

1 LAURI S. THOMPSON, ESQ.  
Nevada Bar No. 6846  
2 thompsonl@gtlaw.com  
LARAIN BURRELL, ESQ.  
3 Nevada Bar No. 8771  
burrell@gtlaw.com  
4 SHAUNA WELSH, Esq.  
Nevada Bar No. 11320  
5 walshs@gtlaw.com  
GREENBERG TRAUIG, LLP  
6 3773 Howard Hughes Parkway  
Suite 400 North  
7 Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
8 Facsimile: (702) 792-9002  
*Counsel for Plaintiff, GNLV, Corp.*  
9

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 GNLV, Corp., a Nevada corporation,  
13 Plaintiff,  
14 v.  
15 Kanter Associates SA, a corporation,  
16 Defendant.

Case No.:

**PLAINTIFF GNLV, CORP.'S  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND  
MOTION FOR PRELIMINARY  
INJUNCTION**

17  
18 Plaintiff GNLV, Corp., through counsel, hereby moves the Court for (1) an *ex parte*  
19 temporary restraining order requiring Defendant to immediately cease and desist all use of Plaintiff's  
20 names, trademarks and domain names and requiring the domain name registrar to transfer the  
21 <www.thegoldennuggett.com> domain name ("Infringing Domain Name") to Plaintiff and place  
22 such Infringing Domain Names on hold; (2) a preliminary injunction requiring Defendant to transfer  
23 the Infringing Domain Name to Plaintiff; and (3) a preliminary injunction requiring the current  
24 domain name registrar(s) to transfer the Infringing Domain Name to Plaintiff.

25 This Motion is made pursuant to Rule 65 of the Federal Rules of Civil Procedure and is  
26 based upon the attached Memorandum of Points and Authorities, the Declaration of Steven  
27 Scheinthal, the Declaration of Laraine Burrell, and the papers and pleadings on file herein and any  
28 oral argument that this Court may allow.

1 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S  
2 MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY  
INJUNCTION

3 I. INTRODUCTION AND STATEMENT OF GOOD CAUSE IN COMPLIANCE WITH  
4 LR 7-5

5 This Motion is brought under Plaintiff's claims for violation of the Anti-cybersquatting  
6 Consumer Protection Act (the "ACPA"), trademark infringement, and unfair competition under the  
7 Lanham Act (15 U.S.C. §§ 1114 and 1125) and trademark infringement under Nevada law  
8 (collectively, the "Relevant Claims"). Plaintiff's Motion arises from Defendant's unauthorized use  
9 of the Plaintiff's marks and Defendant's registration of the Infringing Domain Names.

10 Defendant registered and used in bad faith the Infringing Domain Name and Plaintiff's  
11 marks. Defendant is likely to deceive the public into believing that Defendant is the Plaintiff, when  
12 it is not. Defendant is diluting Plaintiff's marks and is wrongfully benefiting and profiting from  
13 Plaintiff's goodwill. Therefore, Plaintiff seeks a temporary restraining order and a preliminary  
14 injunction requiring the transfer of the Infringing Domain Names to Plaintiff and enjoining  
15 Defendant from continuing its infringement of Plaintiff's marks during the pendency of this action.

16 Plaintiff is seeking a temporary restraining order *ex parte* to avoid irreparable injury that will  
17 result if Defendant receives advance notice of Plaintiff's request. See Declaration of Laraine Burrell  
18 ("Burrell Decl."), attached hereto as **Exhibit 1**, at ¶¶ 6-9. An *ex parte* order will prevent Defendant  
19 from transferring the Infringing Domain Name to other registrars and/or other registrants during the  
20 pendency of this action. As soon as Defendant receives notice of this action, it could easily and  
21 nearly instantaneously transfer the registration of the Infringing Domain Name from the current  
22 registrar to any number of other registrars located outside the United States as well as to other  
23 registrants unwilling to abide by this Court's orders.<sup>1</sup> This is particularly likely where, as here, the  
24 Defendant is foreign. If this were to occur, Plaintiff would be deprived of the ability to recover

25 \_\_\_\_\_  
26 <sup>1</sup> While registrars who are accredited by the Internet Corporation of Assigned Names and Numbers ("ICANN")  
27 are required to subscribe to ICANN's Uniform Dispute Resolution Policy ("UDRP"), which requires the registrar to  
28 obey and follow the order of a court of "competent jurisdiction" over the registrant to transfer a domain name, as to those  
registrars that are not within the jurisdiction of the court or that do not subscribe to the ICANN rules, neither the Lanham  
Act nor the courts will have any power over them. See UDRP Rule 4, at [www.icann.org/udrp/udrp.htm](http://www.icann.org/udrp/udrp.htm).

1 registration of the Infringing Domain Name and the ability to enforce its intellectual property rights.  
2 Accordingly, this Court should enter a temporary restraining order directing the Defendant and the  
3 Registrar to transfer the Infringing Domain Name to Plaintiff during the pendency of this action,  
4 thereby preventing any further migration of the Infringing Domain Names and the need to file  
5 additional lawsuits to chase the Infringing Domain Names in an attempt to recover the Infringing  
6 Domain Name.

## 7 II. STATEMENT OF FACTS

### 8 A. Facts Regarding Plaintiff.

9 Plaintiff GNLV, Corp., a Nevada corporation with its principal place of business in Las  
10 Vegas, Nevada, operates the “Golden Nugget” resort hotel casinos in Las Vegas, Nevada, and  
11 Laughlin, Nevada. See Declaration of Steven Scheinthal (“Scheinthal Decl.”), attached hereto as  
12 Exhibit 2, at ¶ 3. The Golden Nugget” is a famous destination resort hotel casino located on the  
13 world-renowned “Glitter Gulch” in Las Vegas, Nevada.

14 Plaintiff GNLV, Corp. owns the mark GOLDEN NUGGET and variants thereto (the  
15 “GOLDEN NUGGET marks”) and has obtained federal mark registrations for the GOLDEN  
16 NUGGET marks, including but not limited to:

- 17 (a) GOLDEN NUGGET for casino and bar services (U.S. Reg. No. 1,554,155);
- 18 (b) GOLDEN NUGGET for nightclub, bar, cabaret and casino services (U.S.  
19 Reg. No. 1,082,044); and
- 20 (c) GOLDEN NUGGET for casino services (U.S. Reg. No. 1,203,988). ...
- 21 (d) GOLDEN NUGGET for hotel and resort hotel services (U.S. Reg. No.  
22 2,240,084).

23 See id. at ¶ 5. None of these federal trademark registrations has been abandoned, canceled or  
24 revoked. Each of these federal trademark registrations has become incontestable through the filing  
25 of Section 8 and 15 affidavits in the Patent and Trademark Office. See id.

26 Since the Golden Nugget opened in 1946, GNLV, Corp. and its predecessors in interest have  
27 continuously used the GOLDEN NUGGET marks in connection with advertising and promoting its  
28 property in the United States and around the world. See id. at ¶ 6. The GOLDEN NUGGET name

1 and mark is among the most recognized and respected names in the resort hotel casino industry. In  
2 fact, the GOLDEN NUGGET name has become famous in the resort hotel casino industry. See id.  
3 at ¶ 6. GNLV, Corp. and its predecessors in interest have spent substantial sums of money to  
4 advertise and promote the GOLDEN NUGGET marks in print, broadcast media and on the Internet  
5 through the Golden Nugget web site, accessible throughout the United States and around the world  
6 at <goldennugget.com>. See id. at ¶ 7. A true and accurate copy of the home page for Plaintiff's  
7 web site is attached hereto as **Exhibit 3**. In addition, GNLV, Corp. and its predecessors in interest  
8 have made extensive use of the GOLDEN NUGGET marks on, among other things, signage,  
9 wearing apparel, souvenirs and promotional materials. See Scheinthal Decl at ¶ 7.

