

JUDGE SCHEINDLIN

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Muhammad Ali Enterprises LLC

Plaintiff,

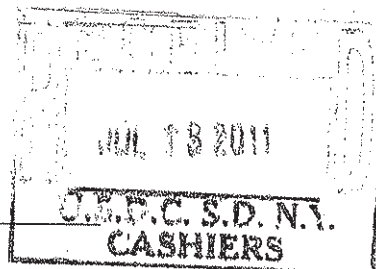
-against-

Kobo, Inc.

Defendant.

Case No.:

COMPLAINT



Plaintiff Muhammad Ali Enterprises LLC ("MAE"), by and through its attorneys, Paul, Hastings, Janofsky & Walker LLP, as and for its complaint against defendant Kobo, Inc. ("Kobo"), alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters:

Nature of Action and Relief Sought

1. MAE seeks injunctive and monetary relief against Kobo's acts of federal trademark infringement, trademark dilution, unfair competition, false designation of origin and deceptive acts and practices in violation of the U.S. Trademark Act, 15 U.S.C. §§ 1051 *et seq.*; trademark infringement, trademark dilution, unfair competition, unfair and deceptive practices, misappropriation and unjust enrichment in violation of the statutory and/or common law of each state in which Kobo engaged in the unlawful conduct alleged herein, including New York General

Business Law §§ 133, 349, and 360-1 and California Business and Professions Code § 17200 *et seq.*; and violation of the right to publicity under the statutory and/or common law of each state in which Kobo engaged in the unlawful conduct alleged herein, including New York Civil Rights Law § 51, California common law and California Civil Code § 3344.

2. MAE is the owner by assignment of the intellectual property and publicity rights of Muhammad Ali, including the exclusive right to exploit and control the commercial use of Muhammad Ali's name, likeness, voice, image, trademarks, and other elements of Muhammad Ali's persona ("Muhammad Ali's Identity").

3. By virtue of Muhammad Ali's worldwide fame, and careful control over the commercialization of Muhammad Ali's Identity, those rights are of enormous commercial value.

4. One component of Muhammad Ali's Identity is his coined slogan FLOAT LIKE A BUTTERFLY, STING LIKE A BEE (the "Muhammad Ali Slogan"), which is the subject of U.S. federal trademark Registration Nos. 3,895,589 and 3,768,688, with a third registration about to issue.

5. MAE licenses the Muhammad Ali Slogan to third parties for commercial use for substantial sums of money.

6. Upon information and belief, Kobo markets and sells an electronic book reading device (the "eReader").

7. On or about June 17, 2011, Kobo took out a full-page advertisement for its eReader in the New York Times. That advertisement made commercial use of the Muhammad Ali Slogan and Muhammad Ali's name without permission from or compensation to MAE, in violation of MAE's trademark rights and publicity rights. See Exhibit A. Kobo's unauthorized use of the Muhammad Ali Slogan and Muhammad Ali's name was deliberate, willful, and intentionally designed

to reap the benefit of, trade on, and exploit the enormous fame, goodwill, value, and public recognition of Muhammad Ali's Identity.

8. Kobo's unlawful conduct caused and will continue to cause serious and irreparable harm to MAE. Consumers are likely to be confused as to a perceived affiliation, connection, association, sponsorship, endorsement, approval, or permission received from MAE that does not exist. Kobo's conduct also is likely to dilute the distinctive and source-identifying quality of the Muhammad Ali Slogan, and to damage, erode and diminish the economic value of the Muhammad Ali Slogan and name, which MAE alone has the right to commercially exploit. In addition, Kobo's conduct is likely to diminish, if not destroy, the opportunity for MAE to license Muhammad Ali's Identity to the manufacturer of competitive devices and eliminates the ability for MAE to offer any such manufacturer an exclusive license, which typically is of greater economic value.

