

ESTTA Tracking number: **ESTTA1101221**

Filing date: **12/11/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Mattel, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	333 CONTINENTAL BLVD. EL SEGUNDO, CA 90245 UNITED STATES		
Attorney information	JILL M. PIETRINI, ESQ. SHEPPARD MULLIN RICHTER & HAMPTON LLP 1901 AVENUE OF THE STARS, SUITE 1600 LOS ANGELES, CA 90067 UNITED STATES Primary Email: trademarkscc@sheppardmullin.com Secondary Email(s): jpietrini@smrh.com , pbost@smrh.com , baig-boboh@smrh.com , shwang@smrh.com , mdanner@smrh.com , rHUDSON@sheppardmullin.com , LGlenn@sheppardmullin.com , rwalsh@smrh.com , baanderson@sheppardmullin.com 310-228-3700		
Docket Number	0PX7-317535		

Registration Subject to Cancellation

Registration No.	4868832	Registration date	12/15/2015
International Registration No.	NONE	International Registration Date	NONE
Registrant	emoji company GmbH NECKLENBROICHER STRASSE 52-54 40667 MEERBUSCH FED REP GERMANY		

Goods/Services Subject to Cancellation

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Non-medicated toiletries; shampoos for pets; shampoos; soaps; shoe polish; laundry preparations, namely, laundry bleach, laundry soap, laundry detergent; beauty masks; make-up; oils for toilet purposes, namely, baby oil, bath oils, body oils; make-up preparations; powder for make-up; oils for perfumes and scents; perfumery; perfumes; lipsticks; false nails; false eyelashes; dry shampoos; cosmetics; cosmetic pencils; cosmetics, namely, skin creams; cosmetics, namely non-medicated skin-care preparations; henna, namely, cosmetic dye; hairspray; shampoo; hair lotions; depilatory preparations; depilatory wax; scale removing preparations for household purposes; scented linen water; javelle water, namely, liquid soaps; deodorants for human beings and for animals; bath salts, not for medical purposes; cosmetic preparations for baths; toiletries, namely, antiperspirants; eyebrow pencils; eyebrow cosmetics;

breath freshening strips; breath freshening sprays; essential oils; decorative transfers for cosmetic purposes; aftershave; cleaning preparations; dentifrices; teeth whitening gels; polishing wax; shoe wax

Class 016. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Folders for papers; document files; photo, sticker, coin albums; stickers; paper mats for beer glasses; erasing products, namely, blackboard erasers, erasers, rubber erasers; postage stamps; writing paper; sealing stamps; inking pads; marker pens; note books; stencils; office requisites, namely, card, document, letterfiles; towels of paper; stationery, namely, legal, memo, writing pads; greetings cards; postcards; handkerchiefs of paper; toilet paper; table covers of paper; conical paper bags; pen cases; stationery document portfolios; bags, envelopes and pouches of paper or plastics, for packaging; passport covers; bookbinding material; books in the field of coloring books, activity books, learning books; bookbindings; rubber erasers; drafting instruments, namely, erasing shields; newspapers; graphic prints; drawing pads; wrapping paper; table napkins of paper; stationery, namely, paper, plastic transparencies; packaging material of cardboard, namely, cardboard boxes, cardboard containers, cardboard mailing tubes; self-adhesive tapes for stationery or household purposes; writing implements; writing and drawing books, namely, blank writing journals, writing pads, drawing pads; writing cases, namely, stationery cases; writing materials, namely, writing implements, writing paper, writing instruments; signboards of paper or cardboard; shields, namely, paper seals; musical greetings cards; luminous paper; bibs of paper; calendars; stationery envelopes; blank handbooks for use as journals; elastic bands for offices; gummed tape for stationery use; graphic representations; graphic art reproductions; office requisites, namely, correcting fluids for type; plastic film for wrapping; forms, printed; prints, namely, photographs; pictures, namely, paintings, framed or unframed; figurines, namely, statuettes of papier mâché; bottle wrappers of cardboard or paper; filter paper; chromolithographs, namely, chromos; flags of paper; stationery, namely, book, document covers; printed matter, namely, printed awards, printed art reproductions, printed charts; comics; office requisites, namely, cabinets for stationery in the nature of desk top stationery cabinets, desk mounted stationery cabinets; banknote clips, namely, money clips; address stamps; tracing paper; drawer liners of paper, perfumed or not; stationery stickers; writing tablets; notepads; stationery school supplies, namely, paper, construction paper, notebooks; printed tickets; cardboard; colourboard, namely, coloured paperboard

