

Former Donkey Kong champ threatens to sue Guinness over record removal



Enlarge / Mitchell rides an oversized *Donkey Kong* machine in the Citrus Bowl parade.

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Competitive video gamer Billy Mitchell is threatening “legal recourse” against Guinness World Records and the Twin Galaxies scoreboard if they don’t retract “defamatory statements” against him and reinstate his expunged video game high score world records within the next two weeks.

Last April, in response to a dispute raised by Donkey Kong Forum's Jeremy Young, Twin Galaxies determined that a number of *Donkey Kong* score tapes submitted by Mitchell were not achieved on an "unmodified original DK arcade PCB [printed circuit board] as per the competitive rules." The scoreboard management thus decided to remove all of Mitchell's scores from its listings, including Mitchell's heavily publicized record for the first perfect *Pac-Man* score. Guinness, which partners with Twin Galaxies to adjudicate video game-based records, followed suit.

At the time, Mitchell said he planned to provide witnesses and documents that would "show that everything was done professionally, according to the rules." Mitchell has now attempted to do just that, sending Twin Galaxies a 156-page document dump outlining his disputes through a collection of screenshots, witness statements, and "technical evidence."

Who judges the judges?

The somewhat disorganized and rambling evidence package is an almost overwhelming amount of information to take in, including data from the chain of custody of the tapes used in Twin Galaxies' investigation, discussion of Nintendo technicians certifying Mitchell's boards as authentic, and obscure technical details of how arcade (and emulator) gameplay can be captured on video. Twin Galaxies Head Custodian Jace Hall says the organization has "not had time to fully examine all of the material that has been sent us, so we need to take some time to digest."

But the core of Mitchell's more legalistic claims is summarized in a four-page letter sent to Twin Galaxies Monday on the letterhead of Manning & Kass, Ellrod, Ramirzer, Trester LLP. In the letter, Mitchell suggested that he was not provided a "fair opportunity to provide evidence to prove his innocence. Throughout the investigation, Twin Galaxies had a

double standard. Specific evidence against Mitchell was accepted, while evidence of equal stature was rejected."

Hall has disputed that claim multiple times, most recently this week in the very Twin Galaxies dispute thread that led to the score removal. "Mr. Mitchell as well as Walter Day were offered the option (but no obligation) to provide any information they felt relevant on numerous occasions and this is well documented in this thread, emails and text messages," he wrote. "There was and is absolutely no 'double standard' as proposed by Mr. Mitchell or Walter Day, and no evidence was ever disallowed from the dispute thread."

[embedded content]

Mitchell presents video of his purported high score performances in *Donkey Kong* and *Donkey Kong Jr.* in 2010.

But in a 12-page letter provided by Mitchell, Twin Galaxies founder Walter Day, who ran the scoreboard until 2014, claimed the dispute thread format made it "difficult to testify" because it created "an environment that was 'howling' for Billy's blood and anyone who posted a statement that was even vaguely in support of Billy was attacked and publicly humiliated." Day went on to suggest that information he provided to Hall in a phone call was disregarded and that Hall "moved forward with no regard for any information that didn't automatically paint Billy as guilty."

Hall addressed this accusation further down the TG dispute thread: "So far I've noticed that throughout the evidence package that is presented, there seems to be a basic and false underlying supposition that I was a person with an agenda against Billy making a dispute claim for some reason and therefore trying to support my personal claim against the score. This makes no sense at all and is completely untrue."

Day suggested that the current Twin Galaxies administration has no authority to re-litigate his own confirmation of the record in the first place. "I would like to remind Guinness

World Records that I, not the current Twin Galaxies administration, am the original verification source of all of Billy Mitchell's world records, including *Donkey Kong* and *Pac-Man*," Day said. "Since [Twin Galaxies' decision] is Guinness World Records' grounds for removing these scores, I, as the real original adjudication source and partner of 36 years, hope Billy Mitchell's achievements and good name will be restored on this basis."



Enlarge / Mitchell stands behind footage of his claimed 1.06 million point *Donkey Kong* game at a 2010 press conference (click for slow motion replay that seems to show a MAME screen transition).

Mitchell also suggested that the involvement of Donkey Kong Forum's Jeremy Young in the Twin Galaxies dispute represents the involvement of an "openly inflammatory" and "biased third party" who "expressed his support of score removal on the very first day of the dispute; there was nothing unbiased about him. This, along with other examples, displays a substantial level of constitutional malice."

Hall also disputed this characterization, writing in the thread that Young merely initiated the dispute claim and asked Twin Galaxies to adjudicate his evidence. "Twin Galaxies absolutely did not generate the dispute claim nor select any 3rd party investigator for this matter," he wrote. "Once the dispute claim warranted it, Twin Galaxies began its own direct investigation with its own original *Donkey Kong* hardware and technicians. There were no 3rd parties involved with TG's internal investigation."

"It is important to understand the difference between a person that makes a claim and an entity that has to verify the veracity of the claim being made," Hall wrote later in the thread. "They are not the same things."

Finding the real tapes?

In his letter, Day also backed Mitchell's assertion that his presentation of a taped 1,047,200 *Donkey Kong* performance, as recorded in the *King of Kong* documentary, was only filmed "for entertainment purposes" and never represented an official Twin Galaxies submission. That's an important point, because there's significant evidence that the gameplay shown on that tape was indeed produced by MAME emulation (a fact Mitchell himself has grudgingly semi-acknowledged in the past). Mitchell now says he has never submitted scores to Twin Galaxies via tape and only uses live performances as official evidence.

Former Twin Galaxies referee Robert Mruczek disputed Mitchell and Day's claims about that video evidence, writing in the Twin Galaxies thread that "several months after the event [shown in the *King of Kong*], I ended up receiving in the mail from Billy Mitchell the "master" tape of that performance... Billy Mitchell absolutely used this videotaped performance as the basis of his 1,047,200 world record score... If need be I will swear in court that I received this 'master tape' from Billy Mitchell directly for the purpose of viewing and entering this score into the Twin Galaxies database."

Mruczek's assertion is backed up by a 2006 MTV interview which includes video of Mruczek screening Mitchell's tapes.

Amid the continuing back and forth, Hall said the new legal threats brought by Mitchell may actually impact his ability to share certain evidence publicly going forward. That includes the contents of an unsolicited voicemail Hall previously said he received from Mitchell (and which Hall said is irrelevant to the adjudication, in any case). "The voicemail and other correspondence I have [from Mitchell] may become relevant in a legal procedure to demonstrably show things like character, frame of mind, proof of Twin Galaxies outreach, interaction

towards me personally," Hall wrote.

We'll see later this month how Twin Galaxies decides to formally respond to Mitchell's new information and whether Mitchell will actually follow through on his threatened legal action if the organization doesn't comply. For now, though, it's clear that Mitchell doesn't intend to let his history as one of classic gaming's most prominent high scorers to be erased without a fight.

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