10 Based on its federal trademark registrations and extensive use, GNLV, Corp. owns the  
11 exclusive right to use its GOLDEN NUGGET marks in connection with hotel, casino and related  
12 services. See id. at ¶ 8. In fact, the uniqueness of the Golden Nugget resort hotel casino and the  
13 extensive advertising and promotion of the Golden Nugget have resulted in the GOLDEN NUGGET  
14 name and mark being distinctive and famous for resort hotel casino services. See id at ¶ 6.

#### 15 **B. Facts Regarding Defendant.**

16 Upon information and belief, Defendant Kanter Associates SA is a corporation who regularly  
17 conducts business in Panama, Panama. Defendant regularly conducts business in the State of  
18 Nevada via a web site on the World Wide Web, which is accessible to Nevada residents.

19 On or about August 3, 2006, Defendant first registered the <www.thegoldennuggett.com>  
20 domain name with Fabulous.Com Solutions PTY LTD., a registrar for domain names. See WHOIS  
21 Records for <www.thegoldennuggett.com> attached hereto as **Exhibit 4**. This domain name  
22 contains Plaintiff's famous GOLDEN NUGGET trademark.

23 On or about April 11, 2011, Defendant updated the domain name registration and the  
24 infringing domain name is now linked to web sites which offer direct links to hotel and travel  
25 reservation services sites. See Homepages for web sites, attached hereto as **Exhibit 5 and 6**.

#### 26 **C. Factual Background Regarding the Internet and Domain Names.**

27 Every web site on the World Wide Web of the Internet has a unique numerical address called  
28 an Internet Protocol address, comprised of four numbers ranging from 1 to 255, separated by

1 decimals, such as 137.34.23.198. See e.g., America Online, Inc. v. Huang, 106 F. Supp. 2d 848,  
2 850-53 (E.D. Va. 2000). In response to the consideration that most individual users would have  
3 difficulty remembering strings of numbers, the domain name system (“DNS”) was developed to  
4 make the World Wide Web more user friendly. The DNS associates a unique alphanumeric name,  
5 the “domain name,” with each Internet Protocol address. See id.; Sporty’s Farm L.L.C. v.  
6 Sportsman’s Market, Inc., 202 F.3d 489, 492-93 (2d Cir. 2000).

7 Domain names are comprised of a letter string of up to 26 letters, known as a second-level  
8 domain (“SLD”), followed by a period (referred to in the pejorative as a “dot”), which is then  
9 followed by a generic top-level domain (“TLD”). See America Online, 106 F. Supp.2d at 850-53.  
10 TLDs include “.com,” intended for commercial use, “.net” for networks, “.org” for non-profit  
11 organizations, and “.gov” for governmental entities, among several others. Significantly, the “.com”  
12 TLD, as well as several other TLDs, is an open domain, such that anyone can register a domain  
13 name in the “.com” TLD without oversight by the registrar.

14 Most businesses strongly prefer to create domain names for their web sites that couple the  
15 .com TLD with an SLD comprised of their distinctive trademark. See Sporty’s Farm, 202 F.3d at  
16 493. For example, Microsoft’s web site is located at <microsoft.com>, and the Coca-Cola  
17 Company’s web site is located at <coke.com>. However, there is no equivalent of the telephone  
18 book or directory assistance on the Internet. Therefore, consumers must intuitively locate a  
19 particular company’s web site and, usually, guess that the company’s web site is the same as its  
20 name. See Panavision Int’l, L.P. v. Toeppen, 141 F.3d 1316, 1327 (9<sup>th</sup> Cir. 1998). If a consumer  
21 cannot find a particular company’s web site through this intuitive process, he will become  
22 discouraged and may fail to continue to search for a company’s own web site. See id.  
23 Consequently, there is an inherent value attached to domain names that incorporate a company’s  
24 trademark or marks confusingly similar to a company’s trademark, such as a common misspelling.

25 Domain names are registered on a first-come, first-served basis. See e.g., Network Solutions,  
26 Inc. v. Umbro Int’l, Inc., 529 S.E. 2d 80, 84-85 (Va. 2000). The process for obtaining a domain  
27 name is rather mechanical. An individual interested in registering a domain name must contact one  
28 of the official registrars for domain names, such as Network Solutions, Inc. If the desired domain

1 name has not been registered, then the user may register or reserve the domain name for a fee. See  
2 id. However, there is no oversight process to ensure that the person or entity registering the domain  
3 name has any right to use the name, or to ensure that the domain name does not match a trademark  
4 held by someone other than the registrant. See id.

5 As a result of the fact that anyone can register any domain name as long as it is not already  
6 registered, many businesses attempt to register domain names based on their trademarks and,  
7 unfortunately, discover that the domain name employing their trademark has already been registered  
8 by another. In many cases, the domain names are registered by individuals or businesses who then  
9 attempt to sell the domain name employing the trademark back to the trademark owner. See Virtual  
10 Works, Inc. v. Volkswagen of Am., Inc., 238 F.3d 264, 267 (4<sup>th</sup> Cir. 2001). This conduct is referred  
11 to as “cyberpiracy” or “cybersquatting.” See id.

12 Unlike a traditional trademark dispute, where identical marks can be used by multiple parties  
13 (e.g., *United Airlines* and *United Van Lines*), only one party can register a domain name. See  
14 Victoria’s Cyber Secret, Ltd. v. V. Secret Catalogue, Inc., 161 F.Supp.2d 1339, 1351 (S.D. Fla.  
15 2001). Thus, the slight differences between domain names and registered marks, such as  
16 misspellings or the addition of minor or generic words to the disputed domain names are irrelevant  
17 to the cybersquatting analysis. See id.

### 18 III. LEGAL ARGUMENT

19 Plaintiff is entitled to an *ex parte* temporary restraining order and a preliminary injunction  
20 directing the Registrar to transfer and place on hold the Infringing Domain Name pending trial.  
21 Plaintiff is also entitled to a preliminary injunction transferring the Infringing Domain Name and  
22 enjoining Defendant from further registration or use of the Infringing Domain Name for the  
23 pendency of the litigation.

24 To obtain a preliminary injunction, Plaintiff must show that: (1) it will suffer irreparable  
25 harm if injunctive relief is not granted; (2) it is likely to succeed on the merits; (3) the balance of  
26 equities tips in favor of the moving party; and (4) granting the injunction is in the public interest.  
27 See Stanley v. University of Southern California, 13 F.3d 1313, 1319 (9<sup>th</sup> Cir. 1994). Alternatively,  
28 this Court may issue injunctive relief if it finds: (1) a combination of probable success on the merits

1 and the possibility of irreparable injury if relief is not granted, or (2) the existence of serious  
2 questions going to the merits and that the balance of hardships tips sharply in its favor. See  
3 GoTo.com, Inc. v. Walt Disney Co., 202 F.3d 1199, 1205 (9<sup>th</sup> Cir. 2000). A “serious question” is  
4 one for which the moving party has a “fair chance” of success on the merits. See Stanley, 13 F.3d at  
5 1319. In the instant case, Plaintiffs are entitled to a temporary restraining order and preliminary  
6 injunction under either test.

7 **A. Plaintiff Will Suffer Irreparable Injury if the Court Does Not Grant Preliminary**  
8 **Injunctive Relief.**

9 A party seeking injunctive relief under Fed. R. Civ. P. 65 must demonstrate irreparable harm,  
10 meaning that “money damages alone will not suffice to restore the moving party to its rightful  
11 position.” Clark Pacific v. Krump Constr., Inc., 942 F.Supp. 1324, 1346 (D. Nev. 1996). In cases  
12 involving mark infringement or mark dilution, it is well settled that irreparable harm is presumed.  
13 See GoTo.com, 202 F.3d at 1209; Toys “R” Us, Inc. v. Akkaoui, 40 U.S.P.Q.2d 1836 (N.D. Cal.  
14 1996).

15 Generally, in cases involving intellectual property infringement, where a likelihood of  
16 success on the merits is demonstrated, not only is irreparable harm presumed, but preliminary  
17 injunctive **must issue**. See Candence Design Sys. Inc. v. Avant! Corp., 125 F.3d 824, 827 (9<sup>th</sup> Cir.  
18 1997). Any other elemental analysis is unnecessary. See id. Therefore, upon a showing of success  
19 on the merits of the Relevant Claims, Plaintiff will have met its burden in establishing irreparable  
20 harm and will be entitled to injunctive relief.