Class 017. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Rings of rubber for use as pipe connection seals; rubber, raw or semi-worked; rubber door stops; bags, envelopes and pouches of rubber, for packaging; plastics, semi-processed; self-adhesive tapes, other than for medical purposes, for stationery or for household purposes, namely, self adhesive tape for industrial and commercial use, duct tape, drywall joint tape

Class 018. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Pocket wallets; bags, namely, envelopes and pouches of leather, for packaging; sports bags; parasols; rucksacks; trunks; collars for animals; purses; imitation leather; credit card cases, namely, wallets; saddle cloths for horses; card cases, namely, wallets; suitcases; handbags; net bags for shopping, namely, mesh shopping bags; shopping bags, namely, reusable shopping bags, textile shopping bags, wheeled shopping bags; school bags; school satchels; athletic bags, duffle bags, travel bags; key cases; shoulder belts, namely, straps of leather; shoulder, leather straps for skates; boxes of leather or leather board; slings for carrying infants; sling bags for carrying babies; beach bags

Class 021. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Clothes pegs; fabric cleansing wipes, namely, fabric clean room wipes; lunch boxes; powder compacts; paper plates; coolbags, namely, insulated bags for food or beverage for domestic use, thermal insulated bags for food or beverages; cups of paper or plastic; saucers; flasks; biscuit tins; combs; perfume vaporizers sold empty; toothbrushes; toothpicks; toothbrushes, electric; containers of glass for household use; glass bowls; glass receptacles, namely, glass basins, drinking glasses, glass dishes; painted glassware, namely, painted beverage glassware, painted glass dishes; kitchen utensils, namely, pudding, cookie, cake moulds; ice cube moulds; bottles, sold empty; disposable table plates; buckets; bread bins; bread baskets, domestic; bread boards; frying pans; mugs; drinking glasses; drinking straws; drinking bottles for sports; drinking vessels; non-electric portable coolboxes, namely, non-electric portable coolers; pot lids; pots; toilet sponges; toilet roll holders; salt and pepper shakers; cake moulds; towel holders, namely, countertop holders for paper towels, towel bars, towel rings, towel rails; toilet

utensils, namely, toilet brushes, toilet paper dispensers, toilet brush holders; plates; tableware, namely, plates, bowls, dishes, coffee services; trays for household purposes; bowls, namely, basins; biscuit cutters; kitchen and household receptacles, namely, bowls, containers for household or kitchen use; sponges for household purposes

Class 022. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Bags, namely, envelopes and pouches of textile, for packaging; hammocks; straw for stuffing upholstery; ropes; sails for ski sailing; harness, not of metal, for handling loads, namely, non-metal slings for loading, nylon straps for handling loads, belts, not of metal, for handling loads; sails; mail bags; awnings, tarpaulins; commercial, camouflage, fishingnets; outdoor blinds of textile

Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Trousers, namely, leggings; underclothing; underwear; T-shirts; ski gloves; socks; scarves; leather clothing, namely, leather pants, leather skirts, leather jackets; bibs, not of paper; paper hats for use as clothing items; headgear, namely, caps; overalls; morning robes; clothing, namely, ear muffs; ties; cravats; headgear, namely, hats, caps, berets; clothing, namely, jerseys; jackets; hats; knitwear clothing, namely, knit bottoms, knit tops, knit jackets; aprons; clothingaprons; clothing hoods; braces; shirts;undergarments, namely, slips; clothing gloves; gymnastic clothing, namely, tights, leotards; gymnastic shoes; half-boots; neckerchiefs; clothing belts; clothing, namely, money belts; galoshes; spats;football boots; soles for footwear; clothing wristbands; sweat-absorbent underclothing, namely, underwear; carnival costumes, namely, costumes for use in the amusement industry, masquerade costumes, halloween costumes; inner soles; dress handkerchiefs, namely, dress shields; shower caps; headgear, namely, anti-glare visors; bras; boxer shorts; bathing caps;ladies' dresses; knickers; women's briefs; undergarments, namely, teddies; necklets, namely, boas; briefs; sports jerseys; sports shoes; sports vests; paper clothing, namely, paper aprons, paper hatsfor use as clothing items; clothing, namely, shirts, pants, jackets; motorists'clothing, namely, motorcycle jackets, motorcycle rain suits; clothing made fromimitations of leather, namely, imitation leather tops, imitation leather bottoms, imitation leather jackets; coats; pelisses; berets; layettes for clothing; babies' pants; swimsuits; bathrobes; bath slippers; bath sandals; suits; parkas; pockets for clothing; uniforms; waist-coats; sweaters; tights; stocking suspenders; stockings; beach shoes; beach clothes,namely, beach coverups, beachwear; boots; esparto shoes and sandals; clothing, namely, headbands; swimming shorts

Class 026. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Sewing thimbles; snap fasteners; heat adhesive patches for repairing textile articles; ornamental novelty badges; spangles for clothing; mica spangles; belt clasps; hair ornaments; hair bands; artificial garlands; brooches for clothing; shoe laces; buckles for clothing; zippers;artificial beads, other than for makingjewellery; elastic ribbons; ornamental novelty badges for wear, not of preciousmetal; buttons; hair bands; trouser clips for cyclists

Class 027. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Gymnastic mats; door mats; floor coverings of vinyl; floor coverings; bath mats; floor mats for cars; floor, beach, rubber mats; gymnastic mats; carpets

Class 029. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Potato crisps; fruit jellies; fruit pulp; fruit salads; candied, dehydrated fruit snacks; fruit chips; fruit preserved in alcohol; cheese; curd; soya milk; tofu; raisins; nuts, prepared; whey; milk products excluding ice cream, ice milk and frozen yogurt; milk shakes; milk; marmalade; margarine; jams; compotes; condensed milk; yoghurt; eggs; jellies for food; quark, namely, curd

Class 030. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Confectionery, namely, frozen confectionery, fondants, crystal sugar pieces; rusks; pasta; chocolate; chocolate mousses; puddings; popcorn; pizzas; pancakes; muesli; marzipan; almond confectionery, namely, almond cake, almond paste, sugar-coated almonds; liquorice, confectionery; stick liquorice, confectionery; pastry; ice; biscuits; ketchup; frozen yoghurt, namely, confectionery ices; cakes; honey; semolina; groats for human food, namely, processed grains; cereal flakes, namely, breakfast cereals, processed cereals; cereal bars; pastries; royal jelly for food purposes; confectionery fruit jellies, namely, fruit jelly candy; confectionery fondants; iced tea; ice cream; cheeseburger sandwiches; bread; sweets; confectionery,

namely, pastilles; confectionery for decorating Christmas trees; waffles; sugar; tarts; dough; tea; ices; rice cakes; rice-based snack food; ice, natural or artificial; ravioli; popcorn; petits fours cakes; high-protein cerealbars; oat-based food, namely, crushed oats, oatmeal, rolled oats; pasta; pastameals, namely, pasta salad, prepared pasta; cocoa beverages with milk; coffee beverages with milk; maize flakes; gingerbread; mayonnaise; crackers; chewing gum; cocoa-based beverages; caramels; candy; coffee-based beverages; artificial coffee; cereal snacks, namely, cereal-based snack foods; confectionery, namely, dessert mousses; brioche

Class 032. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Pastilles for effervescing beverages, namely, powders for making soft drinks; powders for making effervescing beverages; beverages, namely, drinking, bottled, mineral, aerated waters; tomato juice beverages; table waters; sorbets in the form of beverages; soda water; smoothies; syrups for beverages; seltzer water; preparations for making beverages, namely, fruit drinks; whey beverages; malt beer; lemonades; syrups for making lemonade; aerated water; beverages, namely, vegetable juices; fruit juices; non-alcoholic fruit nectars; isotonic beverages; cocktails, non-alcoholic; beer; aloe vera drinks, non-alcoholic; aperitifs, non-alcoholic; non-alcoholic honey-based beverages; non-alcoholic fruit juice beverages; non-alcoholic beverages, namely, fruit juices and fruit drinks; essences for making non-alcoholic beverages

