is bound by the GoDaddy.com, LLC registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN’ s Uniform Domain Name Dispute Resolution Policy (the “Policy” ).

On May 31, 2013, the Forum served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of June 20, 2013 by which Respondent could file a Response to the Complaint, via e-mail to all entities and

persons listed on Respondent's registration as technical, administrative, and billing contacts, and to postmaster@littletwigs.com. Also on May 31, 2013, the Written Notice of the Complaint, notifying Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to Respondent via post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts.

Having received no response from Respondent, the National Arbitration Forum transmitted to the parties a Notification of Respondent Default.

On June 26, 2013, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the National Arbitration Forum appointed John J. Upchurch as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the National Arbitration Forum has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2. Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the National Arbitration Forum's Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

## **RELIEF SOUGHT**

Complainant requests that the domain name be transferred from Respondent to Complainant.

## **PARTIES' CONTENTIONS**

Complainant

1. Complainant contends that it has rights in the LITTLE TWIG mark, used in connection with cosmetics and soaps. Complainant is the owner of a registration for the LITTLE TWIG mark with the United States Patent and Trademark Office ("USPTO") (see Reg. No. 3,121,155 registered on July 25, 2006). See Complainant's Exhibit A.
2. The disputed domain name is confusingly similar to Complainant's mark. Respondent's <littletwigs.com> domain name incorporates Complainant's mark in its entirety while adding an "s" at the end as well as

the generic top-level domain (“gTLD”) “.com.” These additions do not distinguish the disputed domain name from Complainant’s mark.

3. Respondent does not own or have any legitimate interests in the <littletwigs.com> domain name.
  - a. Respondent is not commonly known by Complainant’s LITTLE TWIG mark or associated with Complainant’s business.
    - i. There is no evidence in the record, including the WHOIS information, that shows Respondent is commonly known by the disputed domain name.
    - ii. Further, Complainant has never granted Respondent permission to use its mark, nor is Respondent in any way affiliated with Complainant.
  - b. Respondent is not utilizing the disputed domain name for a legitimate noncommercial use.
    - i. The disputed domain name confusingly misleads Internet users. Respondent profits from the diverted Internet traffic by selling third-party goods and services similar to those offered by Complainant. See Complainant’s Exhibit O.
4. Respondent registered and is using the <littletwigs.com> domain name in bad faith.
  - a. Respondent is attempting to disrupt Complainant’s business by diverting Internet traffic away from Complainant and selling third-party goods and services that are in direct competition with those goods and services offered by Complainant. See Complainant’s Exhibit O.
  - b. Respondent is intentionally attempting to attract Internet users for commercial gain. Respondent is diverting Internet traffic away from Complainant and selling third-party goods and services that are in direct competition with those goods and services offered by Complainant. See Complainant’s Exhibit O.
  - c. Respondent continued to use the <littletwigs.com> domain name after receiving a cease and desist letter from Complainant. See Complainant’s Exhibit P.
5. Respondent registered the disputed domain name on September 9, 2009.

Respondent

Respondent failed to submit a Response.

## FINDINGS

1. Respondent's <littletwigs.com> domain name is confusingly similar to Complainant's LITTLE TWIG mark.
2. Respondent does not have any rights or legitimate interests in the <littletwigs.com> domain name.

Respondent registered or used the <littletwigs.com> domain name in bad faith.

## DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(e), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. *See Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc.*, FA 95095 (Nat. Arb. Forum July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); *see also Talk City, Inc. v. Robertson*, D2000-0009 (WIPO Feb. 29, 2000) ( "In the absence of a response, it is appropriate to accept as true all allegations of the Complaint." ).

### Identical and/or Confusingly Similar

Complainant contends that it has rights in the LITTLE TWIG mark, used in connection with cosmetics and soaps. Complainant states that it is the owner of a registration for the LITTLE TWIG mark with the USPTO (see Reg. No. 3,121,155 registered on July 25, 2006). See Complainant's Exhibit A. Therefore, the Panel finds that Complainant has rights in the LITTLE TWIG mark pursuant to Policy ¶ 4(a)(i). See *Miller Brewing Co. v. Miller Family*, FA 104177 (Nat. Arb. Forum Apr. 15, 2002) (finding that the complainant had established rights to the MILLER TIME mark through its federal trademark registrations).

Complainant next contends that the disputed domain name is confusingly similar to Complainant's mark. Complainant asserts that Respondent's <littletwigs.com> domain name incorporates Complainant's mark in its entirety while adding an "s" at the end as well as the gTLD ".com." The Panel finds that these additions do not distinguish the disputed domain name from Complainant's mark. First, the Panel finds that the addition of the letter "s" is not enough to distinguish the disputed domain name from Complainant's mark. See *T.R. World Gym-IP, LLC v. D'Addio*, FA 956501 (Nat. Arb. Forum May 22, 2007) (finding that the addition of the letter "s" to a registered trademark in a contested domain name is not enough to avoid a finding of confusing similarity under Policy ¶ 4(a)(i)). Next, the Panel finds that the addition of a gTLD is not relevant to confusing similarity analysis. See *Isleworth Land Co. v. Lost in Space, SA*, FA 117330 (Nat. Arb. Forum Sept. 27, 2002) ("[I]t is a well established principle that generic top-level domains are irrelevant when conducting a Policy ¶ 4(a)(i) analysis."). The Panel notes that the disputed domain name also eliminates the space between words in Complainant's mark, and considers this alteration insignificant for Policy ¶ 4(a)(i) purposes as well. See *Bond & Co. Jewelers, Inc. v. Tex. Int'l Prop. Assocs.*, FA 937650 (Nat. Arb. Forum Apr. 30, 2007) (finding that the elimination of spaces between terms and the addition of a gTLD do not establish distinctiveness from the complainant's mark under Policy ¶ 4(a)(i)). Therefore, the Panel finds that Respondent's <littletwigs.com> domain name is confusingly similar to Complainant's LITTLE TWIGS mark pursuant to Policy ¶ 4(a)(i).

