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April 24, 2024

VIA EMAIL (theo@saentlaw.com)
AND FEDERAL EXPRESS

Aubrey Drake Graham

[REDACTED]

Re: *Misappropriation and Misuse of Tupac Shakur Personality Rights*

Dear Mr. Graham:

We represent the Estates of Tupac Shakur and Afeni Shakur and Amaru Entertainment, Inc. (collectively, the "Estate"), SOLE OWNERS OF Tupac Shakur's publicity and personality rights and copyrights. The Estate is deeply dismayed and disappointed by your unauthorized use of Tupac's voice and personality in the "Taylor Made (Freestyle)" record (the "Record") that you released last Friday. On behalf of the Estate, we demand that you immediately cease and desist from any further publication and exploitation of the Record, and that you immediately take ALL NECESSARY steps to remove it from all platforms where it is publicly available.

Not only is the Record a flagrant violation of Tupac's publicity and the Estate's legal rights, it is also a blatant abuse of the legacy of one of the greatest hip-hop artists of all time. The Estate would never have given its approval for this use. The unauthorized, equally dismaying use of Tupac's voice against Kendrick Lamar, a good friend to the Estate who has given nothing but respect to Tupac and his legacy publicly and privately, compounds the insult.

You personally are well acquainted both with publicity rights and the laws that protect them, and with the harm that unauthorized AI impersonations can cause to artists, including

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yourself. Just a few years ago you used the same California laws that you knowingly violated with your AI sound-alike to challenge a much less publicized, and far more benign, use of your image on a specialized business website with a small audience in *Estate of Smith v. Cash Money Records, Inc.*, 2018 WL 2224993 (S.D.N.Y. May 15, 2018) (“This Court does not find as a matter of law that Counterclaim Defendants’ use of Drake was ‘incidental.’ Drake’s inclusion likely offered some ‘unique quality or value’ to the Website.”). Even more recently, no doubt with your approval and possibly even at your request, your record label took down a well-publicized AI imitation of you and the Weeknd with a great deal of news coverage highlighting how damaging the fake was to you.

Of course, the law protects the publicity and personality rights of the deceased as well as living persons. California Civil Code section 3344.1 provides that a person, such as you, “who uses a deceased personality’s ... name, voice ... in any manner” for a commercial purpose is liable for the harm caused, the person’s profits, and attorney fees.

The Record has generated well more than one million streams at this point and has been widely reported in the general national press and popular entertainment websites and publications. Without question, it is exponentially more serious and damaging than a picture of you with some other people on a low volume website. Based on applicable case law, the Estate’s damages include all direct and indirect profits from the Record, whoever the recipient, and damages for the substantial economic and reputational harm caused. See, e.g., *Waits v. Frito-Lay, Inc.*, 978 F.2d 1083, 1104 (9th Cir. 1992) (use of Tom Waits sound-alike in Fritos ad; damages include reputational harm, injury to goodwill, and future publicity value, *and* punitive damages); *Midler v. Ford Motor Company*, 849 F.2d 460, 463-464 (9th Cir. 1988) (Ford used a Bette Midler sound alike in a commercial; similar result). The Record and its widespread exposure have created the false impression that the Estate and Tupac promote or endorse the lyrics for the sound-alike, and the Record has adversely affected the market for Amaru’s own AI projects

Amaru Entertainment, Inc. also owns the copyrights in virtually all of Tupac’s recordings. It is hard to believe that Amaru’s intellectual property was not scraped to create the fake Tupac AI on the Record. Damages for copyright infringement include the infringer’s profits, the copyright holder’s lost profits, and attorney fees.

Accordingly, no later than 12:00 p.m. (PDT) tomorrow, April 25, 2024, we must receive (1) written confirmation that you have removed the track from all platforms over which you have authority or control and are expeditiously taking all steps necessary to have it removed from other websites and platforms; and (2) a detailed explanation for how the sound-alike was created and the persons or company that created it, including all recordings and other data “scraped” or used. If you comply, the Estate will consider whether an informal negotiation to resolve this matter makes sense.



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If you do not comply, our client has authorized this firm to pursue all of its legal remedies including, but not limited to, an action for violation of Amaru and the Estate's copyright, publicity and personality rights and the resulting damages, injunctive relief, and punitive damages and attorneys' fees.

All rights and remedies reserved.

Very truly yours,

/s/ Howard E. King

Howard E. King
of King, Holmes, Paterno & Soriano, LLP

HEK:dw

cc: Peter T. Paterno, Esq.
Stephen D. Rothschild, Esq.