Grounds for Cancellation

The mark is merely descriptive	Trademark Act Sections 14(1) and 2(e)(1)
Abandonment	Trademark Act Section 14(3)
Failure to function as a mark	Trademark Act Sections 14(1) and 1,2 and 45
The mark is not inherently distinctive and has not acquired distinctiveness	Trademark Act Sections 14(1) and 1,2 and 45; and Section 2(f)
Other	Registrant did not have a bona fide intent to use the mark in the U.S. at the time the application was filed or any time thereafter

Related Proceedings	91264338, 92074645
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Attachments	Petition to Cancel EMOJI in 12 Classes - Mattel v. Emoji Company GmbH .pdf(17956 bytes) Exhibit A to Petition for Cancellation.pdf(349805 bytes)
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Signature	/Jill M. Pietrini/
Name	Jill M. Pietrini, Esq.
Date	12/11/2020

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<p><i>In re Registration No. 4,868,832 for the trademark EMOJI in Classes 3, 16, 17, 18, 21, 22, 25, 26, 27, 29, 30 and 32</i></p> <p>Mattel, Inc.,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>emoji company GmbH,</p> <p style="text-align: center;">Registrant.</p>	<p>Cancellation No. _____</p> <p>PETITION FOR CANCELLATION</p>
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Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Commissioner:

Petitioner, Mattel, Inc., a Delaware corporation, having its principal place of business at 333 Continental Blvd., El Segundo, CA 90245 (“Mattel”), believes that it will be damaged by the trademark shown in Reg. No. 4,868,832 of EMOJI in Classes 3, 16, 17, 18, 21, 22, 25, 26, 27, 29, 30, and 32 (the “Registration”), and hereby petitions to cancel the Registration on the following grounds:

BACKGROUND AND MATTEL’S ALLEGATIONS

A. Mattel and its UNO EMOJI Trademark

1. Mattel is an American multinational toy and consumer products company founded in 1945. Mattel, through its family of companies, is a world leader in the design, manufacture and marketing of toys, games, playthings, entertainment, clothing, and various consumer products. Mattel’s portfolio of consumer brands includes American Girl®, Barbie®, Fisher-

Price[®], Hot Wheels[®], and many others. Mattel has a presence in more than 35 countries and territories, and sells products in more than 100 nations.

2. On April 18, 2016, Mattel filed an application to register UNO EMOJI for “Card games and accessories therefor” in Class 28, which was assigned Serial No. 87/005,050.

3. Mattel disclaimed the exclusive right to use EMOJI apart from UNO EMOJI as shown.

4. On April 21, 2020, Mattel’s application to register UNO EMOJI was published for opposition.

B. Registrant’s Assertion of its Alleged Rights in EMOJI Against Mattel

5. On April 29, 2020, Registrant filed a 90-day extension of time to oppose Mattel’s application to register UNO EMOJI.

6. On or around May 29, 2020, Registrant sent Mattel a letter. In the letter, Registrant alleges that it “is the sole and legitimate owner of the trademark “emoji[®]”. [Registrant] company owns almost 1,000 trademarks and trademark applications for the designation emoji [®], standalone and with other word and/or figurative elements in nearly any and all relevant jurisdictions of the world including (but not limited to) the U.S. ...” Based on these rights, Registrant alleges that Mattel’s use of UNO EMOJI infringes Registrant’s purported rights in the EMOJI mark and demands that it cease use of the mark or take a license. A true and correct copy of this letter is attached hereto as **Exhibit A**.

7. On August 19, 2020, Registrant filed a notice of opposition to Mattel’s application to register UNO EMOJI, which case was assigned Opposition No. 91-264338.

**FIRST BASIS FOR CANCELLATION
(Abandonment)**

8. Mattel incorporates by reference the allegations contained in Paragraphs 1 to 7 herein.

9. On information and belief, Registrant has never used or is not currently using the EMOJI mark for the goods and services identified in the Registration in the United States.

