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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

17 ULTRA INTERNET MEDIA, S.A., a company
organized under the laws of Nevis, West Indies,
18
Plaintiff,
19
v.
20 HARRAH'S LICENSE COMPANY, LLC, a
Nevada limited liability company,
21
Defendant.

CASE NO.: 2:10-cv-00455-JCM-RJJ

**ORDER DENYING PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

23 This matter came before the Court on April 28, 2010 for the hearing on Plaintiff Ultra
24 Internet Media, S.A.'s ("UIM") Motion for Preliminary Injunction (the "Motion for PI"). UIM
25 appeared and was represented by David T. Duncan, Esq. and the law firm of Marquis &
26 Aurbach. Defendant Harrah's License Company, LLC ("Harrah's License") appeared and was
27 represented by James P. Fogelman, Esq. and the law firm of Gibson, Dunn & Crutcher LLP, and
28 James D. Boyle, Esq. and the law firm of Santoro, Driggs, Walch, Kearney, Holley &



1 Thompson. The Court having reviewed the papers submitted in support of and in opposition to
2 the Motion for PI, and having heard the oral argument of counsel, it is hereby ORDERED,
3 ADJUDGED and DECREED as follows:

4 **FACTUAL OVERVIEW**

5 **1. The Promotional Agreement Between Harrah's License and UIM.**

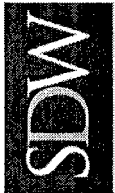
6 Harrah's License and UIM entered into a Promotional Agreement on or about March 21,
7 2008, for a three year term of 2008, 2009 and 2010. Harrah's License subsequently assigned the
8 Promotional Agreement to Harrah's Interactive Entertainment, Inc. ("Harrah's Interactive") (and,
9 collectively with Harrah's License, "Harrah's").

10 Among the numerous benefits afforded to UIM under the Promotional Agreement is the
11 location of UIM's "everestpoker.net" logo for poker tables used at the World Series of Poker
12 event (the "WSOP") during the term of the agreement, with the logo located on both the inside
13 rim and on the table felt under "the flop". This benefit includes those WSOP poker tables
14 featured on television broadcasts by ESPN and parties with whom ESPN contracts for the 2008,
15 2009 and 2010 WSOP events. ESPN's broadcasting responsibilities in connection with the
16 WSOP are described in a separate agreement between Harrah's Interactive and ESPN to which
17 UIM is not a party. Moreover, under the Promotional Agreement Harrah's License granted UIM
18 a broad range of promotional activities for the term of the agreement, including providing UIM
19 with expansive rights to use the mark WORLD SERIES OF POKER in advertising and
20 promotions, on-site signage and exposure at each WSOP event, substantial hospitality
21 consideration for each WSOP event (numerous hotel rooms and access to hospitality spaces and
22 amenities), and entry into the WSOP event.

23 The Promotional Agreement does not require that the broadcast of the WSOP take place
24 in any particular country or countries or that it be broadcast for any particular number of hours or
25 to any particular number of households. Broadcasts in regard to France are not mentioned
26 anywhere in the Promotional Agreement.

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1 **2. Performance of the Promotional Agreement.**

2 To date, Harrah's has provided UIM with the promotional activities and consideration
3 called for under the Promotional Agreement. In 2008 and 2009, the WSOP was broadcast by
4 ESPN and parties with whom ESPN has contracted in over 170 countries, including the United
5 States, collectively to over 250 million households, for over 6,000 broadcast hours.

6 UIM made all of the payments required under the Promotional Agreement in 2008.
7 However, in early 2009 UIM missed the first payment it owed pursuant to the Promotional
8 Agreement and representatives of UIM voiced a complaint that the promotions of other
9 companies seemed to UIM to be better than the promotions to which UIM was entitled under the
10 Promotional Agreement. Representatives of UIM also brought to Harrah's License's attention
11 that in a handful of broadcasts of the WSOP event made by RTL9 (based in Luxembourg) that
12 were broadcast into France, one of the everestpoker.net logos (the one on the table under the
13 flop) was either covered up or obscured. UIM's representatives complained that the logo of an
14 alleged competitor of UIM also appeared on the poker tables during those broadcasts.

15 Representatives of Harrah's License attended a meeting with representatives of ESPN
16 and UIM in Connecticut in early 2009 to discuss and resolve UIM's concerns. UIM's
17 representatives asked for a "make good" and specifically requested that ESPN find an
18 appropriate broadcaster to air the WSOP in Spain and Italy, which collectively had
19 approximately the same number of potential households as France, and that during such
20 broadcasts no logo of any alleged competitor be shown on the poker tables.

21 Shortly after the meeting, ESPN agreed that it would find an appropriate broadcaster for
22 the WSOP in Spain and Italy for no additional consideration from UIM. ESPN and Harrah's
23 also agreed that Everest Poker could be described as the presenting sponsor of the WSOP during
24 the broadcasts in certain European countries, though not in France.

25 UIM thereafter made each of the three payments required for the 2009 WSOP.

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1 respond in damages.” *Regents of the Univ. of Cal. v. Enron Energy Servs., Inc.*, 2001 U.S. App.
2 LEXIS 8788, at *1 (9th Cir. May 3, 2001) (citation omitted); *Stanley v. Univ. of S. California*, 13
3 F.3d 1313, 1320 (9th Cir. 1994). UIM therefore has an adequate remedy at law for its claims
4 against Harrah’s License, to the extent any such claims ultimately have merit.

5 Thus, even if UIM were able to establish that it is likely to succeed on the merits of its
6 claims, that the balance of equities in this matter tips in its favor, or that entry of an injunction
7 herein is in the public interest—issues as to which this Court offers no opinion at this time—
8 UIM’s Motion for PI is fatally defective because UIM has failed to demonstrate the element of
9 irreparable harm. UIM’s Motion for Preliminary Injunction is therefore DENIED.

10 DATED: May 13, 2010.

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14 UNITED STATES DISTRICT JUDGE

SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON

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