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merger

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08 JAN -7 AM 11:13
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

FILED
2008 JAN -7 PM 12:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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1/8/08



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Tallahassee, FL 32301-2960

850 222 1092 tel
850 222 7615 fax
www.ctlegalsolutions.com

January 7, 2008

Department of State, Florida
Clifton Building
2611 Executive Center Circle
Tallahassee FL 32301

Re: Order #: 7122564 SO
Customer Reference 1: 808.001
Customer Reference 2:

Dear Department of State, Florida:

Please obtain the following:

BabyUniverse, Inc. (FL)
Merger (Discontinuing Company)
Florida

Enclosed please find a check for the requisite fees. Please return document(s) to the attention of the undersigned.

If for any reason the enclosed cannot be processed upon receipt, please contact the undersigned immediately at (850) 222-1092. Thank you very much for your help.

Sincerely,

Jennifer Murphy
Fulfillment Specialist
jennifer.murphy@wolterskluwer.com

1/8/08

FILED

ARTICLES OF MERGER

OF

**BABYUNIVERSE, INC.,
a Florida corporation**

AND

**THE PARENT COMPANY,
a Colorado corporation**

2008 JAN -7 PM 12: 56

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

BabyUniverse, Inc., a Florida corporation, and The Parent Company, a Colorado corporation, hereby submit the following Articles of Merger pursuant to Section 607.1105 of the Florida Business Corporation Act:

1. The name, jurisdiction of incorporation, and Florida document number of each constituent corporation which is to merge are as follows:

<u>Name of Corporation</u>	<u>Jurisdiction of Incorporation</u>	<u>Florida Document Number</u>
BabyUniverse, Inc. ("BabyUniverse")	Florida	P97000089105
The Parent Company ("TPC")	Colorado	N/A

2. The Agreement and Plan of Merger (the "Merger Agreement") providing for the merger of BabyUniverse with and into TPC (the "Merger") is attached hereto.

3. TPC is the surviving corporation of the Merger.

4. The Merger shall become effective at 6:00 a.m., Mountain Time, on January 8, 2008.

5. The Merger Agreement was adopted by the shareholders of BabyUniverse on December 17, 2007. BabyUniverse is the sole shareholder of TPC and, accordingly, no approval of the Merger Agreement by either the board of directors or shareholders of TPC was required.

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IN WITNESS WHEREOF, the undersigned have executed these Articles of Merger on the 1st day of January, 2008.

BABYUNIVERSE, INC., a Florida corporation

By: Barry Hollingsworth
Barry Hollingsworth, Vice President

THE PARENT COMPANY, a Colorado corporation

By: Barry Hollingsworth
Barry Hollingsworth, Vice President

AGREEMENT AND PLAN OF MERGER

This AGREEMENT AND PLAN OF MERGER (the "Agreement"), dated as of October 30, 2007, is entered into between BabyUniverse, Inc., a public company incorporated in the State of Florida ("BabyUniverse"), and The Parent Company, a Colorado corporation and a wholly owned subsidiary of BabyUniverse ("TPC").

RECITALS

WHEREAS, the respective Boards of Directors of BabyUniverse and TPC have determined that, for purposes of effecting the reincorporation of BabyUniverse in the State of Colorado, it is advisable and in the best interests of BabyUniverse, TPC and their shareholders that BabyUniverse merge with and into TPC upon the terms and subject to the conditions set forth herein (the "Reincorporation Merger"); and

WHEREAS, the parties intend, by executing this Agreement, to adopt a plan of reorganization within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the "Code"), and to cause the Reincorporation Merger to qualify as a reorganization under the provisions of Section 368 of the Code; and

WHEREAS, the respective Boards of Directors of BabyUniverse and TPC have duly adopted and approved the Reincorporation Merger pursuant to this Agreement, and the Board of Directors of BabyUniverse has directed that this Agreement be submitted for approval by vote of the holders of shares of common stock, par value \$0.001 per share, of BabyUniverse (the "BabyUniverse common stock").

