

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 BETHANY RABE, Esq.
 Nevada Bar No. 11691
 5 rabe@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
 9 *Counsel for Plaintiff, GNLV, Corp.*

10 UNITED STATES DISTRICT COURT
 11 DISTRICT OF NEVADA

12 GNLV, Corp., a Nevada corporation,
 13 Plaintiff,

Case No.: 2:13-cv-00865-APG-NJK

14 v.

***EX PARTE* TEMPORARY
 RESTRAINING ORDER**

15 P5s Holdings, LLC, a Delaware limited
 liability company, Adam Small, an
 16 individual, Calvin Spears, and
 individual,

17 Defendants.
 18

19
 20 This matter came before the Court on Plaintiff GNLV, Corp.’s (“GNLV” or “Plaintiff”), Ex
 21 Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction (Doc.
 22 #3), requiring Defendants P5s Holding, LLC, Adam Small and Calvin Spears, (collectively
 23 “Defendants”) to (a) immediately cease and desist all use of the domain name
 24 <goldennuggetpokerreview.com> (“the infringing Domain Name”), (b) immediately cease and desist
 25 use of any of Plaintiff’s trademarks, and (c) requiring the domain name registrar to lock the domain
 26 names at issue and transfer them to GNLV. Having considered the supporting Memorandum of
 27 Points and Authorities, Declarations and exhibits and the record in this case, and for good cause
 28 shown, the Court rules as follows.

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

1 THE COURT HEREBY FINDS THAT:

2 1. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C.
3 §§ 1331 and 1338.

4 2. The Court has personal jurisdiction over the Defendants in that: (a) Defendants have
5 registered a domain name linked to a web site on the Internet accessible to residents of the State of
6 Nevada; (b) Defendants have threatened to place negative content on the website concerning
7 Plaintiff including “Golden Nugget Sucks”; and (c) Defendants committed tortious acts that they
8 knew or should have known would cause injury to Plaintiff in the State of Nevada.

9 3. GNLV has made extensive use of the GOLDEN NUGGET Marks on, among other
10 things, signage, wearing apparel, and sales and promotional materials, and has obtained federal
11 registration for the GOLDEN NUGGET Marks for various goods and services, including but not
12 limited to:

- 13 (a) GOLDEN NUGGET for casino and bar services (U.S. Reg. No. 1,554,155);
- 14 (b) GOLDEN NUGGET for nightclub, bar, cabaret and casino services (U.S. Reg. No.
15 1,082,044);
- 16 (c) GOLDEN NUGGET for casino services (U.S. Reg. No. 1,203,988); and
- 17 (d) GOLDEN NUGGET for hotel and resort hotel services (U.S. Reg. No. 2,240,084).

18 4. GNLV has made extensive use of the GOLDEN NUGGET Marks on, among other
19 things, signage, wearing apparel, and sales and promotional materials, and is a licensee of several
20 federal registrations for the GOLDEN NUGGET Marks for various goods and services, including
21 but not limited to:

- 22 (a) GOLDEN NUGGET for casino and bar services (U.S. Reg. No. 1,554,155);
- 23 (b) GOLDEN NUGGET for nightclub, bar, cabaret and casino services (U.S. Reg. No.
24 1,082,044);
- 25 (c) GOLDEN NUGGET for casino services (U.S. Reg. No. 1,203,988); and
- 26 (d) GOLDEN NUGGET for hotel and resort hotel services (U.S. Reg. No. 2,240,084).

27 5. Based on its federal trademark registrations and extensive use, GNLV owns the
28 exclusive right to use the GOLDEN NUGGET Marks in connection with resort hotel, casino and

1 related services. The extensive advertising and promotion of the “Golden Nugget” resort hotel
2 casinos have resulted in the GOLDEN NUGGET name and marks being distinctive for resort hotel
3 casino services.

4 6. Defendants have used GNLV’s marks as part of their domain name
5 <goldennuggetpokerreview.com>. without GNLV’s authority or permission.

6 7. GNLV will suffer irreparable injury if the Court does not require the domain name
7 registrar GoDaddy.com (“Registrar”) to lock the infringing domain name listed above and transfer it
8 to GNLV pending litigation of this matter.

9 8. GNLV has demonstrated that it will suffer irreparable harm if a Temporary
10 Restraining Order is not entered *ex parte* because, immediately upon notice of suit and prior to
11 hearing, Defendants could transfer the Infringing Domain Name to another registrant or registrar
12 which would deprive the Court of jurisdiction and require GNLV to file additional suits to chase the
13 Infringing Domain Name to recover its intellectual property. Transfer of the Infringing Domain
14 Name to another registrar would require GNLV to expend significant effort and financial resources
15 to track the registration.

