

AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Nevada on the following Patents or Trademarks:

DOCKET NO. 2:08-CV-1569 PMP	DATE FILED 11/13/2008	U.S. DISTRICT COURT Nevada
PLAINTIFF Bellagio LLC et al		DEFENDANT Smart Answer S.A. et al
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 see complaint		
2 2,232,486		
3 2,570,928		
4 891,114		
5 1,232,243		

In the above-entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK
1 2,275,016	
2 2,275,015	
3 2,118,7031	
4 2,436,898	
5	

In the above-entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Lance S. Wilson	(BY) DEPUTY CLERK Eileen Sterba	DATE 11/13/08
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Copy 1— Upon initiation of action, mail this copy to Director Copy 3— Upon termination of action, mail this copy to Director
 Copy 2— Upon filing document adding patent(s), mail this copy to Director Copy 4— Case file copy

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6 Attorneys for Plaintiffs
BELLAGIO, LLC;
7 MANDALAY RESORT GROUP;
NEW YORK-NEW YORK HOTEL & CASINO, LLC;
8 and TREASURE ISLAND CORP.

9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 BELLAGIO, LLC, a Nevada limited
13 liability company; MANDALAY RESORT
GROUP, a Nevada Corporation; NEW
14 YORK-NEW YORK HOTEL & CASINO,
LLC, a Nevada limited liability company;
15 and TREASURE ISLAND CORP., a
Nevada Corporation.

16 Plaintiffs,

17 v.

18 SMART ANSWER, S.A., a sociedades
19 anónimas of Panama, and SUSANA
GONZALES, an individual,

20 Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

- (1) Cybersquatting
under 15 U.S.C. § 1125(d)
- (2) Trademark Infringement
under 15 U.S.C. § 1114
- (3) Unfair Competition
under 15 U.S.C. § 1125(a)
- (4) Trademark Dilution
under 15 U.S.C. § 1125(c)
- (5) State Trademark Infringement
under N.R.S. § 600.420
- (6) State Trademark Dilution
under N.R.S. § 600.435
- (7) Common Law Trademark
Infringement
- (8) Deceptive Trade Practices
under N.R.S. § 598.0903, *et seq.*
- (9) Intentional Interference with
Prospective Economic Advantage

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1 For their complaint against Defendants Smart Answer, S.A. and Susana Gonzales,
2 Plaintiffs Bellagio, LLC; Mandalay Resort Group; New York-New York Hotel & Casino, LLC;
3 and Treasure Island Corp. allege the following.

4
5 **NATURE OF THE CASE**

6 This is an action for cybersquatting, trademark infringement, unfair competition, and
7 trademark dilution under federal statutes, with pendent state and/or common law claims for
8 trademark infringement, trademark dilution, deceptive trade practices, and intentional interference
9 with prospective economic advantage. Plaintiff seeks damages, attorneys' fees, costs, and
10 preliminary and permanent injunctive relief.

11 **JURISDICTION AND VENUE**

12
13 1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§
14 1331 and 1338(a). This Court has supplemental jurisdiction over Plaintiff's state and common
15 law claims pursuant to 28 U.S.C. § 1367(a).

16 2. This Court has personal jurisdiction over Defendants based upon the following: (a)
17 Defendants operate a website on the Internet that is accessible to residents of the State of Nevada;
18 (b) Defendants' website is interactive in that it seeks to obtain information from web users; (c)
19 Defendants' website is interactive in that it allows web users to gamble; and (d) Defendants have
20 committed tortious acts that Defendants knew or should have known would cause injury to a
21 Nevada resident in the State of Nevada.

22 3. Venue is proper in the United States District Court for the District of Nevada
23 under 28 U.S.C. §§ 1391(b) and 1391(c). Venue lies in the unofficial Southern division of this
24 Court.

25 **PARTIES**

26 4. Plaintiff Bellagio, LLC is a Nevada limited liability company with its principal
27 place of business in Las Vegas, Nevada.
28

1 registrations for mark BELLAGIO, as well as common law rights in the BELLAGIO mark. These
2 federal and state registrations have not been abandoned, cancelled or revoked. Moreover, federal
3 trademark registrations 2,232,486 and 2,570,928 have become incontestable through the filing of
4 Section 8 and 15 affidavits in the Patent and Trademark Office.