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

ARTICLE I

THE REINCORPORATION MERGER; EFFECTIVE TIME

1.1. The Reincorporation Merger. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time (as defined below), BabyUniverse shall be merged with and into TPC, whereupon the separate existence of BabyUniverse shall cease. TPC shall be the surviving corporation (sometimes hereinafter referred to as the "Surviving Corporation") in the Reincorporation Merger and shall continue to be governed by the laws of the State of Colorado. The Reincorporation Merger shall have the effects specified in the Colorado Business Corporation Act and the Colorado Corporations and Associations Act, each as amended, and in the Florida Business Corporation Act, as amended (the "FBCA"), and the Surviving Corporation shall succeed, without other transfer, to all of the assets and property (whether real, personal or mixed), rights, privileges, franchises, immunities and powers of BabyUniverse, and shall assume and be subject to all of the duties, liabilities, obligations and restrictions of every kind and description of BabyUniverse, including, without limitation, all stock option, stock incentive, employee benefit and other equity-based award plans, and all indebtedness, of the Company.

1.2. Effective Time. Provided that the condition set forth in Section 5.1 has been fulfilled or waived in accordance with this Agreement and that this Agreement has not been terminated or abandoned pursuant to Section 6.1, on the date of the closing of the Reincorporation Merger, BabyUniverse and TPC shall cause Articles of Merger to be executed and filed with the Secretary of State of Florida (the "Florida Articles of Merger") and a Statement of Merger to be filed with the Secretary of State of Colorado (the

“Colorado Statement of Merger”). The Reincorporation Merger shall become effective upon the date and time specified in the Florida Articles of Merger and the Colorado Statement of Merger (the “Effective Time”).

ARTICLE II

ARTICLES OF INCORPORATION AND BYLAWS OF THE SURVIVING CORPORATION

2.1. Articles of Incorporation. The articles of incorporation of TPC in effect at the Effective Time shall be the articles of incorporation of the Surviving Corporation, until amended in accordance with the provisions thereof or applicable law.

2.2. Bylaws. The bylaws of TPC in effect at the Effective Time shall be the bylaws of the Surviving Corporation, until amended in accordance with the provisions thereof or applicable law.

ARTICLE III

OFFICERS AND DIRECTORS OF THE SURVIVING CORPORATION

3.1. Officers. The officers of BabyUniverse at the Effective Time shall, from and after the Effective Time, be the officers of the Surviving Corporation, until their successors have been duly elected or appointed or until their earlier death, resignation or removal.

3.2. Directors. The directors and the members of the various committees of the board of directors of BabyUniverse at the Effective Time shall, from and after the Effective Time, be the directors and members of such committees of the Surviving Corporation, until their successors have been duly elected or appointed or until their earlier death, resignation or removal.

ARTICLE IV

EFFECT OF MERGER ON CAPITAL STOCK

4.1. Effect of Merger on Capital Stock. At the Effective Time, as a result of the Reincorporation Merger and without any action on the part of BabyUniverse, TPC, their shareholders, or any other person:

(a) Each share of BabyUniverse common stock issued and outstanding immediately prior the Effective Time shall be converted into and exchanged for one fully paid and non-assessable share of common stock, par value \$0.001 per share, of TPC (the “TPC common stock”).

(b) TPC shall assume and continue any and all stock option, stock incentive, employee benefit and other equity-based award plans theretofore adopted by BabyUniverse. Each outstanding and unexercised option, other right to purchase, or security convertible into, BabyUniverse common stock (a “Right”) shall become an option, right to purchase, or security convertible into TPC common stock, respectively, on the basis of one share of TPC common stock for each one share of BabyUniverse common stock issuable pursuant to such Right, on the same terms and conditions and at an exercise price equal to the exercise price applicable to such Right immediately prior to the Effective Time.

(c) A number of shares of TPC common stock shall be reserved for issuance upon the exercise or conversion of Rights equal to the number of shares of BabyUniverse common stock so reserved immediately prior to the Effective Time.

(d) Each share of TPC common stock issued and outstanding immediately prior to the Effective Time shall be cancelled and returned to the status of authorized but unissued shares.