### **Rights or Legitimate Interests**

Complainant must first make a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy ¶ 4(a)(ii), and then the burden shifts to Respondent to show it does have rights or legitimate interests. See *Hanna-Barbera Prods., Inc. v. Entm' t Commentaries*, FA

741828 (Nat. Arb. Forum Aug. 18, 2006) (holding that the complainant must first make a *prima facie* case that the respondent lacks rights and legitimate interests in the disputed domain name under UDRP ¶ 4(a)(ii) before the burden shifts to the respondent to show that it does have rights or legitimate interests in a domain name); *see also AOL LLC v. Gerberg*, FA 780200 (Nat. Arb. Forum Sept. 25, 2006) ( “Complainant must first make a prima facie showing that Respondent does not have rights or legitimate interest in the subject domain names, which burden is light. If Complainant satisfies its burden, then the burden shifts to Respondent to show that it does have rights or legitimate interests in the subject domain names.” ).

Complainant contends that Respondent does not have any legitimate interests in the <littletwigs.com> domain name. Complainant asserts that Respondent is not commonly known by Complainant’s LITTLE TWIG mark or associated with Complainant’s business. Complainant states that there is no evidence in the record, including the WHOIS information, that shows Respondent is commonly known by the disputed domain name. Further, Complainant notes that it has never granted Respondent permission to use its mark, nor is Respondent in any way affiliated with Complainant. The Panel notes that the WHOIS information lists “lisa julian” as the domain name registrant for the disputed domain name. The Panel looks to the WHOIS information and the record as a whole in determining whether a respondent is commonly known by a disputed domain name. *See Braun Corp. v. Loney*, FA 699652 (Nat. Arb. Forum July 7, 2006) (concluding that the respondent was not commonly known by the disputed domain names where the WHOIS information, as well as all other information in the record, gave no indication that the respondent was commonly known by the disputed domain names, and the complainant had not authorized the respondent to register a domain name containing its registered mark). Therefore, because neither the WHOIS information nor any other evidence in the record supports a finding that Respondent is commonly known by the <littletwigs.com> domain name, coupled with the fact that Complainant did not give Respondent permission to use its LITTLE TWIGS mark, the Panel finds that Respondent is not commonly known by the <littletwigs.com> domain name within the meaning of Policy ¶ 4(c)(ii).

Complainant next alleges that Respondent is not utilizing the disputed domain name for a legitimate noncommercial use. Complainant argues that the disputed domain name confusingly misleads Internet users, and Respondent profits from the diverted Internet traffic by selling third-party goods and services similar to

those offered by Complainant. See Complainant's Exhibit O. Other panels have found such conduct to be in violation of both Policy ¶ 4(c)(i) and Policy ¶ 4(c)(iii). See *Gardens Alive, Inc. v. D&S Linx*, FA 203126 (Nat. Arb. Forum Nov. 20, 2003) (finding that the respondent used a domain name for commercial benefit by diverting Internet users to a website that sold goods and services similar to those offered by the complainant and thus, was not using the name in connection with a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use). Therefore, the Panel finds that Respondent is not using the <littletwigs.com> domain name in connection with a Policy ¶ 4(c)(i) *bona fide* offering of goods or services or a Policy ¶ 4(c)(iii) legitimate noncommercial or fair use.

### **Registration and Use in Bad Faith**

Complainant argues that Respondent registered and is using the <littletwigs.com> domain name in bad faith. Complainant alleges that Respondent is attempting to disrupt Complainant's business by diverting Internet traffic away from Complainant and selling third-party goods and services that are in direct competition with those goods and services offered by Complainant. See Complainant's Exhibit O. Such conduct has been found to constitute a bad faith registration and use under Policy ¶ 4(b)(iii). See *DatingDirect.com Ltd. v. Aston*, FA 593977 (Nat. Arb. Forum Dec. 28, 2005) ("Respondent is appropriating Complainant's mark to divert Complainant's customers to Respondent's competing business. The Panel finds this diversion is evidence of bad faith registration and use pursuant to Policy ¶ 4(b)(iii)."). Therefore, the Panel finds that Respondent is disrupting Complainant's business and thus has registered and is using the <littletwigs.com> domain name in bad faith pursuant to Policy ¶ 4(b)(iii).

Complainant next alleges that Respondent is intentionally attempting to attract Internet users for commercial gain. Complainant states that Respondent is diverting Internet traffic away from Complainant and selling third-party goods and services that are in direct competition with those goods and services offered by Complainant. See Complainant's Exhibit O. Such conduct has been found to constitute a bad faith registration and use under Policy ¶ 4(b)(iv). See *Toyota Motor Sales U.S.A. Inc. v. Clelland*, FA 198018 (Nat. Arb. Forum Nov. 10, 2003) ("Respondent used <land-cruiser.com> to advertise its business, which sold goods in competition with Complainant. This establishes bad faith as defined in Policy ¶ 4(b)(iv)."). Therefore, the Panel finds that Respondent is attempting to

obtain commercial gain by misleading and diverting Internet users, and thus Respondent registered and is using the <littletwigs.com> domain name in bad faith pursuant to Policy ¶ 4(b)(iv).

## DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <littletwigs.com> domain name be **TRANSFERRED** from Respondent to Complainant.



---

Honorable John J. Upchurch  
Arbitrator

John J. Upchurch, Panelist

Dated: July 9, 2013