

GOLDBERG KOHN LTD.

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For Settlement Purposes Only – Fed. R. Evid. 408

September 23, 2019

*via email and United States mail to JEG@manningllp.com*

James E. Gibbons  
Manning & Kass  
Ellrod, Ramirez, Tester LLP  
801 Figueroa Street  
15th Floor  
Los Angeles, CA 90017

Re: Billy Mitchell

Dear Mr. Gibbons:

I write on behalf of Guinness World Records Limited ("GWR") in response to your letter of September 9, 2019. GWR categorically denies having done anything that would give rise to a case of defamation by Billy Mitchell. Mr. Mitchell is a public figure, and even if GWR had made any false statement about your client that injured him, which it has not done, the United States Supreme Court has clearly ruled that in order to establish GWR's liability for defamation your client must prove that it acted with actual malice when it made such statements. This is a high bar which your client simply cannot meet.

Although your client's claims are wholly without merit, my client is nonetheless willing to resolve this matter without resort to litigation as follows:

First, with respect to Donkey Kong, GWR's recognition of Mr. Mitchell's Donkey Kong records was based on verification by Twin Galaxies, as you are well aware. Twin Galaxies later revoked the records, and they remain revoked at present. Mr. Mitchell is welcome to apply to GWR for a recognition of a record achievement in Donkey Kong play, either through using evidence of his past games, or based on a new attempt. In the interest of amicably resolving his claims against GWR, it will agree to send an adjudicator to judge any new attempt at a mutually agreeable place and time. If GWR accepts either the historical evidence or the new attempt as establishing a record, GWR will announce the achievement on its website at [www.guinnessworldrecords.com](http://www.guinnessworldrecords.com).

Second, with respect to PAC-Man, as you also know, Twin Galaxies did not verify Mr. Mitchell's Pac-Man records, and therefore the records do not rest on its authentication, but instead on that of Mr. Walter Day. These records should therefore have been unaffected by the

action taken by Twin Galaxies with respect to the Donkey Kong records, and GWR agrees to reinstate the records for 'First Perfect Score on PAC-Man' and 'Highest Score on PAC-Man' and to announce the reinstatement on the GWR website.

Restoration of the two PAC-Man records is on the strict condition that the existence and terms of this proposal remain confidential until such time as GWR issues the announcement about the restoration of the records. In other words, neither your client nor anyone acting on his behalf may release any statement in any medium in advance of GWR's announcement on its website.

Your written confirmation of your client's acceptance of these terms is required no later than October 4, 2019. Upon your client's acceptance of the above, we will prepare a written agreement formalizing these terms and confirming that your client releases GWR from any and all claims he purports to have against it. If I do not receive your confirmation by that date, this offer will be revoked. If we are unable to achieve a consensual resolution, GWR will vigorously defend against your client's baseless defamation claim in court. GWR hereby expressly reserves all of its legal and equitable defenses and remedies in connection with your client's claims and actions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marsha K. Hoover', with a long horizontal flourish extending to the right.

Marsha K. Hoover

copy via email: Raymond Marshall