

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

July 25, 2008

VIA E-MAIL (henrik@hobbitmon.com)

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

Re: The Hobbit Monitor server monitoring tool
Our Ref.: 12224.0053.F.170

Dear Mr. Størner:

Thank you for your letter dated June 17, 2008, and for your responses to the questions posed in our letter dated June 5, 2008. As you know, we represent The Saul Zaentz Company d/b/a Tolkien Enterprises (“SZC”), which holds 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* and the related work known as *The Hobbit* (the “Tolkien Works”). We write to follow up on our prior communications regarding the “Hobbit Monitor” software that you developed and made available under an Open Source license (the “Software”).

You indicated in your letter that, to your knowledge, the “Hobbit Monitor” is not offered as a commercial product or service, but that you do not have sufficient control over the Software to make a definitive statement in that regard. You further indicated your inclination to find a mutually acceptable resolution to our client’s concern over your use of the HOBBIT mark in connection with the Software, but observed that a name change for the Software would represent a substantial burden for you.

We appreciate that in the Open Source context a developer does not maintain complete control over the manner in which his software is used by others. Under the circumstances, we agree that implementing a change in the name of the currently available version of the Software would be difficult to the extent it has already been distributed to users and other developers. We do, however, request that, should you develop and make available a new program, or a substantially new version or release of the Software, you do so under a different name, or with modifications to the existing name that effectively eliminate the likelihood that developers and consumers will associate the Software with SZC’s products and services. In that vein, our client


Mr. Henrik Størner

July 25, 2008

Page 2

would not object to the acronym usage you reference in your June 17, 2008 letter if the final letter "t" were removed (the "HOBBI Monitor") or if it was consistently displayed with periods separating the letters (the "H.O.B.B.I.T. Monitor"). SZC would be willing to consider other proposed solutions, provided they are sent to my attention with sufficient advance notice of any new program or release of the Software.

Very truly yours,

A handwritten signature in cursive script that reads "Carole F. Barrett".

Carole F. Barrett