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March 23, 2000

## VIA EXPRESS MAIL

Mr. Peter Sachs  
76 Hawley Avenue  
Milford, CT 06460

Re: www.savinsucks.com

Dear Mr. Sachs:

We are writing this letter on behalf of our client, Savin Corporation (“Savin”). As explained in our previous communication to you, Savin is the owner of the well-known mark SAVIN and has registered that mark with the United States Patent & Trademark Office. Currently, Savin holds four valid and subsisting registrations (Reg. Nos. 2,230,303; 1,174,900; 1,500,782 and 836,540) in the United States alone. Further, Savin has registered its mark SAVIN as a domain name (“www.savin.com”).

It is our understanding that you contend that your proposed use of the domain name “www.savinsucks.com” is permissible based upon the federal district court decision in Bally Total Fitness Holding Corp. v. Faber, 29 F. Supp.2d 1161 (C.D. Cal 1998). Specifically, we understand that it is your position that your proposed use of that domain name would be merely consumer commentary and, thus, would not be actionable under the Lanham Act.

We believe, however, your application of the Bally decision to be erroneous. First, your proposed use of the domain name “www.savinsucks.com” involves a commercial use of the SAVIN mark and therefore, is within the realm of the Lanham Act. Planned Parenthood Fed’n of America v. Bucci, 42 U.S.P.Q.2d 1430 (S.D.N.Y. 1999). Additionally, we believe that your proposed web pages linked to that domain name are intended to and would greatly impact the SAVIN name in commerce causing immeasurable harm to Savin and the goodwill it has acquired through extensive promotion of its goods and services under its SAVIN mark. Id.

Further, your proposed use of “www.savinsucks.com” directly competes with Savin’s own Website “www.savin.com” for consumers using the world wide web. The fact that you would not derive revenue from this assignation would not place your proposed use outside the scope of the Lanham Act. Id. Similarly, whether or not the content of your proposed web pages to be linked to the “www.savinsucks.com” domain name, as you claim, is protected under the First Amendment, is a distinctly different question from whether it

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constitutes a violation of the Lanham Act. Id. (quoting Panavision Int'l, L.P. v. Toeppen, 945 F. Supp. 1296, 1303 (C.D. Cal. 1996)).

Based on the foregoing, we renew our request that you immediately withdraw registration of the domain name "www.savinsucks.com" or assign that registration over to Savin. Please respond to this letter on or before April 10, 2000.

Very truly yours,



David A. Einhorn

DAE:ads