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NFL Waging Secret Legal War Over M.I.A's Super Bowl Middle Finger (Exclusive)





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Attorneys Revealed

The league demands \$1.5 million from the rappersinger and a public apology, but her lawyer says "she is going to go public with an explanation of how ridiculous it was for the NFL and its fans to devote such furor to this incident."

On Feb. 5, 2012, nearly 167 million TV viewers tuned in to Super Bowl XLVI to watch a matchup between the New York Giants and New England Patriots. Besides the football action, what had people talking that day was a halftime performance by **M.I.A.** and, specifically, how she extended her middle finger during a performance of "Give Me All Your Luvin'" while mouthing, "I don't give a shit."

But the NFL did care. One month after the performance, the league initiated legal proceedings against the English-Sri Lankan rapper-singer. In a March 13, 2012, filing at the American Arbitration Association, obtained by *The Hollywood Reporter*, the league demanded \$1.5 million from M.I.A. for allegedly breaching her performance contract and tarnishing its goodwill and reputation.

In the 18 months since, the 38-year-old M.I.A. (born Mathangi "Maya" Arulpragasam) has been waging a secret legal war with the NFL over what happened at Super Bowl XLVI. Last week, league lawyers continued their push to have her deemed liable for her actions on summary judgment before moving to a trial for damages.

This is not going over too well with M.I.A, best known for her catchy agitpop music including the hit song "Paper Planes," which includes the repeated sound of gunfire. She's also used her fame to spotlight human rights abuses in her war-torn South Asian homeland. Now her lawyer **Howard King** tells *THR* that his client plans to launch a public war on the mega-powerful football league.

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PHOTOS: Hollywood and the NFL

"She is going to go public with an explanation of how ridiculous it was for the NFL and its fans to devote such furor to this incident, while ignoring the genocide occurring in her home country and several other countries, topics she frequently speaks to," King says.

King adds that she had hoped to settle the case privately once it became clear that neither NBC nor the FCC were ever going to make a stink over what the NFL says in legal papers was an "offensive gesture ... in flagrant disregard for the values that form the cornerstone of the NFL brand and the Super Bowl."

But M.I.A. is ending her silence toward the league, which just agreed to pay \$765 million to settle head injury claims by some 4,500 ex-players.

"Of course, the NFL's claimed reputation for wholesomeness is hilarious," King tells *THR*, "in light of the weekly felonies committed by its stars, the bounties placed by coaches on opposing players, the homophobic and racist comments uttered by its players, the complete disregard for the health of players and the premature deaths that have resulted from same, and the raping of public entities ready to sacrifice public funds to attract teams."

An NFL spokesman didn't have immediate comment on the legal dispute or King's comments beyond saying that "any monetary damages for her actions would have been donated to charity."

STORY: NFL Pressure Led ESPN to Drop Frontline Collaboration

In its arbitration complaint, the NFL — likely hypersensitive after the infamous **Janet Jackson** breast-flash incident at the 2004 Super Bowl — presents M.I.A.'s middle-finger gesture as being more than an unplanned, spur-of-the-moment act. The singer wasn't paid for her performance. Typically, the exposure that halftime performers get is seen as compensation enough. Nevertheless, the league says in arbitration that "this dispute concerns a blatant, intentional and calculated attempt by M.I.A., a musical artist, to garner worldwide publicity and attention for herself by making an offensive gesture to the cameras during the Super Bowl XLVI Halftime Show performance."

The league and M.I.A's holding company entered into an agreement on Jan. 30, 2012, a week before the big game that year. The contract stated that she "acknowledge the great value of the goodwill associated with the NFL and the tremendous public respect and reputation for wholesomeness enjoyed by the NFL" and that she "ensure that all elements of [her] Performance, including without limitation [her] wardrobe, shall be consistent with such goodwill and reputation."

The NFL makes the argument that she intentionally breached the agreement with her gesture and says that if there's any doubts about her obligations under the contract, "M.I.A., as a member of the public and a noted member of the music entertainment industry, was unquestionably aware of the adverse consequences sustained by the NFL, and the public outcry provoked, by the Janet Jackson 'wardrobe malfunction' during the halftime show at Super Bowl XXXVIII."

King argues that the NFL's damage claim is ludicrous and that the FCC and the network that aired the gesture haven't cried foul.

"The statute of limitations has run on the FCC and NBC," he says. "[They] will never assert a claim. Not only does NBC do hundreds of millions of dollars of business with the NFL, but NBC had a seven-second delay for the halftime show; either the operator fell asleep or the gesture was so fleeting he never saw it. In fact, no one would have seen it but for the advent of DVRs and the ability to freeze frame."

In the week after the spectacle, NBC was caught off guard by the NFL's immediate characterization of the gesture as "obscene." Such a statement might have been used as ammunition for an FCC indecency claim. The NFL soon took out the language in press statements. And sources close to M.I.A. blamed what happened on nerves and adrenaline, saying she "got caught up in the moment."

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The furor died down, and most probably assumed it was over. It's not. The NFL, which just tapped **Bruno Mars** to perform at next year's Super Bowl halftime show, isn't letting it go.

STORY: How Sports Networks Without NFL Games Program Around Them

According to a letter submitted nine days ago to the International Centre for Dispute Resolution by **Charles Ortner**, an attorney at Proskauer representing NFL Enterprises LLC, "NFLE has an interest in expediting a resolution of the liability issue in this matter."

Ortner faults M.I.A for not acting in "good faith" since the 2012 Super Bowl. Her alleged acts include challenging the arbitration clause in the agreement, failing to pay her share of the costs of arbitration, failing to attend mediation, failing to consummate a settlement-in-principle achieved, using video clips of her Super Bowl performance to promote her business endeavors and "refus[ing] to take responsibility or apologize for her actions which were broadcast worldwide."

"No settlement was implemented, and the NFL has resumed active pursuit of a trial through the Proskauer firm," responds King. "Until now, we had reluctantly remained quiet in the hopes of not becoming subject to the whims of 28 rich NFL owners who wanted to crush this brown, outspoken young lady, especially since they are making her life miserable for the cost of a 30-second spot in one of this weekend's secondary games. But ultimately, we could not be forced into the type of public apology demanded by the NFL."

With the story now out, M.I.A. has big plans. There's always been an undercurrent of political and social outrage in her songs like "Born Free," "Jimmy" and "Sunshowers." And she's never been shy about speaking up, even though she's remained silent about this dispute for so long.

"Sometimes I repeat my story again and again because it's interesting to see how many times it gets edited, and how much the right to tell your story doesn't exist," she once told U.K. magazine *Clash*. "People reckon that I need a political degree in order to go, 'My school got bombed and I remember it cos I was 10 years old.' " and how much the right to tell your story doesn't exist," she once told U.K. magazine *Clash*. "People reckon that I need a political degree in order to go, 'My school got bombed and I remember it cos I was 10 years old.' "

Now, M.I.A.'s legal team is planning an all-out assault on the NFL's claims of being a brand devoted to high morals.

King adds, "We encourage people to submit their examples of how the actions of the NFL, its stars, coaches, advertisers, broadcasters, team doctors and owners have damaged or destroyed any vestiges of any reputation for wholesomeness ever enjoyed by the NFL. These submissions, which we plan to use to bolster M.I.A's defense, will help balance the playing field, as they very well could eliminate the burden of undertaking a formal survey of the history of unwholesome behavior, can be made to the M.I.A defense team by email to NFL@khpblaw.com."

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