The Parties

9. Muhammad Ali Enterprises, LLC is a limited liability company organized and existing under the laws of California with a principal place of business at 650 Madison Ave., 15th Floor, New York, NY 10022. MAE is the owner of Muhammad Ali's intellectual property and publicity rights, including all rights of publicity associated with the commercialization of Muhammad Ali's name, image, and likeness, the Muhammad Ali Slogan, and the trademarks at issue herein, which it uses and licenses to third parties. Muhammad Ali personally has an economic interest in the business and licensing activities of MAE.

10. Upon information and belief, Kobo, Inc. is a corporation organized and existing under the laws of Canada, with a place of business at 135 Liberty Street, Suite 101, Toronto, Canada, M6K 1A7. Kobo markets and sells an eReader.

Jurisdiction and Venue

11. This action arises under 15 U.S.C. §§ 1051 *et seq.* and the statutory and common law of the states of New York, California and of every state in which Kobo engaged in the unlawful conduct alleged herein. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338, and pursuant to 28 U.S.C. § 1332 in that the parties are a citizen of a State and a citizen of a foreign state and the amount in controversy exceeds \$75,000 exclusive of costs and interest, and has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

12. This court has personal jurisdiction over Kobo because, upon information and belief, Kobo does and transacts business in this district, and has purposely directed its activities to citizens and residents of this district, and because the harmful conduct that occurred was likely to cause, and caused, injury to MAE in this state and district.

13. Venue is proper pursuant to 28 U.S.C. § 1391.

Facts Common to All Claims

Muhammad Ali and Muhammad Ali's Identity

14. Upon information and belief, Muhammad Ali is one of the most famous and iconic personalities in the United States, and in the world.

15. Muhammad Ali is an Olympic gold medalist and three-time World Heavyweight Champion who is widely known by the general public as one of the greatest and most famous boxers -- and cultural icons -- in history.

16. Muhammad Ali had a meteoric rise in the boxing world. Over the course of his amateur career, he won six Kentucky Golden Gloves titles, two national Golden Gloves titles, an Amateur Athletic Union National Title, and the gold medal in the Light Heavyweight division at the 1960 Summer Olympics. In his professional career, he fought and defeated other famous boxers in

numerous well-publicized and widely-watched fights. Those fights included, among many others, his fight against Doug Jones, which was named "Fight of the Year" for 1963, his dramatic defeat of Sonny Liston for the 1964 World Heavyweight Championship, his fight against Cleveland "Big Cat" Williams at the Houston Astrodome, which *Sports Illustrated* reported set an indoor world record at that time for the number of fans in attendance, three historic matches against Joe Frazier, including the 1971 match that was known as the "Fight of the Century" and the subsequent "Thrilla in Manila," and his upset win against George Foreman for his second World Heavyweight title in the fight known as the "Rumble in the Jungle."

17. Over the course of his career, Muhammad Ali developed a strong, unique, and recognizable public persona. In addition to his remarkable boxing skills, he was well known for his supreme confidence, recognizable speaking style, coined phrases, and memorable quips, all of which brought him substantial media attention and helped propel him to worldwide fame.

18. In 1975, *Sports Illustrated* named Muhammad Ali its "Sportsman of the Year." He was chosen to light the Olympic torch during the opening ceremonies for the 1996 Summer Olympic Games in Atlanta. He was named "Sportsman of the Century" by *Sports Illustrated*, "Sports Personality of the Century" by the BBC, "Athlete of the Century" by *GQ*, and "World Sportsman of the Century" by World Sports Award. Ring Magazine named him "Fighter of the Year" more times than any other fighter. He was inducted into the International Boxing Hall of Fame in 1990.

19. In addition to his fame as a boxer, Muhammad Ali has been in the public eye for his political activities, including his attempt to win the release of Americans kidnapped in Lebanon in 1985, his role in traveling to Iraq and helping to secure the release of 15 American hostages during the first Gulf War, and his promotion of various political and humanitarian causes. Among numerous other awards and honors, Muhammad Ali has received the Arthur Ashe Courage Award, Amnesty International's Lifetime Achievement Award, and Germany's Otto Hahn Peace

Medal. He was recognized as a "U.N. Messenger of Peace" for 1998 to 2008, and in that capacity traveled to Afghanistan in 2002 as a special guest of the UN on a good will mission. In 2005, he received the Presidential Citizens Medal and Presidential Medal of Freedom, the United States' most distinguished civil award.