10. On information and belief, if Registrant has used the EMOJI mark, it does not intend to resume use of the EMOJI mark for the goods and services listed in the Registration within the reasonably foreseeable future.

11. On information and belief, Registrant has not used the EMOJI mark for the goods or services listed in the Registration in the United States for more than three consecutive years, thereby demonstrating a *prima facie* case of abandonment under 15 U.S.C. § 1127.

SECOND BASIS FOR CANCELLATION
(Failure to Function as a Mark)

12. Mattel incorporates by reference the allegations contained in Paragraphs 1 to 11 herein.

13. Registrant's EMOJI mark, if used on or in connection with the goods and services identified in the Registration, is not perceived by the relevant public as identifying Registrant's goods and services from those manufactured or sold by others and to indicate the source of the goods and services, even if that source is unknown.

14. "Emoji" is a common term used in an informational and/or ornamental manner on a variety of goods and services offered by third parties that does not function as a trademark or service mark to indicate the source of goods or services and to identify or distinguish them from others. Consumers are accustomed to seeing "Emoji" from multiple sources, and they perceive the word as used on these goods and services as conveying information regarding the content, nature, or quality of the goods and services. The Office has registered at least eleven trademarks on the Principal Registrar with the word EMOJI disclaimed, and registered at least fourteen trademarks with the word EMOJI on the Supplemental Register. These twenty-five trademarks containing the word EMOJI are not owned by Registrant.

15. Registrant's alleged EMOJI trademark does not function as a trademark and is therefore not registrable or protectable under 15 U.S.C. §1127 and other sections of the Lanham Act.

**THIRD BASIS FOR CANCELLATION
(Descriptiveness)**

16. Mattel incorporates by reference the allegations contained in Paragraphs 1 to 15 herein.

17. On information and belief, Registrant's alleged EMOJI trademark, when used on or in connection with the goods and services identified in the Registration, is merely descriptive of said goods or services. Specifically, each of the goods or services at issue depict or feature emoji, that is, "any of various small images, symbols, or icons used in text fields in electronic communication (as in text messages, e-mail, and social media) to express the emotional attitude of the writer, convey information succinctly, communicate a message playfully without using words, etc." Definition of "Emoji", Merriam-Webster.com, July 6, 2020, <https://www.merriam-webster.com/dictionary/emoji>.

18. Registrant's alleged EMOJI trademark is descriptive without secondary meaning and is therefore not registrable or protectable under 15 U.S.C. §1052(e).

**FOURTH BASIS FOR CANCELLATION
(Lack of Bona Fide Intent to Use)**

19. Mattel incorporates by reference the allegations contained in Paragraphs 1 to 16 herein.

20. On information and belief, Registrant did not have a bona fide intent to use the mark shown in the Registration at the time of filing the application that resulted in the Registration in the United States or at any relevant time thereafter.

21. As a result of having no bona fide intent to use at the time of filing or any relevant time thereafter for any of the goods and services identified therein, the Registration is void ab initio under 15 U.S.C. §1051(b).

* * *

22. Mattel is damaged by the continued registration of the mark shown in the

Registration, in that such Registration gives Registrant a *prima facie* exclusive right to the use of “Emoji” for the goods and services identified in the Registration throughout the United States, despite the fact that the mark has been abandoned, fails to function as a trademark, and/or is descriptive, and Registrant did not have the requisite bona fide intent to use the mark in the United States at the time of filing or any relevant time thereafter. Registrant is wrongfully attempting to leverage its alleged broad rights in the “Emoji trademarks” against Mattel’s use of the term as well as the registration of any mark that contains the term EMOJI.

23. Mattel therefore petitions to cancel the Registration under Section 14 of the Lanham Act, 15 U.S.C. § 1064.

WHEREFORE, Mattel prays that Reg. No. 4,868,832 issued on December 15, 2015 be canceled. Please charge the required fee of \$4,800 for this Petition to Cancel to Deposit Account No. 50-4561.

Respectfully submitted,

SHEPPARD MULLIN RICHTER & HAMPTON LLP

Dated: December 11, 2020

/Jill M. Pietrini/
Jill M. Pietrini
Paul A. Bost
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
(310) 228-3700
Attorneys for Petitioner Mattel, Inc.

