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E-FILED on 8/22/09

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

SEDUSA 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

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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.3	3d 1199, 1204-05 (9 th Cir. 2000). The requirements to
3	show a likelihood of success on the merits of	of a trademark infringement claim include 1) possession
4	of a valid, protectable trademark, and 2) that	at the challenged use of the mark is likely to cause
5	confusion. Applied Information Sciences C	Corp. v. eBay, Inc., 511 F.3d 966, 969 (9th Cir. 2007). The
6	Ninth Circuit has developed eight factors, c	alled the Sleekcraft factors, to guide the determination of
7	a likelihood of confusion. <i>Goto.com</i> 202 F.	.3d at 1205.
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11		RONALD M. WHYTE United States District Judge
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1	Notice of this document has been sent to:		
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7	Connect on accountible for distributing conice of this document to accounted that have not		
8	Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program.		
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