21 **B. Plaintiff Is Highly Likely to Succeed on the Merits.**

22 Plaintiff’s success on the merits is probable with respect to each of the Relevant Claims.  
23 However, Plaintiff is only required to demonstrate a probability of success on any one of the  
24 Relevant Claims to be entitled to the relief requested.

25 (1) Plaintiff Is Likely to Succeed on the Merits of Its Anti-Cybersquatting Claim.

26 Plaintiff is likely to succeed on the merits of its claim under the Anti-Cybersquatting  
27 protection Act (the “ACPA”). That Act provides, in pertinent part:  
28

1 [A] person shall be liable in a civil action by the owner of a mark . . . if, without  
2 regard to the goods or services of the parties, that person –

3 (i) has a **bad faith intent** to profit from that mark . . .; and

4 (ii) registers, traffics in, or uses a domain name that –

5 (I) in the case of a mark that is **distinctive** at the time of the registration  
6 of the domain name, is **identical or confusingly similar** to that mark;  
7 [or]

8 (II) in the case of a famous mark that is **famous** at the time of registration  
9 of the domain name, is **identical or confusingly similar** to that mark.

10 ...

11 15 U.S.C. § 1125(d)(1)(A) (emphasis added). Thus, Defendant is liable under the ACPA if it has a  
12 bad faith intent to profit from registering, trafficking in or using as a domain name a mark that is  
13 either identical or confusingly similar to a distinctive mark or identical, confusingly similar or  
14 dilutive of a famous mark.

15 First, Plaintiff's marks are famous and entitled to protection. Plaintiff's trademarks are  
16 **arbitrary trademarks** because they do not suggest the goods and services offered.<sup>2</sup> See  
17 Entrepreneur Media, Inc. v. Smith, 279 F.3d 1135, 1141 n. 2 (9<sup>th</sup> Cir. 2002). Alternatively,  
18 Plaintiff's marks are **suggestive trademarks** because they "require imagination, thought or  
19 perception to link the trademark with the goods offered."<sup>3</sup> Interstellar Starship Services, 304 F.3d at  
20 943 n.6. Generally, arbitrary and suggestive trademarks "receive automatic protection because of  
21 their inherent distinctiveness." Id.

22 Courts consider several factors in assessing whether a person has the requisite "bad faith  
23 intent" to profit from the mark, as defined by the ACPA, including but not limited to:

24 (I) the trademark or other intellectual property rights of the person, if  
25 any, in the domain name;

26 (II) the extent to which the domain name consists of the legal name of  
27 the person or a name that is otherwise commonly used to identify

28 <sup>2</sup> For example, the use of "Amazon" as an online bookstore is an arbitrary trademark. See Interstellar Starship Services, Ltd. v. Epix, Inc., 304 F.3d 936, 943 n. 6 (9<sup>th</sup> Cir. 2002).

<sup>3</sup> For example, the use of "Roach Motel" for insect traps is a suggestive trademark. See Interstellar Starship Services, 304 F.3d at 943 n. 6.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- that person;
- (III) the person’s prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;
- (IV) the person’s bona fide noncommercial or fair use of the mark in a site accessible under the domain name;
- (V) the person’s intent to divert consumers from the mark owner’s online location to a site assessable under the domain name that could harm the goodwill represented by the mark, either for commercial gain with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the site;
- (VI) the person’s offer to transfer, sell or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person’s prior conduct indicating a pattern of such conduct;
- (VII) the person’s provision of material and misleading false contact information when applying for the registration of the domain name, the person’s intentional failure to maintain accurate contact information, or the person’s prior conduct indicating a pattern of such conduct;
- (VIII) the person’s registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, without regard to the goods or services of the parties; and
- (IX) the extent to which the mark incorporated in the person’s domain name registration is or is not distinctive and famous. . . .

15 U.S.C. § 1125 (d)(1)(B). A court is “not limited to considering just the listed factors when making [its] determination of whether the statutory criterion has been met. The factors are, instead, expressly described as indicia that ‘may’ be considered along with other factors.” Spoty’s Farm, 202 F.3d at 498 (emphasis added).

In applying these factors, it is clear that Plaintiff will be able to demonstrate Defendant’s bad faith intent: (1) Defendant has no trademark rights in the registered domain name at issue; (2) the domain name at issue do not contain any of Defendant’s legal names; (3) Defendant apparently

1 made no use of the marks contained in the domain name at issue prior to registering the domain  
2 names; (4) Defendant has not made any *bona fide* noncommercial or fair use of the domain name at  
3 issue; (5) by using marks identical or confusingly similar to Plaintiff's famous trademarks in the  
4 domain name for its infringing site, Defendant intends to divert consumers from Plaintiff's web sites  
5 and to create a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of  
6 Defendant's domain name which will undoubtedly harm the goodwill and reputation created by the  
7 Plaintiff's trademarks; and (6) the mark contained in the domain names at issue is confusingly  
8 similar to Plaintiff's distinctive trademarks, as discussed below. Accordingly, at least six of the nine  
9 factors clearly weigh in favor of finding that Defendant had the requisite bad faith intent to profit  
10 from the registration of domain names confusingly similar to Plaintiff's trademarks.

11 Plaintiff also satisfies the second element of its claim under the ACPA. The domain name  
12 registered by Defendant are either identical or confusingly similar to Plaintiff's registered  
13 trademarks. The Infringing Domain Name strongly resembles Plaintiff's<sup>4</sup> trademarks. Defendant's  
14 domain name satisfies the "identical or confusingly similar" test of the ACPA, particularly since the  
15 domain name contains Plaintiff's marks with the exception of the addition of one "t" and the word  
16 "the." Therefore, this Court should issue a temporary restraining order and a preliminary injunction  
17 to protect Plaintiff's prior and exclusive rights in the marks based upon the probable success of  
18 Plaintiff's ACPA claim against Defendant.

19 (2) Plaintiff Is Likely to Succeed on the Merits of Its Trademark Infringement and  
20 Unfair Competition Claims.

21 To succeed on the merits of its trademark infringement or unfair competition claims under  
22 the Lanham Act, Plaintiff must establish that Defendant's use of Plaintiff's marks causes a  
23 likelihood of confusion among the consuming public. See 15 U.S.C. § 1114(a); Metro Publishing  
24 Ltd. v. San Jose Mercury News, 987 F.2d 637, 640 (9<sup>th</sup> Cir. 1993). Such confusion can occur when  
25

---

26 <sup>4</sup> Defendant's registered Infringing Domain Name intentionally misspells Plaintiff GNLV, Corp.'s GOLDEN  
27 NUGGET trademark. The registration of domain names which intentionally misspell famous trademarks is a violation  
28 of the ACPA. See Victoria's Cyber Secret Ltd. Partnership v. V Secret Catalogue, Inc., 161 F. Supp. 2d 1339, 1351  
(S.D. Fla. 2001), citing Shields v. Zuccarini, 254 F.3d 476, 485 & n. 5 (3d Cir. 2001).

1 the infringer's sole action was the registering of an infringing domain name. See Green Prods. Co.  
2 v. Independence Corn By-Prods. Co., 992 F.Supp. 1070, 1080 (N.D. Iowa 1997) (holding that the  
3 mere domain name registration of a competitor's mark resulted in a likelihood of confusion). In fact,  
4 Defendant's intent to deceive the public by adopting Plaintiff's names and marks to provide direct  
5 links to hotel resort services creates a presumption of confusion. See Academy of Motion Pictures  
6 Arts and Sciences v. Creative House Promotions, 944 F.2d 1446, 1456 (9<sup>th</sup> Cir. 1991). See also  
7 Lozano Enterprise v. La Opinion Publishing Co., 44 U.S.P.Q.2d 1764, 1767 (C.D. Cal. 1997),  
8 quoting Opticians Ass'n v. Independent Opticians, 920 F.2d 187, 193 (3d Cir. 1990) (holding that a  
9 defendant's use of marks identical to the plaintiff's marks for competitive services renders the  
10 confusion test under 15 U.S.C. § 1114 "open and shut"). Plaintiff is entitled to injunctive relief  
11 based upon Defendant's infringing use.