CERTIFICATE OF E-FILING

I hereby certify that this **PETITION FOR CANCELLATION** is being transmitted electronically to Commissioner of Trademarks, Attn: Trademark Trial and Appeal Board through ESTTA pursuant to 37 C.F.R. §2.195(a), on this 11th day of December, 2020.

/Robert Walsh/
Robert Walsh

SMRH:4823-8084-4499.1

Exhibit A



emoji company GmbH
Hamburg, Germany
Satzungssitz:
Mittelweg 125c
20148 Hamburg
Germany

Zweigniederlassung:
Necklenbroicher Straße 52-54
40667 Meerbusch
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✉ licensing@emoji-company.com
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emoji company GmbH Necklenbroicher Straße 52-54 D-40667 Meerbusch

Michael Moore
MATTEL, Inc.
333 Continental Boulevard
M1-1518

El Segundo, CA 90245

United States

By email only
Email:

Infringement of the registered emoji® trademark
Deadline to React: 12 June 2020

Dear Sir or Madam,

In this unprecedented time, I sincerely hope this email finds you well.
Please let me introduce ourselves to you.

We are the emoji company GmbH - “emoji company” -, a well-known and established international licensing company, owner of the globally awarded **emoji®** brand with more than 900 global licensing partnerships, operating DTR programs across the globe with leading retailers such as Walmart or Lidl and owner of the “emoji” trademark (for more information please see www.emoji.com).

The reason for contacting you personally today is that we became recently aware that Mattel, Inc. has filed for a trademark application for the mark UNO EMOJI with the USPTO under Serial No. 87005050 and that said application has been published by the USPTO. We have instructed our attorney to file extension to oppose said trademark. The deadline to file opposition against the captioned trademark has been extended until **August 19, 2020**.

emoji company GmbH
Geschäftsführer: Marco Hüsches
USt-IdNr. / VAT: DE296964490
HRB 145161
Amtsgericht Hamburg

IBAN:
DE 80 3055 0000 0093 472 751
BIC: WELADEDNXXX
Bank: Sparkasse Neuss

Upon further investigation we have become aware that Mattel is using the trademark UNO EMOJI™ for a card game. The use of our federally registered trademark EMOJI in a style and size that is particularly larger than the term UNO and using the indication ™ behind the combined mark UNO EMOJI ™ on card games infringes our federally registered trademarks.

Moreover, Mattel, Inc. is also offering the infringing card game outside of the United States and therefore also violates emoji company's rights in its registered trademark **emoji** ® in those territories, in particular but not limited to the European Union.

emoji company is the sole and legitimate owner of the trademark "emoji®". emoji company owns almost 1,000 trademarks and trademark applications for the designation emoji ®, standalone and with other word and / or figurative elements in nearly any and all relevant jurisdictions of the world including (but not limited to) the U.S., Canada, Europe, China, Japan, South Korea, Australia, Russia, Mexico, Brazil, Turkey, Colombia, Argentina and many other countries across the world.

Please let us be clear from the outset that we reject any argument according to which our trademark shall supposedly be descriptive as clearly misconceived and stress that our trademarks are distinctive, valid and enforceable.

Our trademarks are registered all over the world. They have been examined hundreds of times by the relevant trademark offices in the course of the registration processes. And in all those various countries and trademark systems, the "emoji" trademarks have been found to be distinctive and therefore registrable. Beyond that the trademark has been enforced in opposition and court proceedings where equally the competent authorities have confirmed the trademark's distinctiveness.

Furthermore, we have extensive survey evidence, undertaken by renowned expert surveyors, which confirms and proves beyond doubt that the average consumer conceives the trademark "emoji" arbitrary and not descriptive.

To the questions at hand it is without any relevance that the Oxford dictionary or any other dictionary for that matter might define the term "emoji" as a *digital* image used in *electronic communication*. Mattel's card games are neither digital nor do they concern electronic communication.

With regard to Mattel's use of "emoji" we are therefore clearly facing an infringement of our exclusive trademark rights.

