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Via Facsimile and U.S. Mail

September 29, 2011

Kristen McCallion
FISH & RICHARDSON P.C.
601 Lexington Avenue, 52nd Floor
New York, NY 10022

Re: *Gordon v. DreamWorks Animation SKG, Inc., et al.*
United States District Court, District of Massachusetts Case No. 1:11-CV-10255-JLT

Dear Kristen:

Following our phone call on Monday regarding technical issues with certain files in defendants' electronic production, I sent a new electronic file to your office Tuesday containing revised metadata for the documents we discussed. I believe that this will resolve the technical issues we discussed. If it does not, please give me a call and let me know.

The documents you have requested relating to DreamWorks' third party communications regarding potential infringement of DreamWorks' rights in the film, *Kung Fu Panda*, are not relevant to any issue in Mr. Gordon's lawsuit. Although you have now drafted several letters on this issue, none of those letters explains how DreamWorks' communications with third parties can possibly be relevant or potentially admissible in this case. Defendants maintain their objections to the relevance of these documents. Nevertheless, Defendants will produce supplemental documents pursuant to the revised request as stated in your September 27, 2011 letter. As previously discussed, Defendants will not produce documents relating to the unauthorized use of the actual film or work (e.g., illegal downloading, counterfeit DVDs, piracy, counterfeit goods).

With respect to current DreamWorks' employees, we have collected all relevant documents and have produced them. To the extent that additional documents are located as discovery continues, we will produce them as they are located.

With respect to third party witnesses that no longer work for DreamWorks, the idea of a kung-fu-fighting panda bear, who is taught kung fu by a red panda and who teams up with a group of five kung-fu-fighting animal heroes was created nearly a decade ago. The employees that have since left DreamWorks' employ are unlikely to have any documents relating to the creation of the concepts that your client claims were taken from him because those third parties left DreamWorks after those ideas were independently developed and such documents would have been retained by DreamWorks as its property. Notwithstanding this, any documents that were in the possession of Msrs. Beck, Lachance, Reiff and Voris have already been produced. Although the remaining third parties that you have listed were not the individuals that independently created the ideas, stories and characters that your client claims were based on his purported works, we are following up with them to determine if they have any relevant



documents that are in their personal possession and that have not yet been produced. To the extent any such documents exist, and to the extent that such third parties agree to turn them over to us, Defendants will produce them as soon as they are located.

On a related issue, your firm claims to represent Mr. Partello and Jackie Gordon. Ms. Gordon and Mr. Partello both submitted signed statements on behalf of Mr. Gordon. Mr. Partello is a colleague and acquaintance of Plaintiff Gordon, yet no documents have yet been received from Mr. Partello other than the agreement between Mr. Partello and Mr. Gordon regarding ownership of the Panda Power works, and Mr. Partello's signed statement. Mr. Partello's signed statement indicates that he was involved with Mr. Gordon's website, and was also involved in assisting Mr. Gordon in the creation of artwork relating to his various characters. Please confirm that Mr. Partello's computer and electronic files have been searched and that his emails, photoshop images, electronic files and all other responsive documents have been searched for and produced. By way of example, correspondence between Mr. Gordon and Mr. Partello regarding his signed statement and correspondence between Mr. Gordon and Jackie Gordon regarding her signed statement have not yet been produced. If any such documents exist, including drafts or mark-ups of these statements, Defendants request that they be located and produced.

Additionally, the signed statements submitted in connection with Plaintiff's document production (including the one signed by Mr. Partello) all appear to have been redacted. See JG 1651-1658. However, the redaction in each case appears right next to, or beneath, the declarant's signature. Please let me know the basis for these redactions. If the redacted information is simply a date, Defendants request that unredacted copies of these statements be produced.

Finally, following up on my letters and phone calls on this issue, Defendants are seeking to confirm the state of Mr. Gordon's photoshop files and other electronic images or files that contain any mention of "Panda Power" or any of the characters or elements that Mr. Gordon has put at issue in this lawsuit. Defendants' understanding based on our September 9 meet and confer call is that, aside from the discs that were deposited with the Copyright Office in 1999/2000, no other electronic files or art have been produced and they no longer exist. To ensure that there is no misunderstanding relating to the scope of Defendants' requests, Defendants expect that any electronic files relating to Mr. Gordon's artwork and stories, including Microsoft Photoshop images and Microsoft Word documents, be produced. This request includes any electronic images or files relating to any of the characters that were included on Mr. Gordon's websites at any time.

Defendants initially requested access to Mr. Gordon's computer. At the Scheduling Conference on August 17th, Mr. Madera informed Defendants' counsel that Mr. Gordon did not have a computer and therefore, Defendants' request for forensic examination was moot. During our September 9 conference call, Mr. Madera stated that Mr. Gordon has two computers. Defendants hereby reiterate their request to forensically examine Mr. Gordon's computers. Defendants agree that, whatever images are made of his computers, those images will be shared with Plaintiff's counsel so that the parties will all be looking at the same set of data. Please let me know by October 3 if Plaintiff will permit this imaging to be completed.



Sincerely,

A handwritten signature in black ink, appearing to read "David Grossman", with a long horizontal flourish extending to the right.

David Grossman
Partner