12 Even without the presumption of confusion, Plaintiff can demonstrate that there is a  
13 likelihood of confusion between its marks and Defendant's registered Infringing Domain Name.  
14 Generally, the likelihood of confusion between two marks is determined through the application of  
15 an eight-factor test, although not all factors must be considered. See AMF Inc. v. Sleekcraft Boats,  
16 et al., 599 F.2d 341, 348-49 (9<sup>th</sup> Cir. 1979) (identifying the eight factor test); Apple Computer, Inc.  
17 v. Formula Int'l, Inc., 725 F.2d 521, 526 (9<sup>th</sup> Cir. 1984) (holding that trial courts are not required to  
18 consider all factors). In GoTo.com, 202 F.3d at 1205, 1207, the Ninth Circuit found that, in the  
19 context of the Internet, only three of the eight Sleekcraft factors need to be addressed: (1) the  
20 similarity of the marks; (2) the relatedness of the goods or services; and (3) the simultaneous use of  
21 the Web as a marketing channel. See id. Plaintiff meets all three of these factors. There is a  
22 likelihood of confusion in the instant case because the Infringing Domain Name is either identical or  
23 extremely similar to Plaintiff's marks, the services offered under the Infringing Domain Name and  
24 Plaintiff's marks include resort hotel and travel services and Plaintiff and Defendant are  
25 simultaneously using the Internet as a marketing channel.

26 **(a) The Marks are Identical or Extremely Similar.**

27 Plaintiff's marks and Defendant's Infringing Domain Name are identical or extremely  
28 similar. Similarity of marks is tested on three separate levels: sight, sound and meaning, with

1 similarities given greater weight than differences. See Plough, Inc. v. Kreis Labs, 314 F.2d 635, 638  
2 (9<sup>th</sup> Cir. 1963); Esso Standard Oil Co. v. Sun Oil Co., 97 U.S.App.D.C. 154, 157, 229 F.2d 37, 40,  
3 cert. denied, 351 U.S. 973 (1956). However, generic or common descriptive words or text used in  
4 connection with a mark cannot be considered in a sight, sound and meaning analysis. See Paccar,  
5 Inc. v. TeleScan Technologies, LLC, 319 F.3d 243, 252 (6<sup>th</sup> Cir. 2003), citing Instruct-O-Matic  
6 Corp. v. Inductotherm Corp., 747 F.2d 358, 363 (6<sup>th</sup> Cir. 1984) (stating that “[d]escriptive letters,  
7 syllables, or phrases are not considered in determining whether two marks are similar”). See also  
8 Alpha Indus., Inc. v. Alpha Steel Tube & Shapes, Inc., 616 F.2d 440, 444 n. 1 (9<sup>th</sup> Cir. 1980)  
9 (confirming that the Ninth Circuit does not consider descriptive text in determining similarity of  
10 marks).

11 Defendant’s Infringing Domain Name contains the entirety of Plaintiff’s mark with the  
12 exception of the addition of a “t” and the word “the.” Defendant uses the text of the Infringing  
13 Domain Name for the same purpose and manner as Plaintiff’s uses of its marks, and the text is either  
14 identical or extremely similar in sight, sound and meaning to Plaintiff’s marks.

15 **(b) Defendant’s Goods and Services are Identical to Plaintiff’s Goods**  
16 **and Services.**

17 The goods and services used in connection with the Infringing Domain Names are, at a  
18 minimum, related if not identical to the services provided by Plaintiff under its marks. Plaintiff  
19 offers resort hotel services under their famous marks, and Defendant’s Infringing Domain Name  
20 provides direct links to resort hotel and travel services. The unique nature of the Internet  
21 significantly increases the likelihood of confusion of the source of the goods and services offered in  
22 connection with similar marks. See GoTo.com, 202 F.3d at 1207.

23 However, even if Defendant utilized the Infringing Domain Name to offer goods and services  
24 wholly different from those offered by Plaintiff, Defendant would still be creating a likelihood of  
25 confusion between its web site and Plaintiff’s marks. The United States Court of Appeals for the  
26 Ninth Circuit found in GoTo.com that “the use of remarkably similar trademarks on different  
27 websites creates a likelihood of confusion amongst web users” even when the goods and services are  
28

1 not identical in nature. 202 F.3d at 1207. In fact, even the mere registration of the Infringing  
2 Domain Name is sufficient to create a likelihood of confusion. See Green Prods. Co., 992 F.Supp. at  
3 1079 (stating that “[d]efendant’s domain name and home page address are external labels that, on  
4 their face, cause confusion among Internet users and may cause Internet users who seek plaintiff’s  
5 web site to expend time and energy accessing defendant’s web site”).

6 Accordingly, any use on the Internet by Defendant of the Infringing Domain Name or  
7 Plaintiff’s marks would create a likelihood of confusion with those marks, even if Defendant’s use  
8 was not similar in nature. In the present case, however, the goods and services are not merely  
9 deemed similar because they were provided in connection with the Internet, the goods and services  
10 were in fact the same, further increasing the likelihood of confusion and mandating remediation.

11 **(c) The Marketing Channels Are the Same.**

12 There can be no doubt that Plaintiff and Defendant are simultaneously using the Internet as a  
13 channel of trade. Plaintiff uses the Internet to advertise the services offered under their marks,  
14 including resort hotel and travel services. Defendant’s use of the Internet make it possible for it to  
15 divert consumers searching for the Plaintiff’s web sites to Defendant’s web site, which utilizes the  
16 Infringing Domain Name.

17 The fact that the marketing channels are the same increases the likelihood of confusion for  
18 consumers. See Sleekcraft, 599 F.2d at 353. Moreover, the Internet as a marketing channel is  
19 “particularly susceptible to a likelihood of confusion.” See GoTo.com, 202 F.3d at 1207. Finally,  
20 domain names on their face cause consumer confusion because consumers expending time and  
21 energy to access one website may be diverted to another’s website. See Green Prods. Co., 992  
22 F.Supp. at 1077.

23 Therefore, it is very probable that Plaintiff will prevail on its trademark infringement and  
24 unfair competition claims under the Lanham Act. Plaintiff is the owner of its marks with prior and  
25 exclusive rights, including, but not limited to, the right to exclude Defendant from using its marks.  
26 Defendant’s use of the Infringing Domain Name and Plaintiff’s marks causes a likelihood of  
27 confusion, and Plaintiff is entitled to a temporary restraining order and a preliminary injunction.  
28

1 (3) Plaintiff Is Likely to Succeed on the Merits of Its Common Law Trademark  
2 Infringement Claim.

3 Plaintiff will likely succeed on the merits of its mark infringement claim against Defendant  
4 under Nevada common law. To show common law mark infringement, Plaintiff need only show:

5 (a) that Plaintiff is the owner of a protectable right in the marks, and (b) that Defendant's registration  
6 of the Infringing Domain Name is likely to "confuse, cause mistake or deceive an 'appreciable  
7 number' of reasonable customers" with respect to the marks. A.L.M.N., Inc. v. Rosoff, 757 P.2d  
8 1319, 1321 (Nev. 1988).

9 (a) **Plaintiff Has Protectable Rights in Its Marks.**

10 As discussed above, Plaintiff has protectable rights in and to the marks based upon Plaintiff's  
11 federal registrations of the marks and based upon the exclusive and continuous use of the marks  
12 before or since the openings of their respective resort casinos.