For various territories including the EU and the USA the emoji ® mark has been registered for various goods and services, in particular emoji company is the owner of Registration Nos:

Country	Registration No	Trademark	Classes
USA	5700040	emoji	28
USA	5778247	emoji	28
USA	5343650	emoji	9, 14, 20, 24, 28
Canada	TMA943604	emoji	3, 6, 8, 9, 14, 16, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32, 33, 38, 41, 45
Canada	1970657	emoji	1, 2, 3, 4, 6, 7, 9, 13, 15, 17, 19, 23, 28, 29,

			30, 32, 37, 39, 40, 41, 42, 44
EU	017943017	emoji	28
EU	017941993	emoji	28
EU	013098348	emoji	28
EU	016665341	emoji THE ICONIC BRAND	3, 10, 11, 12, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 41
EU	017989050	emoji THE ICONIC BRAND	28
EU	016761983	emoji 1	3, 14, 16, 18, 24, 25, 28, 29, 30, 32
Switzerland	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Switzerland	1220980	emoji	28, 38, 41, 45
Argentina	2843539	emoji	28
Australia	1702972	emoji	28, 38, 41, 45
Australia	1689321	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Bosnia & Herzegovina	1220980	emoji	28, 38, 41, 45
Bosnia & Herzegovina	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Brazil	908645759	emoji	28
Costa Rica	264512	emoji	16, 25, 28, 30
China	1220980	emoji	28, 38, 41, 45
China	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Colombia	16-22379	emoji	16, 18, 20, 24, 25, 28, 30
Egypt	1220980	emoji	28, 38, 41, 45
Egypt	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
El Salvador	2017160041	emoji	3, 9, 16, 18, 21, 24, 25, 28, 29, 30, 32, 41
Guatemala	2017-003532	emoji	28
Honduras	150964	emoji	28
Hong Kong	303383442AB	emoji	3, 14, 24, 28, 30, 32
India	1220980	emoji	28, 38, 41, 45
India	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Indonesia	IDM000620748	emoji	28
Iran	1220980	emoji	28, 38, 41, 45
Iran	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Japan	1220980	emoji	28, 38, 41, 45
Japan	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32

Mexico	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Mexico	1220980	emoji	28, 38, 41, 45
Mexico	1464084	emoji	3, 9, 14, 16, 18, 21, 24, 25, 28, 29, 30, 32, 35, 41
Morocco	1220980	emoji	28, 38, 41, 45
Morocco	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
New Zealand	1233267	emoji	9, 14, 16, 18, 20, 24, 28, 30, 32
Norway	288180	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
OAPI	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Panama	10683	emoji	3, 9, 11, 14, 16, 18, 20, 24, 25, 26, 28, 30, 32, 41
Paraguay	1773221	emoji	28
Peru	16052	emoji	3, 9, 11, 14, 16, 18, 20, 24, 25, 26, 28, 30, 41
Chile	1263235	emoji	28
Philippines	1233267	emoji	3, 9, 16, 18, 21, 24, 28, 29, 30, 32
South Korea	1220980	emoji	28, 38, 41, 45
South Korea	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Russia	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Russia	1220980	emoji	28, 38, 41, 45
Serbia	1220980	emoji	28, 38, 41, 45
Serbia	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32
Singapore	1233267	emoji	3, 9, 16, 21, 24, 28, 29, 32
South Africa	2015/21763	emoji	28
Taiwan	01766256	emoji	3, 14, 16, 18, 24, 25, 28, 30, 32
Thailand	170113382	emoji	28
Thailand	1233267	emoji	9, 25, 28
Turkey	1219755	emoji	3, 14, 16, 18, 24, 25, 27, 28, 29, 30, 32, 33, 34
Turkey	12209800	emoji	28, 38, 41, 45
Turkey	1233267	emoji	3, 9, 14, 16, 17, 18, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32

Ukraine	1233267	emoji	3, 16, 18, 20, 24, 25, 28, 29, 30, 32
United Arab Emirates	268098	emoji	28
Uruguay	484218	emoji	28
Vietnam	1233267	emoji	3, 9, 16, 18, 21, 24, 25, 28, 29, 30, 32

The emoji ® marks are in full force and effect. The above registrations can be verified via the search tools of TMView.

