

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN

A Professional Corporation

Three Embarcadero Center
Seventh Floor
San Francisco, CA 94111-4024
Telephone 415.434.1600
Facsimile 415.217.5910
www.howardrice.com

June 5, 2008

VIA E-MAIL (henrik@hobbitmon.com)

Mr. Henrik Storner
Hobbit Monitor
Raunstrupvej 13
Vanløse, DK 2720

Re: The Hobbit Monitor server monitoring tool
Our Ref.: 12224.0053

Dear Mr. Storner:

We represent The Saul Zaentz Company d/b/a Tolkien Enterprises ("SZC") of Berkeley, California in connection with intellectual property matters. As you may know, SZC is the holder of various exclusive, worldwide motion picture, stage, merchandising, and other rights relating to certain literary works of J.R.R. Tolkien, including the trilogy known as *The Lord of the Rings*, comprising the three books, *The Fellowship of the Ring*, *The Two Towers*, and *The Return of the King*, first published in the mid-1950's, and the related work known as *The Hobbit, or There And Back Again*, first published in 1937 (collectively, the "Tolkien Works"). The Tolkien Works are ranked among the most popular books of all time.

In connection with SZC's rights in the Tolkien Works, SZC is the holder of common law rights and numerous trademark applications and registrations around the world in the titles of the Tolkien Works and the names and visual representations of the fanciful characters, places, items, and events depicted in the Tolkien Works (collectively, the "Tolkien Marks"). The Tolkien Marks include, without limitation, the marks HOBBIT, THE HOBBIT, and HOBBITON.

As you presumably know, each of the Tolkien Works features as a main character a fictional being created by Professor Tolkien called a "Hobbit." You also may know that SZC has promoted the Tolkien Works and the Tolkien Marks around the world since the 1970s. For example, in 1978, SZC released the animated film *J.R.R. Tolkien's The Lord of the Rings*, directed by Ralph Bakshi. SZC also licensed New Line Cinema Corporation's three Academy Award® award-winning *The Lord of the Rings* films, released in December 2001, December 2002, and December 2003. The New Line film trilogy has been one of the most acclaimed and successful film series of all time. In fact, *The Return of the King* is currently ranked second in all-time worldwide box office receipts by the Internet Movie Database, and all three films are

among the top 15 films on that list. New Line recently announced its intention to produce and distribute two more major motion pictures to be based on *The Hobbit*.

For decades, SZC has maintained its own active worldwide merchandising program through which it licenses the Tolkien Marks for use on and in connection with a wide variety of goods and services, including computer games and software, role-playing games, giftware, and more. SZC has operated this program both to complement to the various film and stage adaptations of the Tolkien Works, and as a distinct enterprise.

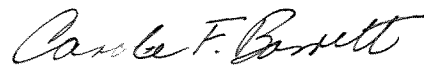
It has recently come to our attention that you have developed what appears to be a server monitoring tool named "Hobbit" or "Hobbit Monitor" which is described and accessible at a website registered under your name: www.hobbitmon.com. Naturally, our client is concerned about your use of its HOBBIT mark without permission.

SZC understands that you may have chosen to name your project "Hobbit" or "Hobbit Monitor" out of a deep appreciation for the Tolkien Works. Obviously, our client shares that appreciation. Accordingly, it is our client's preference to resolve this matter amicably. To that end, we would appreciate it if you would clarify the nature and scope of your project and your proposed use of the HOBBIT mark:

- Is the "Hobbit" or "Hobbit Monitor" server monitoring tool offered as a commercial good or service?
- Do you intend to commercialize the "Hobbit" or "Hobbit Monitor" server monitoring tool in the future?
- Do you intend to expand the scope of the "Hobbit" or "Hobbit Monitor" project? And, if so, in what manner?
- Do you, or does anyone else, receive payment of any kind in connection with the "Hobbit" or "Hobbit Monitor" server monitoring tool?
- Do you have any other projects planned, in development, or operating that use any of the Tolkien Marks or otherwise evoke the mythos of the Tolkien Works?

I would appreciate a reply from you within the next several weeks.

Very truly yours,



Carole F. Barrett