

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79063232
LAW OFFICE ASSIGNED	LAW OFFICE 113
MARK SECTION (no change)	
ARGUMENT(S)	
<p>This is filed in response to the Office Action dated September 3, 2009.</p> <p>The Examining Attorney has refused registration of the mark under section 2(d) of the Trademark Act, 15 U.S.C. 1052(d), as likely to cause confusion with the marks in U.S. Registration Nos. 2135021 and 3188201 ("Cited Registrations"), and has now made this refusal final. Applicant respectfully requests reconsideration.</p> <p><u>I. "MERISSA" and "MARISA" are Distinguishable</u></p> <p>No confusion exists between Applicant's mark, "MERISSA," and the cited Reg. No. 2135021, "MARISA," because the marks are dissimilar in appearance and sound. Applicant's mark, "MERISSA," is a seven letter word. On the other hand, the cited registration, "MARISA," consists of only six letters. Moreover, "MERISSA" and "MARISA" are audibly distinguishable, and therefore, are not phonetic equivalents. "MERISSA" starts with the sound "MER," as in "mermaid" or "mercy." "MARISA," on the other hand, begins with the three letters, "MAR," as in "marmalade" or "Marcy." Therefore, the pronunciations of "MERISSA" and "MARISA" are distinct, and the significant difference in the mark's appearance and sound circumvent any likelihood that consumers will be confused as to the source of the goods offered in connection with the marks.</p> <p><u>II. Goods are Dissimilar</u></p> <p>Applicant submits that no likelihood of confusion exists between "MERISSA" and Cited Registrations because the goods are different. To further dispel any likelihood of confusion, Applicant has limited its goods in the identification by excluding goods manufactured for dolls. Cited Registrations specify "toys games, and playthings, namely dolls, doll clothing and doll accessories," and "dolls, doll clothing, and doll accessories." Applicant's goods are goods such as strollers, car seats, and various accessories therefor, excluding those for dolls. Applicant's good are utilitarian or functional in nature, whereas Registrant's goods are playthings, purely of entertainment or collectible purposes. The goods are different, and no consumer would believe that applicant's goods emanate from the same source as Cited Registration's goods.</p> <p>In addition, Applicant submits that the majority of evidence of registration and use in commerce</p>	

presented by Examining Attorney are for third-party house marks, and therefore should be given little probative value. See *The Orvis Co., Inc.* (T.T.A.B. October 22, 2007) (Serial No. 78276739) (finding insignificant that applicant's goods and the goods in cited registrations were identified by third-party registrations, as the third-party registrations were determined to be analogous to house marks, encompassing a broad range of clothing, accessory and sporting goods products); see also *In re Gebhard* (T.T.A.B. March 26, 2009) (Serial No. 78950320) (giving little weight to third-party registrations for marks which are in the nature of house marks, designer marks, and merchandising marks, as it is well-recognized that such marks may be used for a wide variety of items, and therefore they are of little value in showing that the goods for which they are registered are all related). CHICCO® is analogous to a house mark, and Cortina and Trevi, for example, are trademarks used to identify strollers (See Exhibit A). Neither Cortina nor Trevi is being used to identify the doll stroller attached by Examining Attorney from the website of CHICCO®. In addition, Mamas & Papas® is a house mark, used to identify a vast array of products, ranging from maternity clothes, lingerie, pushchairs, to books. While these products are all sold under Mamas & Papas® house mark, individual products are identified by trademarks, for example, Luna, for pushchair. Again, "Luna" is not a trademark used to identify any of the dolls cited by the Examining Attorney. In addition, Mamas & Papas® website evidence attached by Examining Attorney should be given little or no probative value, as the store is based in UK, not U.S. Prices are not in dollars, and it accepts orders only when a purchaser has a UK credit card with a UK billing address; thus, the goods are not directed towards U.S. consumers (See Exhibit B). Fisher-Price®, identified by the Examining Attorney, is a house mark used to identify a broad range of goods from seat bouncers to baby monitors to toys. The strollers are marketed under trademarks such as Precious Planet® and Ocean Wonders™ (See Exhibit C). The doll attached as evidence by Examining Attorney from Fisher-Price® is sold under the mark Brilliant Basics™. GRACO®, Registration No. 2871521, is likewise a house mark, with goods ranging from "potty chairs" to "backpacks." Likewise, Examining Attorney cites Registration No. 2951985, which covers goods ranging from "wash cloths" to "musical toys." Because these third-party registrations or use are demonstrating house mark use, the evidence should be given little probative value.

