



M. Hamel-Smith & Co

Port of Spain
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Our Ref: JKW/rg/

4th March 2017

Trinidad & Tobago Football Association

[REDACTED]
Hasely Crawford National Stadium
Wrightson Road
Port of Spain

BY EMAIL AND BY HAND

Attn: Mr. David John-Williams, President

Dear Sirs,

Re: *Telemundo's Exclusive U.S. Spanish Broadcast Rights to World Cup Qualifier Games*

We are the attorneys-at-law for Telemundo Network Group LLC. We refer to our client's letter to the Trinidad and Tobago Football Association ("TTFA") dated 3 March 2017 in which they asked that the TTFA confirm that it recognizes that our client has the exclusive U.S. Spanish -language broadcast rights to the 2018 World Cup qualifying matches of the Trinidad and Tobago's men's national team, and your email response of the same date in which you advised that "*the TTFA does not have any contract with [our client] as it relates to television rights.*"

It is not clear from your response whether you are taking a supremely technical position and pretending that there is not a chain of contracts through which our client obtained (ultimately from the TTFA) the broadcast rights in question or whether there is some other basis for the TTFA contending that our client does not own these broadcast rights.

In so far as the contracts are concerned, there can be no dispute that:

- (i) On 22 May 2012 the TTFA attended the CFU's XXV Ordinary Congress at which it, together with the other member associations that comprise the CFU, was presented with the details concerning a proposed contract (being the contract referred to in clause (iii) below) for the bundling of the transmission rights owned by all member associations including the TTFA, and the sale of those rights by the CFU. Member associations were

Partners

Nicole Ferreira-Aaron – Debra Bharath Thompson – Jonathan Walker – M. Glenn Hamel-Smith – Gregory Pantin
Angelique Bart – Luke Hamel-Smith – Fanta Punch – Catherine Ramnarine

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Philip Hamel-Smith – Timothy Hamel-Smith – Christopher Hamel-Smith S.C. – Grantley L. Wiltshire

Associates

Giselle Romain – Cherie Gopie – Melissa Inglefield – Linnel Pierre
Krystal Richardson – David Hamel-Smith – Miguel Vasquez

Member
LexMundi
World Ready

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further asked to “*sign and get notarized*” a document “*to authenticate their agreement with the television rights contract*”.

- (ii) The TTFA (which at the time traded under the business name “*the Trinidad and Tobago Football Federation*”), subsequently signed a notarized document entitled “Transfer of Broadcast Rights Agreement” in which it confirmed that:
 - (a) it was a member of the Caribbean Football Union (“CFU”);
 - (b) it owned, *inter alia*, the broadcast rights in respect of the 2018 FIFA World Cup qualification matches (“the Trinidad Broadcast Rights”);
 - (c) it transferred the Trinidad Broadcast Rights to the CFU; and
 - (d) it granted to the CFU the exclusive right to sell and exploit the Trinidad Broadcast Rights.

Further, by executing this document the TTFA represented and confirmed its agreement and acceptance of the proposed sale of the rights in question upon the terms discussed at the XXV Ordinary Congress.

- (iii) Consistent with the representations made at the XXV Ordinary Congress, the CFU bundled the Trinidad Broadcast Rights together with the broadcast rights obtained from other CFU member associations, and by an agreement in writing and made between the CFU and Traffic Sports USA Inc. (“Traffic Sport”) on 28 August 2012, the CFU sold to Traffic Sports the exclusive worldwide broadcasting rights in all media and all languages for the dissemination of the home matches to be played by the national soccer teams of the countries listed in the exhibit attached as Exhibit 1 to that Agreement (“the Transmission Rights”). Trinidad and Tobago was one of the countries listed in the said Exhibit 1, and as such the rights sold by the CFU to Traffic Sports included the Trinidad Broadcast Rights, that is to say the worldwide broadcast rights for home matches played by the Trinidad and Tobago National Men’s team.
- (iv) Having acquired the bundle of rights that comprised the Transmission Rights, Traffic Sports then sold the right to broadcast the subject matches in particular territories and in particular languages to various third parties. In particular, and in so far as our client is concerned, by an agreement in writing dated 22 December 2014 Traffic Sports sold to our client the transmission rights in respect of, *inter alia*, the Trinidad Transmission Rights.