16 9. GNLV has demonstrated likelihood of success on the merits of its cybersquatting
17 claims against Defendant under the Lanham Act, 15 U.S.C. § 1125(d).

18 10. GNLV has demonstrated likelihood of success on the merits of its mark infringement
19 claims against Defendant under the Lanham Act, 15 U.S.C. § 1114, and Nevada law.

20 11. GNLV has demonstrated likelihood of success on the merits of its unfair competition
21 claims against Defendant under the Lanham act, 15 U.S.C. § 1125(a).

22 12. The balance of hardships tips in favor of GNLV because issuance of the temporary
23 restraining order would merely lock and transfer the domain name to GNLV pending trial, and
24 failure to issue the restraining order would cause GNLV to suffer irreparable injury to its name and
25 marks and the associated goodwill if Defendants are not enjoined from registering, maintaining the
26 registration on or using domain names containing GNLV’s marks or marks confusingly similar to
27 GNLV’s name and marks.
28

1 13. There is no likelihood of harm to the public from the Temporary Restraining Order
2 now being granted.

3 **IT IS THEREFORE ORDERED** that GNLV's *ex parte* Application for Temporary
4 Restraining Order is hereby **GRANTED**;

5 **IT IS FURTHER ORDERED** that, pursuant to 15 U.S.C. § 1125(d)(1)(C), the domain
6 name <goldennuggetpokerreview.com> shall be immediately locked by the Registrar and/or its
7 successor registrars and transferred to GNLV.

8 **IT IS FURTHER ORDERED** that Defendants will immediately cease and desist from all
9 use of GNLV's name and trademarks and any and all variants thereof, including use of the
10 Infringing Domain Names, and take all necessary actions to transfer the Infringing Domain Name to
11 GNLV.

12 **IT IS FURTHER ORDERED** that the Registrar and/or its successor registrars remove all
13 existing Domain Name Server (DNS) entries and corresponding addresses, and enter the Registrar's
14 default Domain Name Server and address entries, to prevent further potential damage caused by the
15 infringing use of the Infringing Domain Name.

16 **IT IS FURTHER ORDERED** that, pursuant to 15 U.S.C. § 1116(a), Defendants shall file
17 with this Court and serve upon GNLV within thirty (30) days after entry of this Order, a report in
18 writing under oath setting forth in detail the manner and form in which Defendants have complied
19 with this Court's Order.

20 **IT IS FURTHER ORDERED** that GNLV shall post a nominal bond of \$100.00 for each
21 domain name at issue because the evidence indicates that Defendants will suffer only minimal, if
22 any, damage by the issuance of this Temporary Restraining Order.

23 **ORDER SETTING HEARING FOR PRELIMINARY INJUNCTION**

24 UPON CONSIDERATION of GNLV's above-referenced Motion for Preliminary Injunction,
25 the Memorandum of Points and Authorities, the supporting declarations and exhibits, and the papers
26 and pleadings on file in this matter, and for good cause shown;

27 1. The Court hereby sets the hearing for Plaintiff's Motion for Preliminary Injunction on
28 **Wednesday, May 29, 2013, at 2:00 p.m.** in Courtroom 6C at the Lloyd D. George United States

GREENBERG TRAUERIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada, 89169
Telephone: (702) 792-1773
Facsimile: (702) 792-9002

1 Federal Courthouse, 333 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

2 2. Further, the Court hereby sets the following briefing schedule relating to Plaintiff's
3 Motion:

4 (e) Defendants shall file and serve opposition papers, if any, no later than **3:00 p.m.**
5 **PDT on Friday, May 23, 2013;** and

6 (f) Plaintiff shall file and serve its reply brief, if any, no later than **4:00 p.m. PDT on**
7 **Tuesday, May 28, 2013.**

8 3. In order to ensure Defendants receive timely notice of the hearing and briefing
9 schedule, given that Defendants must maintain accurate contact information with the domain name
10 registrar, GNLV is required to -- in addition to the requirements set forth in Rules 4 and 5 of the
11 Federal Rules of Civil Procedure -- serve the Motion and all supporting papers, this Order and all
12 other pleadings filed to date on Defendant by electronic mail transmission.

13 Dated this 17th date of May at 1:35 p.m.

14 
15 _____
16 UNITED STATES DISTRICT JUDGE

17
18 Respectfully submitted by:

19 DATED: this 16th day of May, 2013

20
21
22 GREENBERG TRAUERIG, LLP

23 /s/ Laraine M. I. Burrell

24 Lauri S. Thompson (Bar No. 6846)
25 Laraine M.I. Burrell (Bar No. 8771)
26 Bethany Rabe (Bar No. 11691)
27 3773 Howard Hughes Parkway, Suite 400 North
28 Las Vegas, Nevada 89169
Counsel for Plaintiff