To the extent that these goods may be sold in same retail stores as presented by Examining Attorney's evidence of BUY BUY BABY® and BABIES R US® internet pages, these stores sell a wide variety of unrelated goods in distinct departments. Goods offered are diverse, from humidifiers to dressers to toys to prenatal heart listener to strollers. To classify the vast array of goods, BABIES R US® identifies more than twelve different categories, as evidenced by the "ALL CATEGORIES" page attached as evidence by Examining Attorney. Strollers and car seats, identified in Applicant's identification of goods would be found under "Baby Gear." Registrants' goods would be found under "Baby Toys," distinct and different departments within the store. BUY BUY BABY® likewise identifies various different categories, and strollers and car seats in Applicant's identification of goods are classified under "Strollers" and "Car Seats," whereas dolls are found under "Playtime" (See Exhibit D). TTAB in *The Orvis Co.* decision discounted the evidence showing how the goods identified by the applicant and the registrant can all be found in sporting good retail stores, because the goods were found in different departments (T.T.A.B. October 22, 2007) (Serial No. 78276739). See also *Hi-Country Foods v. Hi Country Beef*, 4 U.S.P.Q.2d 1169 (T.T.A.B. 1987) (finding no likelihood of confusion between prepared beef snack foods and fruit juices, though both food products and share common trade channels, because they are completely different in character and would not be normally sold in the same sections of food stores). The web pages of BUY BUY BABY® and BABIES R US® indicate that the goods identified by Applicant and items identified by Cited Registrations are different in nature and not marketed in the same category, even if the goods are offered by the same retailer.

For the foregoing reasons, no likelihood of confusion exists between Applicant's mark and Cited Registrations. Applicant respectfully requests the Examining Attorney to reconsider her refusal.

EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	http://tgate/PDF/RFR/2010/01/29/20100129153601371488-79063232-004_001/evi_381059298-143358960_090314_Exhibit_A.pdf
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	\\TICRS\EXPORT9\IMAGEOUT9\790\632\79063232\xml1\RFR0003.JPG
ORIGINAL PDF FILE	http://tgate/PDF/RFR/2010/01/29/20100129153601371488-79063232-004_002/evi_381059298-143358960_090314_Exhibit_B.pdf
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CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT9\IMAGEOUT9\790\632\79063232\xml1\RFR0006.JPG
ORIGINAL PDF FILE	http://tgate/PDF/RFR/2010/01/29/20100129153601371488-79063232-004_004/evi_381059298-143358960_090314_Exhibit_D.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT9\IMAGEOUT9\790\632\79063232\xml1\RFR0007.JPG
DESCRIPTION OF EVIDENCE FILE	Exhibit A through D as referenced in ARGUMENT section
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	012
DESCRIPTION	
children's safety seats for automobiles; infant and baby safety seats for automobiles; automobiles and structural parts therefor; collapsible baby strollers and pushchairs; baby carriages; prams; sun shades for baby strollers and pushchairs; hoods, namely, canopies for collapsible baby strollers and pushchairs; covers for collapsible baby strollers and pushchairs; hoods, namely, canopies for baby strollers and pushchairs; covers for baby strollers and pushchairs; baby strollers and pushchairs; structural parts for baby strollers and pushchairs	
GOODS AND/OR SERVICES SECTION (proposed)	

INTERNATIONAL CLASS	012
DESCRIPTION	
children's safety seats for automobiles, not for dolls; infant and baby safety seats for automobiles, not for dolls; automobiles and structural parts therefor; collapsible baby strollers and pushchairs, not for dolls; baby carriages, not for dolls; prams, not for dolls; sun shades for baby strollers and pushchairs, not for dolls; hoods, namely, canopies for collapsible baby strollers and pushchairs, not for dolls; covers for collapsible baby strollers and pushchairs, not for dolls; hoods, namely, canopies for baby strollers and pushchairs, not for dolls; covers for baby strollers and pushchairs, not for dolls; baby strollers and pushchairs, not for dolls; structural parts for baby strollers and pushchairs, not for dolls	
SIGNATURE SECTION	
RESPONSE SIGNATURE	/idekumiko/
SIGNATORY'S NAME	Kumiko Ide
SIGNATORY'S POSITION	Attorney of record, D.C. bar member
DATE SIGNED	01/29/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Jan 29 15:36:01 EST 2010
TEAS STAMP	USPTO/RFR-38.105.92.98-20 100129153601371488-790632 32-460a35d8c74c430d038bd5 06c5b8a73fbc1-N/A-N/A-201 00129143358960974

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **79063232** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

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The Examining Attorney has refused registration of the mark under section 2(d) of the Trademark Act, 15 U.S.C. 1052(d), as likely to cause confusion with the marks in U.S. Registration Nos. 2135021 and 3188201 ("Cited Registrations"), and has now made this refusal final. Applicant respectfully requests reconsideration.