It is therefore patently clear as a matter of contract law that the TTFA has divested its interest in the rights in question, and that these rights are now owned by our client. That the initial divestment was to another party earlier in the chain of title is of no moment. Furthermore, that our client is the owner of these rights was well known to the TTFA, especially since our client broadcast the last qualifier that was hosted by the TTFA in November 2016.

In the circumstances, as a matter of both contract and copyright, the TTFA is obligated to respect the rights that are now vested in our client, and we once more call upon the TTFA to confirm that it will comply with the terms set out in our client’s letter of 3 March 2017.

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In so far as the TTFA has some other basis for now contending that these rights are not, as a matter of law, vested in our client, then we ask that it set out in sufficient detail the reasons why you contest our client's claim to the Trinidad Broadcast rights.

In this regard, we are instructed that the TTFA has apparently asserted (to other parties but not to our client) that there was some alleged impropriety in connection with the transfer of rights from CFU to Traffic. In the circumstances, please confirm whether the TTFA is relying on this alleged illegality and/or impropriety, and if so indicate:

- (i) the specific illegality or impropriety that TTFA alleges invalidates the contract(s) by which the rights were transferred from the TTFA and ultimately to our client;
- (ii) the date when the TTFA first became aware of this alleged illegality or impropriety;
- (iii) the reason why TTFA considers that such an illegality or impropriety in a sale later in the "chain of title" gives the TTFA any right to invalidate the transfer of its Trinidad Broadcast Rights to the CFU;
- (iv) the action, if any, the TTFA has taken in respect of or as a consequence of this alleged illegality or impropriety including (but not limited to) the steps that it has taken to set aside any of the said contracts as well as any steps and the notice that it has provided to each of the various parties who hold an interest in the rights;
- (v) whether it is contending that our client had or ought to have had notice of this alleged illegality or impropriety at the time when it purchased the said rights, and if so the facts and matters upon which it relies to support the contention that our client had or ought to have had such notice; and if it is not contending that our client had such notice
- (vi) the reasons why the TTFA considers that it is entitled to disregard our client's interest despite our client being a bonafide purchaser of these rights for value without notice of the alleged illegality or impropriety.

Given the urgency of this matter please let us have your response with your reasoned explanations by 5pm on 6 March 2017. Should you require further time to respond, then we would be prepared to permit you a reasonable extension of time provided that you agree to preserve the status quo. This means that you will not contest or impede our client from broadcasting the qualifying matches scheduled to take place in Trinidad on 24th and 28th March 2017 (Panama vs. Trinidad and Mexico vs. Trinidad) and will permit our client and other necessary parties to access the stadium so that they may carry out such preparatory work as may be required so that our client can broadcast those matches in the manner that it intends. We will be prepared to accept that the preservation of the status quo in this manner will be without prejudice to either party's rights, claims or defences in respect of matches to be played after 28th March 2017.

Please note that by the Practice Direction on Pre-action Protocols of the Civil Proceedings Rules, you are required to respond to this letter and to provide the detailed reasons requested above. We reserve the right to bring this letter (and any response from the TTFA) to the attention of the Court should this become necessary.

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In closing we wish to note that our client has no desire to engage in adversarial proceedings with the TTFA but would much rather work with the TTFA so as to bring football to the public in a way that furthers the name, reputation and brand of the TTFA and by extension Trinidad and Tobago. That said, our client has already invested significant sums in the broadcast rights, and intends to enjoy these rights. Moreover, our client's reputation stands to suffer irreparable harm should it prevented by the TTFA from broadcasting the game, including damage to its reputation with and among subscribers, advertisers and other persons upon whom our client's business is reliant. As such, in the event that this matter is not resolved amicably, our client will be left with no option but to seek the protection of the Court whether in Trinidad and Tobago, the United States of America or such other jurisdiction as may be necessary to safeguard and protect its legal rights.

We look forward to receiving your response and truly hope that this matter may be resolved without the need for litigation and its attendant costs.

In the interim our client continues to reserve all of its legal rights and nothing in this letter should be misconstrued as either a waiver of those rights or an admission of any allegation.

Yours sincerely,

M. HAMEL-SMITH & CO.

By: 

Jonathan Walker
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Ext.: 5525

cc. Telemundo Network Group LLC
Mr. Eliot Pedrosa, Greenberg Traurig