20. Muhammad Ali has been the subject of several books and documentaries, including the 1996 Academy Award winning documentary "When We Were Kings" about the "Rumble in the Jungle" against George Foreman, and a major Hollywood film, *Ali*, that was released in December 2001.

21. According to an Associated Press study in 1993, Muhammad Ali was tied with Babe Ruth as the most recognized athlete, living or dead, in America, with more than 97% of Americans over the age of twelve recognizing both of those sports figures. In 1991, he received a Spirit of America Award, which called him the most recognized American in the world. According to a 2011 Q-Score Report, which measures the familiarity and appeal of brands, companies, celebrities, and television shows in the United States, Muhammad Ali ranked first among all athletes in familiarity and appeal with 12-64 years olds, 18-34 year olds, and households with incomes of \$75,000 and above.

22. Muhammad Ali referred to his unique fighting style as "Float Like A Butterfly, Sting Like A Bee," a phrase that he often chanted with his trainer Drew Bundini Brown. That phrase has become so well known as to instantly identify -- and be virtually synonymous with -- Muhammad Ali.

23. The famous phrase FLOAT LIKE A BUTTERFLY, STING LIKE A BEE is the subject of U.S. trademark Registration No. 3,895,589 for use on goods that include, among other things, books, journals, writing paper, writing pads, various other stationary and desk accessories, publications, and writing implements, as well as for, among other things, t-shirts,

sweatshirts, robes, pants, and hats, and Registration No. 3,768,688 for use on “[c]ups and mugs; coffee cups, tea cups and mugs; drinking glasses and glass mugs; lunch boxes.” FLOAT LIKE A BUTTERFLY, STING LIKE A BEE also is the subject of an allowed federal trademark application, Serial No. 78/970,537, for goods that include various toys and games, hand-held units for electronic games, entertainment services, and production of various forms of media, including records, videotape, motion pictures, and radio and television programs.

24. The Muhammad Ali Slogan, FLOAT LIKE A BUTTERFLY, STING LIKE A BEE, like the other aspects of Muhammad Ali’s Identity and persona, including Muhammad Ali’s name and image, is famous in the United States and throughout the world.

25. As a result of Muhammad Ali’s remarkable career and life, and the substantial investment in developing and protecting his public persona, Muhammad Ali’s Identity enjoys enormous fame and goodwill, with substantial commercial value. At least one U.S. federal court has found that “in the course of [Muhammad Ali’s] public career, [Muhammad Ali] has established a commercially valuable proprietary interest in his likeness and reputation, analogous to the good will accumulated in the name of a successful business entity.”

26. In or about April 2006, MAE was formed for the purpose of promoting Muhammad Ali’s legacy throughout the United States and the world, including the licensing of Muhammad Ali’s Identity. At about that time, MAE was assigned all right, interest, and title to Muhammad Ali’s Identity, including the exclusive right to exploit and commercialize Muhammad Ali’s name, likeness, and intellectual property, which includes the Muhammad Ali Slogan and name.

27. As the owner of Muhammad Ali’s publicity and intellectual property rights, MAE has the right, and responsibility, to protect and preserve the commercial value of all aspects of Muhammad Ali’s Identity. MAE has the exclusive right to determine the branding and licensing strategy for commercial use of Muhammad Ali’s Identity and the exclusive right to determine which

commercial uses it wishes to authorize and at what price. As the owner of trademarks, including the Muhammad Ali Slogan, MAE has the right and the obligation to monitor and exert quality control over the use of those marks.

28. MAE maintains a robust and carefully managed licensing program. An application form for prospective licensees is available on the official Web site of Muhammad Ali, at http://ali.com/pdfs/licensing_applicaiton_2011.pdf. That application requires prospective licensees to provide extensive information about the company and the intended product or service for which a license is requested, including information about potential sales and intended distribution, proposed marketing and advertising plans, manufacturing capability, and corporate finances. The application also requires the prospective licensee to provide four retail and licensing references, and the process for determining whether to grant a license typically requires the prospective licensee to provide a product sample or prototype. See Exhibit B.