I. "MERISSA" and "MARISA" are Distinguishable

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II. Goods are Dissimilar

Applicant submits that no likelihood of confusion exists between "MERISSA" and Cited Registrations because the goods are different. To further dispel any likelihood of confusion, Applicant has limited its goods in the identification by excluding goods manufactured for dolls. Cited Registrations specify "toys games, and playthings, namely dolls, doll clothing and doll accessories," and "dolls, doll clothing, and doll accessories." Applicant's goods are goods such as strollers, car seats, and various accessories therefor, excluding those for dolls. Applicant's goods are utilitarian or functional in nature, whereas Registrant's goods are playthings, purely of entertainment or collectible purposes. The goods are different, and no consumer would believe that applicant's goods emanate from the same source as Cited Registration's goods.

In addition, Applicant submits that the majority of evidence of registration and use in commerce presented by Examining Attorney are for third-party house marks, and therefore should be given little probative value. See *The Orvis Co., Inc.* (T.T.A.B. October 22, 2007) (Serial No. 78276739) (finding insignificant that applicant's goods and the goods in cited registrations were identified by third-party registrations, as the third-party registrations were determined to be analogous to house marks, encompassing a broad range of clothing, accessory and sporting goods products); see also *In re Gebhard* (T.T.A.B. March 26, 2009) (Serial No. 78950320) (giving little weight to third-party registrations for marks which are in the nature of house marks, designer marks, and merchandising marks, as it is well-recognized that such marks may be used for a wide variety of items, and therefore they are of little value in showing that the goods for which they are registered are all related). CHICCO® is analogous to a house mark, and Cortina and Trevi, for example, are trademarks used to identify strollers (See Exhibit A). Neither Cortina nor Trevi is being used to identify the doll stroller attached by Examining Attorney from the website of CHICCO®. In addition, Mamas & Papas® is a house mark, used to identify a vast array of products, ranging from maternity clothes, lingerie, pushchairs, to books. While these products are all sold under Mamas & Papas® house mark, individual products are identified by trademarks, for example, Luna, for pushchair. Again, "Luna" is not a trademark used to identify any of the dolls cited by the Examining Attorney. In addition, Mamas & Papas® website evidence attached by Examining Attorney should be given little or no probative value, as the store is based in UK, not U.S. Prices are not in dollars, and it accepts orders only when a purchaser has a UK credit card with a UK billing address; thus, the goods are not directed towards U.S. consumers (See Exhibit B). Fisher-Price®, identified by the Examining Attorney, is a house mark used to identify a broad range of goods from seat bouncers to baby monitors to toys. The strollers are marketed under trademarks such as Precious Planet® and Ocean

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For the foregoing reasons, no likelihood of confusion exists between Applicant’s mark and Cited Registrations. Applicant respectfully requests the Examining Attorney to reconsider her refusal.

EVIDENCE

Evidence in the nature of Exhibit A through D as referenced in ARGUMENT section has been attached.

Original PDF file:

http://tgate/PDF/RFR/2010/01/29/20100129153601371488-79063232-004_001/evi_381059298-143358960_090314_Exhibit_A.pdf

Converted PDF file(s) (2 pages)

Evidence-1

Evidence-2

Original PDF file:

http://tgate/PDF/RFR/2010/01/29/20100129153601371488-79063232-004_002/evi_381059298-143358960_090314_Exhibit_B.pdf

Converted PDF file(s) (2 pages)

Evidence-1

Evidence-2

Original PDF file:

http://tgate/PDF/RFR/2010/01/29/20100129153601371488-79063232-004_003/evi_381059298-143358960_090314_Exhibit_C.pdf

Converted PDF file(s) (1 page)

Evidence-1

Original PDF file:

http://tgate/PDF/RFR/2010/01/29/20100129153601371488-79063232-004_004/evi_381059298-143358960_090314_Exhibit_D.pdf

Converted PDF file(s) (1 page)

Evidence-1

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 012 for children's safety seats for automobiles; infant and baby safety seats for automobiles; automobiles and structural parts therefor; collapsible baby strollers and pushchairs; baby carriages; prams; sun shades for baby strollers and pushchairs; hoods, namely, canopies for collapsible baby strollers and pushchairs; covers for collapsible baby strollers and pushchairs; hoods, namely, canopies for baby strollers and pushchairs; covers for baby strollers and pushchairs; baby strollers and pushchairs; structural parts for baby strollers and pushchairs

