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VIA E-MAIL AND FEDEX

Jeong-Ho Lee
General Counsel
CMG WORLDWIDE, INC.
10500 Crosspoint Boulevard
Indianapolis, IN 46256
jeong-ho@cmgbrands.com

Re: Infringement of The Estate of Marilyn Monroe, LLC's Intellectual Property

Dear Mr. Lee:

As you know, we wrote to CMG Worldwide, Inc. ("CMG") a few months ago on behalf of our client The Estate of Marilyn Monroe, LLC (the "Monroe Estate"), regarding the unauthorized use of images and other indicia of Marilyn Monroe's persona by Entertainment Games, Inc. ("Egames") pursuant to an alleged license from CMG. The Monroe Estate has transferred responsibility for its intellectual property litigation matters to Sheppard, Mullin, Richter & Hampton LLP. I and my associate Shannon S. King have also transitioned to Sheppard, Mullin and continue to represent the Monroe Estate in all such matters. Please update your files accordingly.

In response to our cease and desist letter dated November 9, 2011, Egames reported that it "secured a license" from CMG and, thus, alleged that, it does "not require any other necessary license for use of these images." CMG knows that it has no basis to license any such rights related to images of Marilyn Monroe as used by Egames, especially given its prior dealings with the Monroe Estate and given its contractual obligations pursuant to that Letter Agreement dated February 3, 2011, and that Settlement and Release dated May 2011 (collectively, the "2011 Settlement Agreement"). CMG is well-aware that any business relationship with the Monroe Estate is now terminated.

In addition to the Egames matter referenced above, we have discovered that **CMG continues to flagrantly solicit and engage in unauthorized licensing of the name and mark MARILYN MONROE as well as other indicia of Marilyn Monroe's persona despite its knowledge of the Monroe Estate's rights and its contractual obligations under the 2011 Settlement Agreement.** For example, we note that the landing page of CMG's main website at <www.cmgworldwide.com> displays the text "REPRESENTING THE GREATEST ICONS: CMG Represents the Intellectual Property of Celebratory Individuals From Then, Now & Forever" overlaid over a prominently featured image of Marilyn Monroe – creating the false impression that CMG holds the right to license intellectual property related to Marilyn Monroe, which it does not. CMG goes so far as to falsely advertise itself and conduct business as "the exclusive

licensing agent for Marilyn Monroe.” (See <http://www.cmgww.com/stars/monroe/>, also falsely entitled “Marilyn Monroe’s Official Web site.”) CMG’s false representations have been repeated in various media, which further perpetuates confusion among consumers.

The parties have already engaged in litigation and entered into a settlement agreement in connection with the rights related to Marilyn Monroe, but we will repeat our client’s position briefly in this letter for the sake of absolute clarity. Any interests which CMG may have related to certain photographs of Marilyn Monroe or any other interests which may have been asserted by CMG in the past do not provide CMG with carte blanche rights to presently use or license of any of the rights held by the Monroe Estate. Apart from its rights pursuant to state law, the Monroe Estate owns numerous federal and international trademark registrations for MARILYN and MARILYN MONROE and a protectable interest in Marilyn Monroe’s identity and persona and all manifestations thereof, including her name, signature, and, of course, image and likeness pursuant to federal law (collectively, the “Marilyn Rights”). In fact, the Marilyn Rights include certain trademark registrations which were affirmatively assigned by CMG to the Monroe Estate as part of the 2011 Settlement Agreement.

It is well established that celebrities possess trademark-like rights in their identities and personas and, under 15 U.S.C. § 1125(a), are entitled to seek relief for the unauthorized use of their identities in a manner which is likely to confuse consumers as to the celebrities’, or the celebrities’ rights holders’, sponsorship of or association or affiliation with the product or service at issue. See *Waits v. Frito-Lay, Inc.*, 978 F.2d 1093, 1110 (9th Cir. 1992); see also *Parks v. LaFace Records*, 329 F.3d 437, 445 (6th Cir. 2003) (“[c]elebrities have standing to sue under § 43(a) because they possess an economic interest in their identities akin to that of a traditional trademark holder”); *Fifty-Six Hope Road Music Limited v. A.V.E.L.A., Inc.*, 688 F. Supp.2d 1148, 1169 (D. Nev. 2010) (entity that owned rights in deceased musician Bob Marley’s identity and persona may assert action for false association based on the unauthorized use of Marley’s image); *Bruce Lee Enterprises, LLC v. A.V.E.L.A., Inc.*, 2011 U.S. Dist. LEXIS 36406, *14 (S.D.N.Y. Mar. 31, 2011) (Swain, J.) (holding that “use of a deceased celebrity’s persona can support a false endorsement claim under the Lanham Act” in denying defendant’s motion to dismiss plaintiff’s Section 1125 claim). See also *Unique Sports Prods. v. Wilson Sporting Goods Co.*, 512 F. Supp.2d 1318, 1325 (N.D. Ga. 2007) (“plaintiff does not have to prove that it has a valid trademark in [tennis player’s] image to prevail on its false endorsement claim”).