29. MAE has licensed the Muhammad Ali Slogan for use in television commercials and print advertisements by blue chip companies, including Gatorade, Intel and Epson. Those companies paid MAE significant sums for the right to use the Muhammad Ali Slogan and to benefit from the good will and consumer recognition associated with its immediate identification with Muhammad Ali's Identity. In fact, in 2010, Gatorade built an entire advertising campaign around the use of the Muhammad Ali Slogan, which appeared in television, print and online media. See Exhibits C, D, and E for examples of those advertisements and Exhibit F for a list of other licensees, available at http://ali.com/marketing_licensee_list.php.

30. MAE has the right to control the use of the famous registered slogan FLOAT LIKE A BUTTERFLY, STING LIKE A BEE and to protect and control the publicity value in all aspects of Muhammad Ali's Identity, including the use of the Muhammad Ali name and Muhammad Ali Slogan.

31. Unauthorized commercial use of Muhammad Ali's Identity, including the Muhammad Ali name and Muhammad Ali Slogan, deprives MAE of its right to be compensated for such use, and further deprives MAE of its right and ability to maximize the commercial value of such use, such as by offering an exclusive license for a specific product category, negotiating the most favorable licensing terms, and maintaining control over the use of Muhammad Ali's Identity and trademarks.

**Kobo's Unauthorized Use of the Muhammad Ali
Name and Muhammad Ali Slogan**

32. On or about June 17, 2011, Kobo took out a full-page advertisement in the New York Times to promote its eReader (the "Kobo Ad").

33. The Kobo Ad for its eReader featured as its attention-getter the Muhammad Ali Slogan and Muhammad Ali name, appearing as the most prominent wording on the page. Underneath the wording "Float like a butterfly, sting like a bee. — *Muhammad Ali*," appears the wording "Lightweight. Powerful. Intuitive. The new Kobo eReader Touch Edition. Just in time for Father's Day." At the bottom left of the Kobo Ad appear three statements: " 'A real contender' — *Computerworld*", " 'The best bet right now' — *CrunchGear*", and " 'The look of a winner' — *Gizmodo*." Each statement is a reinforcement of the persona of Muhammad Ali. At the bottom right appears the KOBO logo. See Exhibit A.

34. The Kobo Ad is a full page advertisement for the product that Kobo sells; it is purely commercial in nature.

35. Muhammad Ali spent a lifetime building his own reputation and the good will that is embodied in his name and persona, including the Muhammad Ali Slogan and trademark FLOAT LIKE A BUTTERFLY, STING LIKE A BEE. Since its acquisition of the rights to Muhammad Ali's publicity and intellectual property rights, MAE has invested considerable resources in protecting and continuing to develop the value of Muhammad Ali's Identity and trademarks.

That reputation, value, and good will ride on each commercial use that is associated with Muhammad Ali's Identity.

36. There is no legitimate reason for Kobo's misappropriation of the distinctive and famous Muhammad Ali Slogan and Muhammad Ali name to advertise its product.

37. Kobo did not seek or receive authorization from MAE to make commercial use of the Muhammad Ali Slogan in the Kobo Ad.

38. Kobo did not seek or receive authorization from MAE to make commercial use of Muhammad Ali's name in the Kobo Ad.

39. Kobo did not compensate MAE in any way for the commercial use of the Muhammad Ali Slogan or Muhammad Ali's name in the Kobo Ad.

40. The prominent use of the famous Muhammad Ali Slogan and Muhammad Ali's name in the Kobo Ad creates initial interest and immediately conjures up the persona, identity, and image of Muhammad Ali, and conveys the impression of an association, endorsement, or permission to use Muhammad Ali's Identity and/or the Muhammad Ali Slogan that does not exist. In context with the statements by *Computerworld*, *CrunchGear* and *Gizmodo* referred to in Paragraph 33, it appears as if Muhammad Ali personally is endorsing the eReader by stating that it "Floats Like a Butterfly and Stings Like a Bee" and/or by permitting Kobo to use his name and slogan.