13 (b) **Defendant's Use of the Infringing Domain Names is Likely to**  
14 **Cause Confusion with Plaintiff's Marks.**

15 Defendant's use of the Infringing Domain Name and Plaintiff's marks are likely to "confuse,  
16 cause mistake or deceive an 'appreciable number' of reasonable customers." See Rosoff, 757 P.2d  
17 at 1323. To determine the likelihood of confusion between similar marks, the Supreme Court of  
18 Nevada has adopted a seven factor test consisting of: (i) similarity of marks; (ii) similarity of  
19 services; (iii) marketing channels used; (iv) evidence of actual confusion; (v) strength of the mark;  
20 (vi) junior user's intent in adopting the mark; and (vii) degree of care likely to be exercised by the  
21 purchaser. Id. at 1324.

22 Plaintiff has already demonstrated the applicability of factors (i), (ii), (iii), (v), (vi) and (vii)  
23 in the discussion above. See Sections III.A, III.B(1), and III.B(2), supra. With regard to the fourth  
24 factor, courts do not require proof of actual confusion to find a likelihood of confusion. See e.g.,  
25 Drexel Enters., Inc. v. Hermitage Cabinet Shop, Inc., 266 F. Supp. 532, 537 (N.D.Ga. 1967).  
26 Plaintiff has not as yet found it necessary to engage in the expense of conducting surveys to identify  
27 actual confusion but reserve the right to do so, as the longer the Infringing Domain Name is  
28 permitted to divert customers from Plaintiff's websites, the greater the likelihood of actual  
confusion.

1 Plaintiff's probable success, therefore, on their common law mark infringement claim is very  
2 high. As Plaintiff is the owner of strong marks with prior, continuing and exclusive rights and as  
3 Defendant's use of the Infringing Domain Name and the marks causes a likelihood of confusion  
4 under Nevada law, this Court should issue a temporary restraining order and a preliminary injunction  
5 to preserve Plaintiff's rights in and to their marks.

6 **C. Plaintiff Has Raised Serious Questions as to the Merits, and the Hardships**  
7 **Balance in Favor of Plaintiff.**

8 Even if Plaintiff's success on the merits of the Relevant Claims, as discussed above, was not  
9 probable, Plaintiff would be entitled to the injunctive relief requested upon a showing that there are  
10 serious questions as to the merits of Plaintiff's claims and that the balance of hardships weigh in  
11 Plaintiff's favor. See A&M Records, Inc. v. Napster, Inc., 239 F.3d 1004, 1013 (9<sup>th</sup> Cir. 2001)  
12 (citation omitted).

13 The first prong of this alternative test requires a far lower showing than probable success on  
14 the merits. All that need be shown is the mere existence of serious questions as to the merits of  
15 Plaintiff's claims. See A&M, 239 F.3d at 1025 (where the first prong of the alternative test was met  
16 by the mere raising of meritorious issues that were the subject of the claims alleged). Plaintiff meets  
17 this prong as it has raised serious questions going to the merits of the Relevant Claims. These  
18 serious questions include, without limitation, all of the elements of each of the Relevant Claims upon  
19 which Plaintiff has demonstrated probable success. See id. (where the serious questions raised were  
20 merely elements of the claims for which the plaintiffs were seeking injunctive relief). As these  
21 serious questions have already been raised in the above probable success analysis, they need not be  
22 repeated here.

23 Further, the hardships strongly balance in favor of Plaintiff. Issuance of the injunction would  
24 merely require Defendant to stop using identical or confusingly similar names or marks. Defendant  
25 is permitted to register other, non-infringing domain names to provide consumers with access to  
26 resort hotel and travel services.

27 ///

1 In contrast, by failing to issue the injunction, Defendant would be allowed to continue  
2 generating business by virtue of Plaintiff's famous names and marks. Moreover, the continued use  
3 would also cause the dilution and tarnishment of Plaintiff's names and marks. Plaintiff would  
4 continue to suffer a loss of control over its goodwill and reputation, over which Defendant now  
5 exercises a disconcerting amount of worldwide control through the Internet.

6 Finally, issuance of the injunction will maintain the status quo. "[T]he status quo is the last  
7 uncontested status which preceded the pending controversy." Tanner Motor Livery, Ltd. v. Avis,  
8 Inc., 316 F.2d 804, 809 (9<sup>th</sup> Cir. 1963), cert denied, 375 U.S. 821 (1963). Defendant's acts  
9 referenced in Plaintiff's Complaint occurred on or about April 11, 2011, and continue to the present.  
10 Accordingly, an injunction would merely return the parties to the status quo that existed about 2  
11 months ago, before Defendant began offering direct links to resort hotel and travel services over the  
12 Internet using the Plaintiff's famous name and marks.

13 **D. Protection of Consumers Weighs in Favor of Injunctive Relief.**

14 The primary goal of trademark law is to protect consumers against deception. See Lozano,  
15 44 U.S.P.Q.2d at 1769, citing International Order of Job's Daughters v. Lindeburg & Co., 633 F.2d  
16 912, 918 (9<sup>th</sup> Cir. 1980). In this instance, the consequences of consumer deception are potentially  
17 very grave.

18 Consumers may falsely believe that they will be safe giving away their personal information  
19 to Defendant because consumers know that they are safe giving their personal information to  
20 Plaintiff's famous resort hotel casinos. Because there is a chance that consumers' personal  
21 information will not be safe when given to Defendant, it is imperative that consumers not be led into  
22 believing that they are dealing with Plaintiff's reputable businesses, when, in fact, they are not.

23 **E. This Court Should Only Require Nominal Security.**

24 In the event that the Court requires that a bond or other security be posted by Plaintiff,  
25 Plaintiff requests that the Court set an amount that is no greater than \$100 per domain name.  
26 Plaintiff is well established in Nevada. During the pendency of this litigation, Defendant would not  
27 suffer from having the registration for the Infringing Domain Name maintained with Fabulous.com  
28 PTY LTD. (registrar) for the pendency of the litigation.



1           **F. In Addition to the Notice Requirements of Rules 4 and 5 of the Federal Rules of**  
2           **Civil Procedure, Notice Should be Permitted Via E-Mail.**

3           Plaintiff requests that this Court permit service of the summons, complaint, motion,  
4           temporary restraining order and notice of the hearing on the preliminary injunction by e-mail, in  
5           addition to effectuating service as mandated by Fed. R. Civ. P. 4 and 5. Otherwise, a just, speedy  
6           and inexpensive determination of the preliminary injunction cannot be achieved. See Fed. R. Civ. P.  
7           1.

8           If the Court grants Plaintiff's request for a temporary restraining order, the order will only  
9           remain in effect for ten (10) days and the hearing on the preliminary injunction must occur "at the  
10          earliest possible time" prior to the expiration of the temporary restraining order. Fed. R. Civ. P.  
11          65(b). The process of serving the German-based Defendant with the summons, complaint, motion,  
12          temporary restraining order and order for hearing on the preliminary injunction could exceed the ten  
13          (10) day period and, most likely, not afford Defendant timely notice of the temporary restraining  
14          order and the preliminary injunction. And, as explained above, Plaintiff would be irreparably  
15          harmed if the temporary restraining order were to expire before it could be converted into a  
16          preliminary injunction. Therefore, in addition to regular service of the complaint, summons, motion  
17          and orders under Fed. R. Civ. P. 4 and 5, service by e-mail would ensure prompt notice to Defendant  
18          and would be reasonably calculated to provide sufficient and adequate notice to Defendant.

19          **IV. CONCLUSION**

20          Based upon the foregoing Points and Authorities, Plaintiff has shown that it meets either of  
21          the two alternative tests developed by the United States Court of Appeals for the Ninth Circuit for  
22          entitlement to injunctive relief. Plaintiff has demonstrated that success as to each or the Relevant  
23          Claims is, at the very least, probable. Alternatively, Plaintiff has raised serious questions and shown  
24          that the balance of hardships tips in its favor. Accordingly, Plaintiff respectfully requests that the

25          ///

26          ///

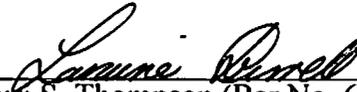
27          ///

28          ///

1 Court grant its Motions for a Temporary Restraining Order and for a Preliminary Injunction pending  
2 adjudication of this matter on the merits.

