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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE MUSEUM OF MODERN ART,
Plaintiff,

v.

MOMACHA IP LLC and MOMACHA OP
LLC,
Defendants.

Case No. 1:18-cv-03364-LLS

STIPULATION AND ~~PROPOSED~~
ORDER GRANTING PERMANENT
INJUNCTION AND DISMISSAL

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WHEREAS, plaintiff The Museum of Modern Art ("MoMA") commenced this action on April 17, 2018 against defendants MoMaCha IP LLC and MoMaCha OP LLC ("Defendants") (collectively with MoMA, the "Parties") for trademark infringement and dilution;

WHEREAS, on April 20, 2018, MoMA moved the Court for a preliminary injunction (Dkt. Nos. 7 through 10);

WHEREAS, on September 28, 2018, the Court entered an Opinion & Injunction granting MoMA's motion for a preliminary injunction (Dkt. No. 33);

WHEREAS, the Parties have agreed to settle this action; and

WHEREAS, pursuant to the terms of the settlement, Defendants have agreed to stipulate to a permanent injunction and the Parties have agreed to stipulate to a dismissal of this action;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, SUBJECT TO THE APPROVAL OF THE COURT THAT, pursuant to the terms of the settlement, the Court shall permanently enjoin Defendants and their agents, officers, directors, servants, employees, contractors, owners, investors, successors, predecessors, representatives, affiliates employees, owners, representatives, affiliates, and all entities controlled by or under common control with

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any of the above persons, and all other persons, firms or corporations in active concert or participation with them from:

1. using, displaying, promoting, or licensing any trademarks, service marks, trade names, logos, corporate names, internet domain names, uniform resource locaters, social media handles, hash tags, and any other source identifiers (“Trademarks”) confusingly similar to the THE MUSEUM OF MODERN ART, MOMA, MOMA PS1, MOMA QNS, and MoMA trademarks owned and used by MoMA (the “MoMA Marks”) or the MoMA Logo shown below (the “MoMA Logo”) on or in connection with any goods or services, including but not limited to the marks MOMA and MOMACHA, and the <https://momacha.com/> domain name (the “MOMACHA Mark”);



2. aiding or abetting others in manufacturing, selling, or providing any goods or services that use or display any MoMA Marks or the MOMACHA Mark; and

3. registering or applying to register any trademark, service mark, or domain name that includes or is confusingly similar to the MoMA Marks.

IT IS HEREBY FURTHER STIPULATED AND AGREED, SUBJECT TO THE APPROVAL OF THE COURT THAT:

1. Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), MoMA’s claims against Defendants ~~shall be~~^{are} dismissed in their entirety, with prejudice,

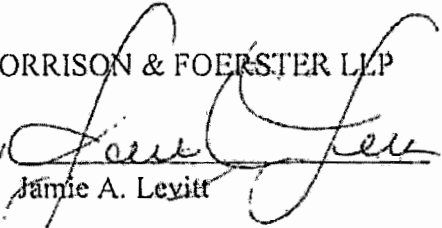
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2. Notwithstanding the foregoing, MoMA retains the right to bring claims to enforce this Stipulation and Order, the Parties’ settlement agreement, and/or claims relating to any future infringement of the MoMA Marks by Defendants.

3. The Court ~~shall~~ retains jurisdiction over the Parties for the purposes of enforcing this Stipulation and Order, enforcing the Permanent Injunction, and enforcing the Parties' settlement agreement, and any proceedings related to enforcing same.

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MORRISON & FOERSTER LLP

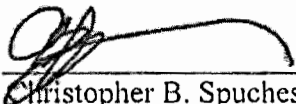
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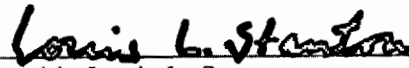
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SO ORDERED this 30th day of November 2018.


Honorable Louis L. Stanton
United States District Judge