41. Kobo's unauthorized use of Muhammad Ali's Slogan and Muhammad Ali's name has wrongfully removed from MAE control over the quality of the products associated with Muhammad Ali's Identity.

42. The unauthorized use of the famous Muhammad Ali Slogan and Muhammad Ali's name in the Kobo Ad dilutes the distinctive nature of that famous trademark.

43. In using Muhammad Ali's Slogan and Muhammad Ali's name in the Kobo Ad, Kobo has sought to and has traded on and profited from Muhammad Ali's and MAE's efforts

and investments without using its own resources, investing its own time or money, or exerting any creative efforts of its own, and without going through the approval process or paying the fees required of MAE's authorized licensees.

44. The use of the famous Muhammad Ali Slogan and Muhammad Ali's name in an advertisement for the Kobo eReader significantly diminishes, if not destroys, the opportunity for MAE to license Muhammad Ali's Identity to the manufacturer of competitive devices and eliminates the ability for MAE to offer any such manufacturer an exclusive license, which typically is of greater economic value.

45. Kobo already has benefited at the expense of MAE by making commercial use of valuable property without authorization or compensation. Absent an injunction, Kobo may continue to benefit at MAE's expense, continue to create a likelihood of consumer confusion as to affiliation, connection, association, sponsorship, endorsement, approval, or permission, continue to dilute the distinctive nature of the Muhammad Ali Slogan, continue to infringe the publicity rights in Muhammad Ali's Identity, and continue to be unjustly enriched.

46. MAE has no adequate remedy at law.

Count I

Trademark Infringement, Unfair Competition and False Designation of Origin under Sections 32 and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a)

47. MAE repeats and realleges paragraphs 1 - 46 as if fully set forth herein.

48. Kobo knowingly, willingly and intentionally infringed MAE's trademark rights by making unauthorized use of the federally registered Muhammad Ali Slogan, FLOAT LIKE A BUTTERFLY, STING LIKE A BEE.

49. The unauthorized use in commerce by Kobo of the Muhammad Ali Slogan violates Sections 32 and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a), and is likely to cause confusion, mistake or to deceive the consuming public with respect to Kobo's affiliation,

connection or association with, or endorsement, sponsorship, or permission by Muhammad Ali or MAE.

50. The unauthorized use in commerce by Kobo of the Muhammad Ali Slogan usurps the reputation and good will associated with the FLOAT LIKE A BUTTERFLY, STING LIKE A BEE trademarks and Muhammad Ali's Identity and constitutes unfair competition.

51. As a result, the actions of Kobo complained of herein, unless enjoined by this Court, will cause MAE to suffer irreparable harm; to suffer damage and injury to its business, reputation and good will; and to sustain loss of revenues and profits while unjustly enriching Kobo.

52. The actions of Kobo complained of herein constitute an exceptional case within the meaning of 15 U.S.C. § 1117(a) of the Lanham Act.

Count II

Trademark Dilution under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c)

53. MAE repeats and realleges the allegations contained in paragraphs 1 - 52 as if fully set forth herein.

54. By virtue of Muhammad Ali's personal fame, and the exclusive and continuous use in commerce and substantial marketing, advertising, sales, and licensing of products in connection with Muhammad Ali's Identity and the federally registered trademarks FLOAT LIKE A BUTTERFLY, STING LIKE A BEE, Muhammad Ali's Slogan has become and is widely recognized as a designation of source and, as such, is a famous mark within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c)(1), and became famous long prior to any use of the marks by Kobo.

55. Kobo's willful acts complained of herein are in bad faith and are likely to cause dilution of Muhammad Ali's Slogan in that such use is likely to erode and whittle away the source-identifying qualities of Muhammad Ali's Slogan.

56. As a direct and proximate result of Kobo's actions complained of herein, MAE has suffered and, absent an injunction, will continue to suffer irreparable harm, damage and injury.