3 DATED: 20<sup>th</sup> day of May, 2011

4  
5 GREENBERG TRAUERIG, LLP

6   
7 \_\_\_\_\_  
8 Lauri S. Thompson (Bar No. 6846)  
9 Laraine Burrell (Bar No. 8771)  
10 Shauna Welsh (Bar No. 11320)  
11 3773 Howard Hughes Parkway  
12 Suite 400-North  
13 Las Vegas, Nevada 89169  
14 Counsel for GNLV, Corp.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
GREENBERG TRAUERIG, LLP  
3773 Howard Hughes Parkway, Suite 400 North  
Las Vegas, Nevada 89169  
Telephone (702) 792-3773  
Facsimile (702) 792-0002

# **EXHIBIT 1**

1 LAURI S. THOMPSON, ESQ.  
Nevada Bar No. 6846  
2 thompsonl@gtlaw.com  
LARAIN BURRELL, ESQ.  
3 Nevada Bar No. 8771  
burrelll@gtlaw.com  
4 SHAUNA WELSH, Esq.  
Nevada Bar No. 11320  
5 walshs@gtlaw.com  
GREENBERG TRAUIG, LLP  
6 3773 Howard Hughes Parkway  
Suite 400 North  
7 Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
8 Facsimile: (702) 792-9002  
*Counsel for Plaintiff, GNLV, Corp.*  
9

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 GNLV, Corp., a Nevada corporation,  
13 Plaintiff,  
14 v.  
15 Kanter Associates SA, a corporation,  
16 Defendant.

Case No.:

**DECLARATION OF LARAIN BURRELL, IN SUPPORT OF  
PLAINTIFF'S MOTION FOR *EX PARTE*  
TEMPORARY RESTRAINING ORDER**

17  
18  
19 I, LARAIN BURRELL, declare under penalty of perjury under the laws of the United  
20 States that the facts contained herein are of my personal knowledge, and if called upon, I could and  
21 would competently testify to them. This declaration is submitted in support of Plaintiff's  
22 Application for Temporary Restraining Order and Motion for Preliminary Injunction.

23 1. I am an associate with Greenberg Traurig, counsel for Plaintiff in the above-  
24 referenced matter. I have been employed by Greenberg Traurig, Las Vegas, or its predecessor-in-  
25 interest, Quirk & Tratos, since May of 2003.

26 2. This Declaration is submitted in support of Plaintiff's *ex parte* Motion for Temporary  
27 Restraining Order.

28 ...

1           3.       Greenberg Traurig has filed hundreds of anti-cybersquatting actions since the passage  
2 of the Anti-cybersquatting Consumer Protection Act (the “ACPA”), 15 U.S.C. § 1125(d)(1)(A), and  
3 I personally have filed over fifty anti-cybersquatting actions.

4           4.       I have requested an *ex parte* Temporary Restraining Order in each anti-cybersquatting  
5 action I have filed.

6           5.       Following the passage of the ACPA, plaintiffs quickly realized that providing notice  
7 to the Defendant of the lawsuit before the domain name in question was beyond the Defendant’s  
8 immediate grasp resulted in the Defendant transferring that domain name to another registrant and/or  
9 another registrar. Such action by the Defendant negates the court’s jurisdiction and requires the  
10 filing of a second lawsuit after the Plaintiff spends additional time and fees locating the domain  
11 name.

12           6.       In the instant matter, Defendant registered and is using in bad faith the  
13 <thegoldennuggett.com> domain name (the “Infringing Domain Name”) and Plaintiff’s registered  
14 trademarks.

15           7.       Plaintiff is seeking an *ex parte* Temporary Restraining Order from this Court.

16           8.       Plaintiff requires the Temporary Restraining Order to be granted *ex parte* because as  
17 soon as Defendant receives notice of this action, it could easily and nearly instantaneously transfer  
18 the registration of the Infringing Domain Name from the current registrar to any number of other  
19 registrars located outside the United States as well as to other registrants unwilling to abide by this  
20 Court’s orders.

21           9.       If Defendant transfers the Infringing Domain Name prior to the hearing on the  
22 Motion for Temporary Restraining Order, Plaintiff would be deprived of the ability to recover  
23 registration of the Infringing Domain Name and the ability to enforce its intellectual property rights.

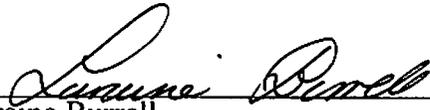
24           10.       Therefore, notice to the Defendant prior to the locking and transfer of the domain  
25 name, as requested in the Motion for Temporary Restraining Order would result in irreparable injury  
26 to Plaintiff.

27 ...

28 ...

1 11. Because notice to the Defendant would result in immediate irreparable injury to the  
2 Plaintiff, the Plaintiff has made no effort to notify the Defendant of its request for a Temporary  
3 Restraining Order.

4 DATED: May 19, 2011

5  
6   
7 \_\_\_\_\_  
Laraine Burrell

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
GREENBERG TRAURIG, LLP  
1773 Howard Hughes Parkway, Suite 400 North  
Las Vegas, Nevada 89169  
Telephone (702) 792-3773  
Facsimile (702) 792-9002

# **EXHIBIT 2**

GREENBERG TRAUER, LLP  
3773 Howard Hughes Parkway, Suite 400 North  
Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002

1 LAURI S. THOMPSON, ESQ.  
Nevada Bar No. 6846  
2 thompsonl@gtlaw.com  
LARAINE BURRELL, ESQ.  
3 Nevada Bar No. 8771  
burrelll@gtlaw.com  
4 SHAUNA WELSH, Esq.  
Nevada Bar No. 11320  
5 walshs@gtlaw.com  
GREENBERG TRAUER, LLP  
6 3773 Howard Hughes Parkway  
Suite 400 North  
7 Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
8 Facsimile: (702) 792-9002  
*Counsel for Plaintiff, GNLV, Corp.*  
9

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 GNLV, Corp., a Nevada corporation,  
13 Plaintiff,  
14 v.  
15 Kanter Associates SA, a corporation,  
16 Defendant.

Case No.:

**DECLARATION OF STEVEN  
SCHEINTHAL IN SUPPORT OF  
PLAINTIFF'S APPLICATION FOR  
TEMPORARY RESTRAINING ORDER  
AND MOTION FOR PRELIMINARY  
INJUNCTION**

17  
18  
19 I, Steven Scheinthal, declare under penalty of perjury under the laws of the United States that  
20 the facts contained herein are of my personal knowledge, and if called upon, I could and would  
21 competently testify to them.

22 1. This declaration is submitted in support of Plaintiff's Application for Temporary  
23 Restraining Order and Motion for Preliminary Injunction.

24 2. I am the Executive Vice President & General Counsel of Landry's Restaurants, Inc., I  
25 have been employed by Landry's Restaurants, Inc. and its predecessors in interest since September,  
26 1992.

27 3. Landry's Restaurants, Inc. owns GNLV, Corp. who operates the "Golden Nugget"  
28 resort hotel casino in Las Vegas, Nevada.



1           4.     The Golden Nugget is a famous destination resort hotel casino located on the world-  
2 renowned "Glitter Gulch" in downtown Las Vegas, Nevada.

3           5.     Landry's Restaurants, Inc., through GNLV, Corp. owns the mark GOLDEN  
4 NUGGET and variants thereto (the "GOLDEN NUGGET Marks") and has obtained federal mark  
5 registrations for the GOLDEN NUGGET Marks, including but not limited to:

- 6           (a)     GOLDEN NUGGET for casino and bar services (U.S. Reg. No. 1,554,155);
- 7           (b)     GOLDEN NUGGET for nightclub, bar, cabaret and casino services (U.S.  
8 Reg. No. 1,082,044); and
- 9           (c)     GOLDEN NUGGET for casino services (U.S. Reg. No. 1,203,988).

10 None of these federal mark registrations has been abandoned, canceled or revoked. Each of the  
11 marks has become incontestable through the filing of Section 8 and 15 affidavits in the Patent and  
12 Trademark Office.