emoji company has been selling and licensing its “emoji”-Portfolio in connection with these goods and services through an international network of renowned agents and dealers in the U.S. and more than 130 other countries for many years. Companies such as The Hershey’s Company, Ferrero (globally for KinderJoy and Nutella), Danone, Nestlé, Dole, Finsbury, Kellogg’s, Bimbo, Ragolds, Pepsico, license both, emoji® brand icons specifically developed by emoji company for the licensing market and the emoji® brand, to promote their respective products in advertising. Official emoji® products are being sold in more than 130 countries by more than 900 global corporations. These include firms such as Sony Pictures Animation Inc. (“The Emoji Movie”), Zara, Walmart (DTR), C&A, Nikon, Fuji, Random House, Universal Music, The Swiss Post amongst many others, amounting to sales in excess of \$ 500 million in 2017 and more than \$ 800 million in 2018 and 2019.

Accordingly, the emoji® brand has been voted on position 3 of the Most Influential Brands in the Power List of the licensing industry magazine directly behind Lego and Coca-Cola.

More recently, emoji company has granted Sony Pictures Animation a trademark license for its extensive merchandising business associated with “The Emoji Movie”. The entire merchandise is labeled and used under a trademark license of the emoji company. Quite obviously, the animated movie “The Emoji Movie” brought a particularly huge media response.

Our success did not come by chance, but is a result of tireless work on literally all continents and years of consistent product and brand building. In particular, we are proud of looking back on a very constructive, successful and long-lasting partnership with leading retailers all over the world.

As a result of the use of the emoji ® mark in connection with high quality goods and services, the mark has become widely known and famous, is closely identified with emoji company, and represents substantial, valuable goodwill.

Since we devoted very substantial time, money and effort in developing the global reputation of the emoji ® trademarks, you will certainly appreciate that we are sensitive to any third party uses of designations which could lead to consumer confusion as to the source or sponsorship of particular products or services, or which could negatively impact the trademark significance of the emoji ® trademarks.

emoji company consistently enforces its trademark rights against infringers through all appropriate legal means. However, under the circumstances, emoji company is prepared to try to resolve this matter amicably provided that Mattel cooperates fully with emoji company and establishes to emoji company's satisfaction that this was a one-time error of judgment on Mattel’s part and not a systematic effort to profit from or devalue emoji company's intellectual property. Given that we have filed an extension to oppose Mattel’s trademark application that

will expire on **August 19, 2020**, we would appreciate if you give this matter your immediate attention.

We have come to notice that as part of its card game “UNO”, Mattel is licensing in third party IP rights, as for example UNO Wellie Wishers, UNO DC Super Hero Girls, UNO Cars, UNO Despicable Me, UNO Fast & Furious, UNO Justice League, UNO Dory, UNO Super Mario Bros., UNO Batman vs. Superman, UNO Teenage Mutant Ninja Turtles, etc. We, therefore, rest on the assumption that Mattel does respect third party IP rights.

Hence, emoji company proposes to enter into negotiations of terms regarding Mattel’s continued use of emoji company’s IP rights under a license agreement that reflects fair industry standards.

We therefore respectfully request your response by

Thursday, June 12, 2020, 3:00 p.m. Central European Time

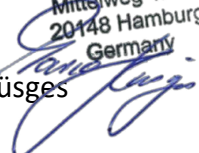
whether you are willing to pursue this cooperative approach and, if so, who shall be our contact for the details.

We would be pleased if we could resolve this matter quickly and amicably.

emoji company expressly reserves all of its legal and equitable rights and remedies, though, including the right to seek injunctive relief and recover monetary damages. Quite obviously, nothing in this letter shall be considered as a waiver of any rights and/or claims of emoji company and/or its agents and/or its licensees. Furthermore, this letter is not intended to give an exhaustive recitation of our and/or our agents’ and/or licensees’ rights. Therefore, we expressly reserve any rights and claims under both law and equity including, in particular, but not limited to claims for damages and penalties as well as the right to take further legal action without any further notice.

We are happy to hear back from you and seek to find a fast and amicable solution to this matter anticipating that Mattel who is expecting themselves that third parties respect its IP rights understands this industry well and does continue honor trademark rights of third parties.

Best regards,

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Marco Hüsges
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