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 012 for children's safety seats for automobiles, not for dolls; infant and baby safety seats for automobiles, not for dolls; automobiles and structural parts therefor; collapsible baby strollers and pushchairs, not for dolls; baby carriages, not for dolls; prams, not for dolls; sun shades for baby strollers and pushchairs, not for dolls; hoods, namely, canopies for collapsible baby strollers and pushchairs, not for dolls; covers for collapsible baby strollers and pushchairs, not for dolls; hoods, namely, canopies for baby strollers and pushchairs, not for dolls; covers for baby strollers and pushchairs, not for dolls; baby strollers and pushchairs, not for dolls; structural parts for baby strollers and pushchairs, not for dolls

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /idekumiko/ Date: 01/29/2010

Signatory's Name: Kumiko Ide

Signatory's Position: Attorney of record, D.C. bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79063232

Internet Transmission Date: Fri Jan 29 15:36:01 EST 2010

TEAS Stamp: USPTO/RFR-38.105.92.98-20100129153601371

488-79063232-460a35d8c74c430d038bd506c5b
8a73fbc1-N/A-N/A-20100129143358960974

[gear for baby](#)

[toys for children](#)

Strollers

Fullsize



Cortina

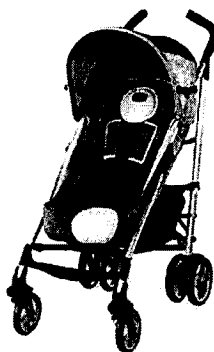


Trevi

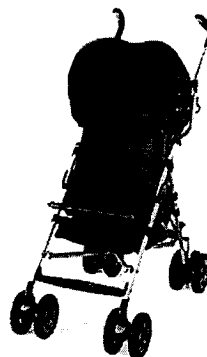


S3 All-Terrain

Compact

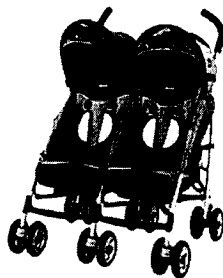


Liteway



Ct0.6/Capri

Twin



Trevi Twin

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Mamas & Papas




Delivery charges

From £2.95 - £39.95

Due to adverse weather conditions delivery timescales maybe be affected in certain areas with effect from 4 1 10

All of our products can be delivered directly to you via our home delivery service. Throughout this website some of our products are marked with a symbol. The table below explains all of our delivery charges and which apply to each symbol throughout the website.

UK Delivery Charges

Delivery	Charge	Estimated Delivery
Store Delivery (UK stores only)	Free	Within 5 working days when ordered online*
Small Items	£4.95	Within 4 working days when ordered before noon ¹ . Mamas and Papas cannot be held responsible for delays for items already despatched with Royal Mail.
Personalised Items	£2.95	Within 7 working days when ordered before noon ¹ . Mamas and Papas cannot be held responsible for delays for items already despatched with Royal Mail.
	£7.95	Within 4 working days when ordered before noon ¹ . Our parcel carrier will send you an e-mail and sms to advise when your goods are on their way.
	£9.95	Within 4 working days when ordered before noon ¹ . Our parcel carrier will send you an e-mail and sms to advise when your goods are on their way.
	£39.95	Within 14 working days ² . Our carrier will contact you to arrange a convenient delivery date, deliver your order and place your items in the room of your choice.
Dutailer	£9.95	Approximately 6-8 weeks ³

¹ An additional £30 charge will be incurred for delivery to the Highlands, Isle of Man, Isle of Wight and Channel Islands and delivery will take an additional working day. Please note that all UK VAT will be levied on all sales. Delivery is not available to the Scottish Isles.

² Excludes the Highlands, Scottish Isles, Isle of Man, and Channel Islands. Orders purchased on the UK web site mamasandpapas.com can only be sent to designated UK addresses.

³ Dutailer chairs and stools are specifically made-to-order and delivery time is approximately 6-8 weeks. These items will be sent to you on a separate delivery and you will receive a letter confirming delivery once the product is ready for despatch.

Orders purchased on the UK web site mamasandpapas.com can only be sent to designated UK addresses.

Personalised products may take up to an additional seven working days for delivery. If ordering personalised and non-personalised products in the same order, you will have only one delivery charge at the highest applicable delivery rate associated to the items in your basket. Items maybe delivered separately.