13           6.     Since the Golden Nugget opened in 1946, Landry's Restaurants, Inc. and its  
14 predecessors-in-interest have continuously used the mark GOLDEN NUGGET in connection with  
15 advertising and promoting the "Golden Nugget" properties in the United States and around the  
16 world. Consumers book substantial numbers of hotel rooms at the Golden Nugget resort hotel  
17 through the <goldennugget.com> website. The GOLDEN NUGGET name and mark are among the  
18 oldest, most recognized, and respected names in the gaming industry. In fact, the GOLDEN  
19 NUGGET name has become famous in the casino industry.

20           7.     Landry's Restaurants, Inc. and its predecessors-in-interest have spent millions of  
21 dollars to advertise and promote the GOLDEN NUGGET Marks in print, broadcast media and on the  
22 Internet through the Golden Nugget web site, accessible throughout the United States and around the  
23 world at <goldennugget.com>. In addition, Landry's Restaurants, Inc. and its predecessors-in-  
24 interest have made extensive use of the GOLDEN NUGGET Marks on, among other things, signage,  
25 wearing apparel, souvenirs and promotional materials.

26           8.     Based upon its federal trademark registrations and extensive use, Landry's  
27 Restaurants, Inc. owns the exclusive right to use the GOLDEN NUGGET Marks in connection with  
28 hotel, casino and related services.

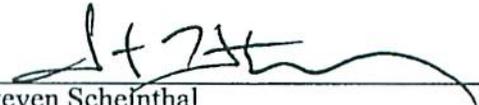
GREENBERG TRAURIG, LLP  
3773 Howard Hughes Parkway, Suite 400 North  
Las Vegas, Nevada 89169  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

9. No other entities are legitimately using any of Landry's Restaurants, Inc.'s marks for the provision of casino services. Further, Plaintiff continuously takes steps to ensure that any infringing uses of its federally registered marks cease immediately.

10. Each of Plaintiff's marks was famous prior to Defendant's registration and commercial use of the Infringing Domain Names <www.thegolddennuggett.com>.

Executed this 11 day of May, 2011, at Houston, Texas.

  
\_\_\_\_\_  
Steven Scheinthal

# **EXHIBIT 3**



ACCOMMODATIONS CASINO DINING ENTERTAINMENT AMENITIES POOL WEDDINGS MEETINGS SPECIALS



EXPERIENCE THE GOLDEN NUGGET

PLAY VIDEO

A timeless classic,  
gleaming more brilliantly  
than ever.



SEE THE ROOMS AND SUITES

PLAY VIDEO

VIRTUAL TOURS PRESS ROOM CAREERS CONTACT US SITE MAP LAUGHLIN

BOOK YOUR ROOM

CHECK-IN DATE

5/17/2011

CHECK-OUT DATE

5/18/2011

GUESTS

Search

SIGN UP AND SAVE

Sign up for our Email Promotions and be the first to hear about our Internet room rates, promotions, contests and special events.

GOLDEN NUGGET EVENT PHOTOS  
CLICK HERE



# **EXHIBIT 4**



# thegoldennuggett.com is Reserved

Registrar: FABULOUS.COM PTY LTD.

Status: clientDeleteProhibited  
Status: clientTransferProhibited

Domain options / additional information: *(Click below to expand)*

- + if you own this domain...
- + if you are trying to register/buy this domain...
- + if you are researching this domain...

[Querying whois.verisign-grs.com]  
 [whois.verisign-grs.com]Whois Server Version 2.0Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to http://www.internic.net for detailed information. Domain Name: THEGOLDENNUGGETT.COM  
 Registrar: FABULOUS.COM PTY LTD.  
 Whois Server: whois.fabulous.com  
 Referral URL: http://www.fabulous.com  
 Name Server: NS1.DSREDIRECTION.COM  
 Name Server: NS2.DSREDIRECTION.COM  
 Status: clientDeleteProhibited  
 Status: clientTransferProhibited  
 Updated Date: 11-apr-2011  
 Creation Date: 03-aug-2006  
 Expiration Date: 03-aug-2011NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

Sponsored Link:

Registered your domain and ready for the next step?  
Site Build It! allows you to easily create a world-class web site without HTML.

[Querying whois.fabulous.com]  
[whois.fabulous.com]

This domain is protected by Whois Privacy Services Pty Ltd. For more information please visit [www.whoisprivacyservices.com.au](http://www.whoisprivacyservices.com.au)

Domain thegoldennuggett.com:  
Whois Privacy Services Pty Ltd  
Domain Hostmaster, Customer ID : 19314367913928  
19314367913928-f336f1@whoisprivacyservices.com.au  
PO Box 923  
Fortitude Valley QLD 4006 AU

Administrative contact:  
Technical contact:  
Billing contact:  
Whois Privacy Services Pty Ltd  
Domain Hostmaster, Customer ID : 19314367913928  
19314367913928-f336f1@whoisprivacyservices.com.au  
PO Box 923  
Fortitude Valley QLD 4006 AU  
Phone: Phone: +61.730070090  
Fax: Phone: +61.730070091

Record dates:  
Record created on: 2006-08-03 15:48:31 UTC  
Record modified on: 2011-04-11 06:08:01 UTC  
Record expires on: 2011-08-03 UTC

Nameservers:  
ns1.dsredirection.com:  
ns2.dsredirection.com:

Note: Automated collection of data from this database is strictly prohibited.

[Home page](#)  
[Link-to-Us](#)  
[Contact Us](#)

**Featured Registrar**

Register a domain name with [Register.com](#) for only \$20. Includes:

- Free starter web site
- Free web forwarding
- Free e-mail forwarding
- Free domain locking
- Name portfolio manager
- Dynamic DNS service

[Click here for discounted rate.](#)

**Domain Registrars**

1st Domain.net  
 4Domains.com  
 Active ISP ASA  
 Address Creation  
 Aiddomains.com  
 Alice's Registry, Inc.  
 Alldomains.com, Inc.  
 America Online, Inc.  
 Ascio Technologies, Inc.  
 ATLNTD.com  
 AWRegistry  
 BB Online IJK Ltd.  
 Bizen.com, Inc.  
 BookMyName SAS  
 BulkRegister.com, Inc.  
 Capital Networks Pty, Ltd.  
 Catalog.com, Inc.  
 China channel.com

www.	<input type="text"/>	<input type="button" value="Search"/>
Searches shared database registry and queries appropriate registrar.		



# thegoldennuggett.com is Reserved

Registrar: FABULOUS.COM PTY LTD.

Status: clientDeleteProhibited  
Status: clientTransferProhibited

Domain options / additional information: *(Click below to expand)*

- + if you own this domain...
- + if you are trying to register/buy this domain...
- + if you are researching this domain...

[Querying whois.verisign-grs.com]  
 [whois.verisign-grs.com]Whois Server Version 2.0Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information. Domain Name: THEGOLDENNUGGETT.COM  
 Registrar: FABULOUS.COM PTY LTD.  
 Whois Server: whois.fabulous.com  
 Referral URL: <http://www.fabulous.com>  
 Name Server: NS1.DSREDIRECTION.COM  
 Name Server: NS2.DSREDIRECTION.COM  
 Status: clientDeleteProhibited  
 Status: clientTransferProhibited  
 Updated Date: 11-apr-2011  
 Creation Date: 03-aug-2006  
 Expiration Date: 03-aug-2011NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

Sponsored Link:

**Don't let your customers forget you! Aweber can help...**  
 Automate your business and boost sales with this easy to use service.