57. MAE has no adequate remedy at law.

Count III

Violation of the Right to Publicity Under New York Civil Rights Law § 51 and the Law of Every State in Which Kobo Engaged in the Unlawful Conduct Alleged Herein

58. MAE repeats and realleges the allegations contained in paragraphs 1 - 57 as if fully set forth herein.

59. Kobo used the Muhammad Ali Identity, including Muhammad Ali's name, for advertising purposes or for the purposes of trade without obtaining prior written consent. The Kobo Ad was published in the New York Times which, upon information and belief, is distributed in New York and every other state in the nation.

60. Kobo's acts, as set forth herein, violate Muhammad Ali's and MAE's right to publicity under New York Civil Rights Law § 51 and the statutory and/or common law of every other state in which the Kobo Ad was published or seen.

Count IV

Violation of the Right to Publicity Under California Common Law and California Civil Code § 3344 and the Law of Every State in Which Kobo Engaged in the Unlawful Conduct Alleged Herein

61. MAE repeats and realleges the allegations contained in paragraphs 1 - 60 as if fully set forth herein.

62. Kobo used the Muhammad Ali Identity, including Muhammad Ali's name, for advertising purposes or for the purposes of trade without obtaining prior written consent. The

Kobo Ad was published in the New York Times which, upon information and belief, is distributed in California and every other state in the nation.

63. Kobo's acts, as set forth herein, violate Muhammad Ali's and MAE's right to publicity under California common law and California Civil Code § 3344 and the statutory and/or common law of every other state in which the Kobo Ad was published or seen.

Count V

Trademark Infringement, Unfair Competition, and Deceptive Acts and Practices under New York Common and Statutory Law, and of the Law of Every State in Which Kobo Engaged in the Unlawful Conduct Alleged Herein

64. MAE repeats and realleges the allegations contained in paragraphs 1 - 63 as if fully set forth herein.

65. Kobo's acts, as set forth herein, constitute trademark infringement, unfair competition, and deceptive acts and practices under the common law of the State of New York and every other state in which the Kobo Ad was published or seen. Kobo's actions were undertaken in bad faith and are willful and with the intent to deceive and confuse, and are likely to cause confusion and deception, and to misappropriate the FLOAT LIKE A BUTTERFLY, STING LIKE A BEE trademark and the reputation and good will associated with that mark.

66. Kobo's acts, as set forth herein, constitute the assumption, adoption or use in bad faith and with the intent to deceive or mislead the public, for advertising purposes or purposes of trade, of a designation or style, or a symbol or simulation thereof which may deceive or mislead the public as to the identity of Kobo or its goods and services or as to the connection of Kobo with MAE, in violation of New York General Business Law § 133.

67. Kobo's acts, as set forth herein, constitute deceptive acts or practices under New York General Business Law § 349 and under the statutory and/or common law of every state in which the Kobo Ad was published or seen.

68. By reason of Kobo's activities complained of herein, MAE has been and will continue to be irreparably harmed and has no adequate remedy at law.

Count VI

Trademark Infringement, Unfair Competition, and Deceptive Acts and Practices under California Common and Statutory Law, and of the Law of Every State in Which Kobo Engaged in the Unlawful Conduct Alleged Herein

69. MAE repeats and realleges the allegations contained in paragraphs 1 - 68 as if fully set forth herein.

70. Kobo's acts, as set forth herein, constitute trademark infringement, unfair competition, and deceptive acts and practices under the common law of the State of California and every other state in which the Kobo Ad was published or seen. Kobo's actions were undertaken in bad faith and are willful and with the intent to deceive and confuse, and are likely to cause confusion and deception, and to misappropriate the FLOAT LIKE A BUTTERFLY, STING LIKE A BEE trademark and the reputation and good will associated with that mark.

71. Kobo's acts, as set forth herein, are unfair and unlawful in violation of California Business and Professions Code § 17200 *et seq.* and under the statutory and/or common law of every state in which the Kobo Ad was published or seen.

72. Kobo's acts, as set forth herein, constitute deceptive acts or practices under California Business and Professions Code § 17200 *et seq.* and under the statutory and/or common law of every state in which the Kobo Ad was published or seen.