4.2. Exchange of Certificates. At and after the Effective Time, all of the outstanding certificates which immediately prior thereto represented shares of BabyUniverse common stock, or options, warrants, purchase rights, units or other securities of BabyUniverse, if any, shall be deemed for all purposes to evidence ownership of and to represent the shares of TPC common stock, or options, warrants, purchase rights, units or other securities of TPC, if any, as the case may be, into which the shares of BabyUniverse common stock, or options, warrants, purchase rights, units or other securities of BabyUniverse represented by such certificates have been converted as herein provided, and shall be so registered on the books and records of the Surviving Corporation or its transfer agent. The registered owner of any such outstanding certificate shall, until such certificate shall have been surrendered for transfer or otherwise accounted for to the Surviving Corporation or its transfer agent, have and be entitled to exercise any voting and other rights with respect to, and to receive any dividends and other distributions upon, the shares of TPC common stock, or options, warrants, purchase rights, units or other securities of TPC, if any, as the case may be, evidenced by such outstanding certificate, as above provided.

4.3. Rights of Former Holders. From and after the Effective Time, no holder of certificates which evidenced BabyUniverse common stock immediately prior to the Effective Time shall have any rights with respect to the shares formerly evidenced by those certificates, other than to receive the shares of TPC common stock into which such BabyUniverse common stock shall have been converted pursuant to the Reincorporation Merger.

ARTICLE V

CONDITION

5.1. Condition to Each Party's Obligation to Effect the Reincorporation Merger. The respective obligation of each party hereto to effect the Reincorporation Merger is subject to receipt before the Effective Time of the requisite approval of this Agreement and the transactions contemplated hereby by the shareholders of BabyUniverse pursuant to the FBCA and the articles of incorporation and bylaws of BabyUniverse.

ARTICLE VI

TERMINATION

6.1. Termination. This Agreement may be terminated, and the Reincorporation Merger may be abandoned, at any time before the Effective Time, whether before or after approval of this Agreement by the shareholders of BabyUniverse, if the board of directors of BabyUniverse determines for any reason, in its sole judgment and discretion, that the consummation of the Reincorporation Merger would be inadvisable or not in the best interests of BabyUniverse and its shareholders. In the event of the termination and abandonment of this Agreement, this Agreement shall become null and void and have no effect, without any liability on the part of either BabyUniverse or TPC, or any of their respective shareholders, directors or officers.

ARTICLE VII

MISCELLANEOUS AND GENERAL

7.1. Further Assistance. From and after the Effective Time, as and when required by TPC or its successors or assigns, there shall be executed and delivered on behalf of BabyUniverse such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other action, as shall be appropriate or necessary in order to vest, perfect or confirm, of record or otherwise, in TPC the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of BabyUniverse, and otherwise to carry out the purposes of this Agreement, and the officers and directors of TPC are fully authorized in the name and on behalf of BabyUniverse or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

7.2. Modification or Amendment. Subject to the provisions of applicable law, at any time before the Effective Time, the parties hereto may modify or amend this Agreement; provided, however, that an amendment made after the approval of this Agreement by the shareholders of BabyUniverse shall not change the amount or kind of shares to be received under this Agreement by the shareholders of BabyUniverse or change any other terms and conditions of this Agreement if such change would materially and adversely affect the shareholders of BabyUniverse.

7.3. Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts together constituting the same agreement.

7.4. Entire Agreement. This Agreement constitutes the entire agreement and supersedes all other prior agreements, understandings, representations and warranties, both written and oral, between the parties with respect to the subject matter hereof.

7.5. No Third Party Beneficiaries. This Agreement is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

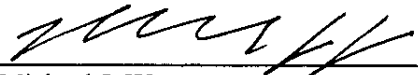
7.6. Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any person or any circumstance, is determined by any court or other authority of competent jurisdiction to be invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

7.7. Headings. The headings herein are for convenience of reference only, do not constitute part of this Agreement, and shall not be deemed to limit or otherwise affect any of the provisions hereof.

[SIGNATURE PAGE FOLLOWS]

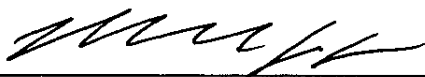
IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first written above.

BabyUniverse, Inc.

By: 

Michael J. Wagner
Chief Executive Officer and President

The Parent Company

By: 

Michael J. Wagner
Chief Executive Officer and President