[Querying whois.fabulous.com]  
 [whois.fabulous.com]

Domain thegoldennuggett.com:  
 Kanter Associates SA  
 Bank Boston Tower, Via Espana No. 122, 16th Floor  
 City of Panama, PA

Administrative contact:  
 Technical contact:  
 Billing contact:  
 Kanter Associates SA  
 Admin  
[kanter@fastmail.fm](mailto:kanter@fastmail.fm)  
 Bank Boston Tower, Via Espana No. 122, 16th Floor  
 City of Panama, PA  
 Phone: +507.41225948152  
 Fax:

Record dates:

[Home page](#)  
[Link-to-Us](#)  
[Contact Us](#)

### Featured Registrar

Register a domain name with [Register.com](#) for only \$20. Includes:

- Free starter web site
- Free web forwarding
- Free e-mail forwarding
- Free domain locking
- Name portfolio manager
- Dynamic DNS service

[Click here for discounted rate.](#)

### Domain Registrars

- [CommuniGal Comm.](#)
- [Computer Data Networks](#)
- [CORE](#)
- [Corporate Domains](#)
- [Cronon AG](#)
- [Cyberregistro.com](#)
- [Cypack.com](#)
- [Deutsche Telekom, AG](#)
- [DirectI.com](#)
- [DirectNIC](#)
- [Dodora Unified Comm., Inc.](#)
- [Domain Bank, Inc.](#)
- [DomainCA.com](#)
- [DomainCity](#)
- [Domaindiscount24.com](#)
- [DomainDiscover](#)



Record created on: 2006-08-03 15:48:31 UTC  
Record modified on: 2011-04-11 06:08:01 UTC  
Record expires on: 2011-08-03 UTC

Nameservers:  
ns1.dsredirection.com:  
ns2.dsredirection.com:

Note: Automated collection of data from this database is strictly prohibited.

www.	<input type="text"/>	<b>Search</b>
Searches shared database registry and queries appropriate registrar.		

# **EXHIBIT 5**

# Thegoldennuggett.com

What you need, when you need it

May 3, 2011

RELATED SEARCHES

[Golden Nugget](#)

[Las Vegas Hotel](#)

[Las Vegas Packages](#)

[Las Vegas Hotel Casino](#)

[New](#)

RELATED SEARCHES

[Golden Nugget](#)

[Las Vegas Hotel](#)

[Las Vegas Packages](#)

[Las Vegas Hotel Casino](#)

[New York City Hotel](#)

[Tickets](#)

[Las Vegas Shows](#)

[Royal Caribbean Cruise](#)

[Casino](#)

[Cheap Car Rental](#)

POPULAR CATEGORIES

TRAVEL

[Airline Tickets](#)

[Hotels](#)

[Car Rental](#)

[Flights](#)

[South Beach Hotels](#)

FINANCE

[Free Credit Report](#)

[Online Payment](#)

[Credit Card Application](#)

[Car Insurance](#)

[Health Insurance](#)

HOME

[Foreclosures](#)

[Houses For Sale](#)

[Mortgage](#)

[People Search](#)

[Real Estate Training](#)

BUSINESS

[Employment](#)

[Work From Home](#)

[Reorder Checks](#)

[Used Cars](#)

[Business Oppor](#)



[Privacy Policy](#)

# **EXHIBIT 6**

Related Searches

Airline Tickets

Employment

Car Insurance

Ringtones Dating

Houses For Sale

Mortgage Hotels

Related Searches

<a href="#">Airline Tickets</a>
<a href="#">Employment</a>
<a href="#">Car Insurance</a>
<a href="#">Ringtones</a>
<a href="#">Dating</a>

Sponsored Listings

**Golden Nugget In Vegas**

Get Swept Off Your Feet With Our Specials. Make Reservations Today!  
[www.goldennugget.com/LasVegasHotel](http://www.goldennugget.com/LasVegasHotel)

Fine Dining      The Tank - Pool  
Special Offers    Accommodations

**Golden Hotel**

An Upscale All-Suite Residential- Style Hotel Near Golden CO!  
[homewoodsuites.hilton.com](http://homewoodsuites.hilton.com)

**Golden Nugget LasVegas**

Best rate at Golden Nugget Vegas Enjoy Golden Nugget Hotel, Vegas!  
[the-golden-nugget.galahotels.com](http://the-golden-nugget.galahotels.com)

**Hotel Golden Nugget Las**

Cheap Hotels in Golden Book Online or Call Today & Save.  
[golden.coloradohotels.com](http://golden.coloradohotels.com)

**Don't Buy Gold Nuggets**

Until You Read This. Don't Wait! Get a Free Gold Investment Kit.  
[www.wholesalegold.com/GoldNuggets](http://www.wholesalegold.com/GoldNuggets)

Web search results

**Australian Webmaster Blog**

Real Social Dynamics - The Blueprint Decoded Believe The Hypo... Four Life Altering Days ...  
<http://www.webmasterblog.com.au/>

**Las Vegas Conventions For November 2010**

... topic however there is one golden nugget of information I ...  
<http://www.lvol.com/conventions/conv1110.html>

**||Rebar Hook, Rebar Definition||**

Nevada | Gambling Blog Home About Contact For Sale Online gambling sites Gambling review Directory Miscellaneous Submit link ...  
<http://buildinspect.com.au/kandy-rebar-mapping/>

**Welcome To Las Vegas - Imbibe Magazine**

... & Compulsive Disorders - Certified Addictions Golden Nugget - 50 Attendees Expected 11/06 ...  
<http://www.imbibemagazine.com/Welcome-to-Las-Vegas>

**Free Pogo Game Tokens |200 Free Chucky Cheese Tokens, Red Point Ration Tokens|**

Rebar hook, rebar definition|| rebar mapping rebar steel buyers skin post rebar fence rebar coupling systems seaport charleston ...  
<http://elephacademy.com/sam-birds-as-tokens/>

Search

Search results for:

English

# golden nugget

1 - 10 of 10 results

Home > Search Results

[Airline Tickets](#)

[Employment](#)

[Car Insurance](#)

[Ringtones](#)

[Dating](#)

## RELATED SEARCHES

- [Airline Tickets](#)
- [Employment](#)
- [Car Insurance](#)
- [Ringtones](#)
- [Dating](#)
- [Houses for Sale](#)
- [Mortgage](#)
- [Hotels](#)
- [Work From Home](#)
- [Free Credit Report](#)

- ➔ **Golden Nugget In Vegas**  
Get Swept Off Your Feet With Our Specials. Make Reservations Today!  
[www.goldennugget.com/LasVegasHotel](http://www.goldennugget.com/LasVegasHotel)
- ➔ **Hotel Golden Nugget Las**  
Cheap Hotels in Golden Book Online or Call Today & Save.  
[golden.coloradohotels.com](http://golden.coloradohotels.com)
- ➔ **Golden Nugget Las Vegas**  
Best rate at Golden Nugget Vegas Enjoy Golden Nugget Hotel, Vegas!  
[the-golden-nugget.galahotels.com](http://the-golden-nugget.galahotels.com)
- ➔ **Golden Hotel**  
An Upscale All-Suite Residential-Style Hotel Near Golden COI  
[homewoodsuites.hilton.com](http://homewoodsuites.hilton.com)
- ➔ **Golden Nugget Las Vegas**  
Save on Hotels, Motels & Resorts Call 1-800-276-7415 or Book Online  
[www.hotels-and-discounts.com](http://www.hotels-and-discounts.com)

➔ **Australian Webmaster Blog**  
Real Social Dynamics - The Blueprint Decoded Believe The Hype... Four Life Altering Days ...  
<http://www.webmasterblog.com.au/>

➔ **Las Vegas Conventions for November 2010**  
... topic how ever there is one golden nugget of information I ...  
<http://www.lvcl.com/conventions/conv1110.html>

➔ **||Rebar hook. rebar definition||**  
Nevada | Gambling Blog Home About Contact For Sale Online gambling sites Gambling review  
Directory Miscellaneous Submit link ...  
<http://buildinspect.com.au/kandy-rebar-mapping/>

➔ **Welcome to Las Vegas - Imbibe Magazine**  
... & Compulsive Disorders - Certified Addictio Golden Nugget - 50 Attendees Expected  
11/06 ...  
<http://www.imbibemagazine.com/Welcome-to-Las-Vegas>

➔ **Free pogo game tokens |200 free chucky cheese tokens. red  
point ration tokens|**  
Rebar hook. rebar definition|| rebar mapping rebar steel buyers skin post rebar fence rebar  
coupling systems seaport charleston ...  
<http://alephacademy.com/sami-birds-as-tokens/>