For example, the heirs of Bob Marley recently prevailed at trial on a Section 1125(a) claim regarding unauthorized use of Bob Marley’s image on t-shirts. See Verdict in Case No. 08-cv-00105 (D. Nev. Jan. 21, 2011). Similarly, in the case of *Estate of Elvis Presley v. Russen*, the Court granted a preliminary injunction on the plaintiff’s unfair competition claim and specifically enjoined the defendant from “[u]sing any pictures, sketches, artist’s renderings (or any other such forms) of Elvis Presley or which appear to be of or resemble the ‘Elvis Pose.’” 513 F. Supp. 1339, 1382 (D.N.J. 1981) (finding likelihood of success on merits of plaintiff’s unfair competition claim).

Here, as the rights holders in *Fifty-Six Hope Road*, *Estate of Elvis Presley*, and *Bruce Lee Enterprises*, the Monroe Estate and its predecessors-in-interest have consistently made commercial use of the Marilyn Rights since her death and in connection with the same goods

and services being illegitimately offered by CMG or its purported licensees. The Monroe Estate also owns numerous trademark registrations based on manifestations of Marilyn Monroe's identity and persona, namely, her name, signature, and image. Moreover, the Monroe Estate and its predecessors have aggressively policed unauthorized uses, thereby creating strong rights in Marilyn Monroe's identity and persona. Monroe's fame coupled with these efforts have led consumers to identify the Monroe Estate's licensed products as a symbol of Monroe's iconic persona and as a brand. CMG's unauthorized activities are likely to confuse consumers as to the Monroe Estate's association, sponsorship, or affiliation. Moreover, in light of the background between the parties, CMG's activities are clearly intentional and meant to trade upon the goodwill associated with the Marilyn Rights held by the Monroe Estate.

In summary, CMG's licensing and use of the Marilyn Rights on or in connection with any products or services, without the Monroe Estate's authorization, constitutes willful false advertising, willful trademark infringement, willful false association under 15 U.S.C. § 1125(a), unfair competition, interference with existing contractual relationships/prospective economic advantage, and breach of the 2011 Settlement Agreement. The remedies which are available to the Monroe Estate for the above-cited conduct include, but are not limited to, an injunction; actual damages; attorneys' fees; treble damages; profits; increased profits; and punitive damages.

To resolve this case short of litigation, CMG must immediately provide written assurances that it will take the following steps:

1. Immediately cease and desist from the licensing, display, promotion, advertisement, marketing, and/or sale of any products or services offered under the name MARILYN MONROE or otherwise infringing the Marilyn Rights and/or anything confusingly similar thereto, including removing all references to Marilyn Monroe from its websites;
2. Within ten (10) business days, provide an accounting of all sales and licensing of all products bearing the Marilyn Rights, which accounting shall include: (a) the gross sales of all products; (b) the number of units sold; (c) the number of units remaining in inventory; and (d) all guarantees and advances against royalties for the licensing of the Marilyn Rights; and
3. Within ten (10) business days, provide contact information for all persons or entities to whom CMG has licensed the Marilyn Rights, throughout the world.

This information must be provided with accompanying documentation such as financial and other business records. Continuing violation of the Monroe Estate's intellectual property rights, in conjunction with CMG's willful past violations, may subject CMG to punitive or additional willful infringement damages.

If written assurances are not received that you will comply with the Monroe Estate's demands by March 16, 2012, we will have no choice but to advise the Monroe Estate to pursue litigation to and seek immediate injunctive relief, as well as compensatory, statutory and punitive damages, attorneys' fees and costs of suit.

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Nothing contained in this letter, nor any act or omission to act by the Monroe Estate is intended or should be deemed to be a waiver, abridgment, alteration, modification or reduction of any rights, claims, defenses or remedies that the Monroe Estate may have in regard to this matter and all such rights, claims, defenses and remedies, whether at law or in equity, are hereby expressly reserved.

Sincerely,



Jill M. Pietrin

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cc: Terri DiPaolo, Esq.
Shannon S. King, Esq.