Count VII

Dilution and Injury to Business Reputation Under New York Statutory Law N.Y. Gen. Bus. Law § 360(l)

73. MAE repeats and realleges the allegations contained in paragraphs 1 - 72 as if fully set forth herein.

74. Kobo's acts, as set forth herein, are likely to dilute, blur and detract from the distinctiveness of the Muhammad Ali Slogan in violation of New York General Business Law § 360(l) and the law of every state in which the Kobo Ad was published or seen.

75. Kobo's acts of dilution, unless restrained, will cause great and irreparable injury to MAE and to the value and good will represented by the Muhammad Ali Slogan for which MAE has no adequate remedy at law.

WHEREFORE, MAE respectfully requests that this Court enter judgment in its favor and against Kobo as follows:

a. Preliminarily and permanently enjoining Kobo, its officers, agents, servants, employees, subsidiaries, parents, affiliates, related entities, suppliers, customers, successors, assigns and attorneys, and those acting in concert with, by or through them, from (1) using in any manner the Muhammad Ali Slogan, Muhammad Ali's name, or any other aspect of Muhammad Ali's Identity, or any derivation, variation or colorable imitation thereof; (2) in any way seeking to, directly or indirectly, misappropriate the good will and/or reputation associated with Muhammad Ali's Identity, including the Muhammad Ali Slogan and Muhammad Ali's name; (3) in any way creating the impression, directly or indirectly, that Kobo's product has been or is in any way connected to or affiliated with or approved or endorsed by Muhammad Ali or MAE; (4) otherwise infringing the Muhammad Ali Slogan; (5) otherwise violating the publicity rights in Muhammad Ali's Identity; (6) in any other manner violating 15 U.S.C. §§ 1114, 1125(a) or 1125(c), engaging in trademark infringement, trademark dilution, unfair competition, misappropriation, or deceptive acts or practices under the statutory and/or common law of any state in which Kobo does business, or violating the publicity rights in Muhammad Ali's Identity under the statutory and/or common law of any state in which Kobo does business; or (7) engaging, inducing,

contributing to, causing, or authorizing any individual or entity to perform any of the aforementioned acts.

b. Directing Kobo pursuant to 15 U.S.C. §§ 1116(a) or otherwise, to file with this Court and serve on MAE within thirty (30) days of entry of any injunction, or such other time as directed by the Court, a report in writing and under oath setting forth in detail the manner and form in which Kobo has complied with the injunction.

c. Ordering the recall and destruction of any marketing materials, plates, prints, presses, advertisements, receptacles, displays and products of Kobo, the manufacture or sale of which is enjoined pursuant to any injunction ordered by the Court, or that violate 15 U.S.C. § 1125(a).

d. Ordering Kobo to pay MAE:

(i) All monetary damages sustained and to be sustained by MAE as a consequence of Kobo's conduct complained of herein, including all of Kobo's profits resulting from infringement and violation of publicity rights, all of MAE's lost profits as a result of the unauthorized use of Muhammad Ali's Identity, including the Muhammad Ali Slogan and Muhammad Ali's name, and profits and gains of any kind resulting from Kobo's willful violations, in an amount to be determined at trial, and three times the amount thereof pursuant to 15 U.S.C. § 1117(a).

(ii) MAE's reasonable attorneys' fees, disbursements, costs and expenses in connection with this action, pursuant to 15 U.S.C. § 1117(a), N.Y. Gen. Bus. Law § 349(h), California Civil Code § 3344 and the applicable law of any other state in which the Kobo Ad was published or seen.

(iii) Exemplary damages under New York Civil Rights Law § 51.

(iv) Punitive damages.

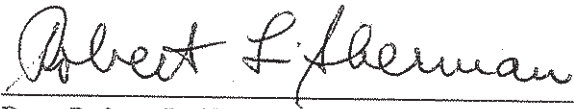
e. Awarding MAE such other and further relief as this Court deems just

and proper.

Dated: New York, NY
July 13, 2011

Respectfully Submitted,

PAUL, HASTINGS, JANOFSKY &
WALKER LLP

A handwritten signature in cursive script, reading "Robert L. Sherman", is written over a horizontal line.

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