*To collect your purchase from store you will need to bring a print out of your order receipt or confirmation email and a proof of ID. Sometimes within your basket you will have a mix of items available and not available for delivery to your local store. In these instances home delivery will only be available to you, unless you choose to place the orders separately.

Premium Delivery Services

For certain postcode areas we are able to offer extra delivery options to enable you to take delivery on a date and time of your choice. These services are dependent on postcode area so please call us on **0845 268 2000** to find out if these delivery services are available to you. Additional charges may also apply.

International Delivery

Wherever you live, Mamas & Papas will endeavour to deliver direct to your door. If you have a UK credit card and a UK billing address and would like to have your goods delivered to an international address, please call us on **0845 268 2000** or email us at sales.enquiry@mamasandpapas.com to receive a delivery quotation.

- Goods will not be despatched until full payment is received for goods and delivery charges.
- Import duties and taxes may have to be paid in some countries. It is the recipient's responsibility to obtain details of these charges from Customs & Excise in the country to

[Terms & Conditions](#)

[Gift List Terms & Conditions](#)

[Privacy Policy](#)

[After Sales policy](#)

[Delivery Charges](#)

[Furniture & Assembly](#)

[Contact us](#)

which the goods are being despatched.

- Mamas & Papas cannot be held responsible for delays in customs clearance which may incur storage or other charges outside our control
- Mamas & Papas cannot be held responsible should local customs authorities wish to confiscate any particular item or charge any import duty
- If our shipping agent is unable to contact the recipient to arrange delivery, the card which was used for ordering will be charged for all monies accrued from holding the goods
- Please note Mamas & Papas cannot guarantee specific delivery dates for deliveries outside mainland UK
- If you require any additional information, please call + [44] 845 268 2000
- Purchases can only be made with a debit or credit cards registered to a UK or Republic of Ireland billing address
- Please note personalised products may take up to 7 working days
- Surcharges apply for UK purchases for delivery to Republic of Ireland addresses

Assembly

All of our products can be self-assembled and contain easy to follow step-by-step instructions. We do however, recommend that two people assemble our furniture. If you would like us to assemble your furniture for you, our trained team are available at a cost of £100, regardless of the number of products purchased in the order.

Recycle Service

If you take advantage of our assembly service, our trained team will place the furniture in a position of your choice and remove all boxes and packaging, leaving the nursery ready for your new arrival.

Gift Card Delivery Explained

Delivery Explained - UK

- First Class - 50p Gift Cards will be sent separately to your designated delivery address and should arrive within 3 days
- Special Delivery - £4.95 For your added security, you may choose to send your Traditional Card by Special Delivery which should arrive within 48 hours

Furniture Delivery & Assembly Explained

Assembly - the choice is yours

All our products can be self assembled and contain easy to follow instructions for your convenience. Alternatively Mamas & Papas offer furniture assembly by a trained team at an additional cost of £100 regardless of the number of products purchased in your order. To arrange furniture assembly please call 0845 268 2000 within 24 hours of placing your order to arrange this service.

[Back to the top](#)



- seats & bouncers
- swings
- high chairs & boosters
- baby monitors
- strollers
- play yards & bassinets
- jumpers
- bath & potty
- first toys
- diapers

Babygear > Baby Stroller

ADD THIS



Baby Strollers

Because you want someone you trust to carry your baby.

It's fun to explore the world with your infant. What better way to get out and go than with a versatile stroller? Practical, comfy and safe, Fisher-Price strollers offer baby a stylish ride while adding convenience to parents' lives.



Fisher-Price Play & Ride Umbrella Stroller

Approx. Retail Price: \$50.00

Find a Retailer



Fisher-Price Advance Deep Rest Baby Deluxe Umbrella Stroller

Approx. Retail Price: \$50.00

Find a Retailer

- Browse by
- Shop for Baby Gear
- Testing & Safety
- Getting Ready for Baby
- Product Resources
- Awards & Kudos
- E-mail Newsletter

View Our Collections:



**buybuy
BABY.**
turn menus off



CART

MY ACCOUNT

ORDER TRACKING

STORE LOCATIONS

enter keyword

Search

SHOP

BABY REGISTRY

Moody Monster



**baby
registry**

Shop Our
CIRCULAR



**share
your opinions**

CLICK HERE
to learn about **product reviews**

- Browse by Brand
- What's New
- Gifts
- Bedding
- Strollers
- Car Seats
- Baby Carriers
- Diaper Bags
- High Chairs
- Feeding
- Health & Safety
- Bath & Potty
- Playtime
- Furniture
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