

E-FILED on 8/22/09IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISIONSEDUSA STUDIO, INC, a California
Corporation,

Plaintiff,

v.

LISA HELLMAN, an individual d/b/a IPOLE
STUDIOS and DOES 1-10,

Defendants.

No. C-09-02002 RMW


ORDER DENYING MOTION FOR
PRELIMINARY INJUNCTION**[Re Docket No. 15]**

Plaintiff Sedusa Studio, Inc. ("Sedusa") moves for a preliminary injunction against defendants Lisa Hellman ("Hellman") and iPole Studios ("iPole") to enjoin defendants from using plaintiffs "iPole" service mark. The motion for a preliminary injunction is denied without prejudice. If Sedusa chooses to reapply for a preliminary injunction, it should be careful to authenticate any exhibits that are offered and support all factual contentions by declaration. The court mentioned at oral argument that the exhibits to the complaint could not be found. Since the matter was submitted, the court has found the exhibits but nevertheless concludes that a further showing must be made to justify a preliminary injunction.

A preliminary injunction in a trademark case requires either (1) a combination of probable success on the merits and the possibility of irreparable injury, or (2) the existence of serious

1 questions going to the merits and that the balance of hardships tips sharply in plaintiff's favor.
2 *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1204-05 (9th Cir. 2000). The requirements to
3 show a likelihood of success on the merits of a trademark infringement claim include 1) possession
4 of a valid, protectable trademark, and 2) that the challenged use of the mark is likely to cause
5 confusion. *Applied Information Sciences Corp. v. eBay, Inc.*, 511 F.3d 966, 969 (9th Cir. 2007). The
6 Ninth Circuit has developed eight factors, called the *Sleekcraft* factors, to guide the determination of
7 a likelihood of confusion. *Goto.com* 202 F.3d at 1205.

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10 DATED: 8/21/09



RONALD M. WHYTE
United States District Judge