5 13. Bellagio has spent substantial sums of money to advertise and promote the
6 BELLAGIO Marks in print, broadcast media, and on the Internet through the Bellagio website
7 accessible throughout the United States and around the world at <bellagio.com>. A true and
8 accurate copy of the home page of this website is attached hereto as Exhibit 1, and incorporated
9 by this reference. In addition, Bellagio has made extensive use of the BELLAGIO Marks on,
10 among other things, signage, wearing apparel, souvenirs and promotional materials.

11 14. Based on its federal trademark registrations and extensive use, Bellagio owns the
12 exclusive right to use the BELLAGIO Marks in connection with hotel, casino and related
13 services.

14 15. The BELLAGIO Marks have become distinctive and famous in the United States
15 and around the world for resort hotel and casino services.

16 16. Mandalay Resort Group ("MRG"), is a Nevada corporation, doing business as
17 Circus Circus, which owns and operates the Circus Circus hotel casino in Las Vegas, Nevada. In
18 addition, MRG does business as Mandalay Bay, and owns and operates the Mandalay Bay resort
19 and casino in Las Vegas, Nevada.

20 17. Since opening in 1968, MRG and its predecessors in interest, have continuously
21 used the CIRCUS CIRCUS marks in connection with various goods and services (collectively
22 CIRCUS CIRCUS Marks"). MRG owns several federal trademark registrations for CIRCUS
23 CIRCUS Marks on the Principal Register of the USPTO including, among others, CIRCUS
24 CIRCUS for casino services (Registration Nos. 891,114 and 1,232,243) (collectively "Circus
25 Circus Trademark Registrations"). The Circus Circus Trademark Registrations are valid and
26 subsisting and constitute prima facie evidence of MRG's exclusive rights to use CIRCUS
27 CIRCUS Marks in connection with the goods and services recited in these registrations. MRG
28 also owns a Nevada state trademark registration for the mark CIRCUS BUFFET, as well as

1 common law rights in the CIRCUS CIRCUS Marks. These federal and state registrations have not
2 been abandoned, cancelled or revoked. Moreover, federal trademark registrations 891,114 and
3 1,232,243 have become incontestable through the filing of Section 8 and 15 affidavits in the
4 Patent and Trademark Office.

5 18. MRG has spent substantial sums of money to advertise and promote the CIRCUS
6 CIRCUS Marks in print, broadcast media, and on the Internet through the Circus Circus website
7 accessible throughout the United States and around the world at <circuscircus.com>. A true and
8 accurate copy of the home page of this website is attached hereto as Exhibit 2, and incorporated
9 by this reference. In addition, MRG has made extensive use of the CIRCUS CIRCUS Marks on,
10 among other things, signage, wearing apparel, souvenirs and promotional materials.

11 19. Based on its federal trademark registrations and extensive use, MRG owns the
12 exclusive right to use the CIRCUS CIRCUS Marks in connection with hotel, casino and related
13 services.

14 20. The CIRCUS CIRCUS Marks have become distinctive and famous in the United
15 States and around the world for hotel and casino services.

16 21. Since "Mandalay Bay" opened in 1999, MRG and its predecessors in interest, have
17 continuously used MANDALAY BAY marks in connection with various goods and services
18 (collectively MANDALAY BAY Marks"). MRG owns several federal trademark registrations
19 for MANDALAY BAY Marks on the Principal Register of the USPTO including, among others,
20 MANDALAY BAY for casino services (Registration Nos. 2,275,016 and 2,275,015) (collectively
21 "Mandalay Bay Trademark Registrations"). The Mandalay Bay Trademark Registrations are
22 valid and subsisting and constitute prima facie evidence of MRG's exclusive rights to use
23 MANDALAY BAY Marks in connection with the goods and services recited in these
24 registrations. Moreover, federal trademark registrations 2,275,016 and 2,275,015 have become
25 incontestable through the filing of Section 8 and 15 affidavits in the Patent and Trademark Office.
26 MRG also owns Nevada state trademark registrations for the mark MANDALAY BAY, as well
27 as common law rights in the MANDALAY BAY Marks. These federal and state registrations
28 have not been abandoned, cancelled or revoked.

1 22. MRG has spent substantial sums of money to advertise and promote the
2 MANDALAY BAY Marks in print, broadcast media, and on the Internet through the "Mandalay
3 Bay" website accessible throughout the United States and around the world at
4 <mandalaybay.com>. A true and accurate copy of the home page of this website is attached
5 hereto as Exhibit 3, and incorporated by this reference. In addition, MRG has made extensive use
6 of the MANDALAY BAY Marks on, among other things, signage, wearing apparel, souvenirs
7 and promotional materials.

8 23. Based on its federal trademark registrations and extensive use, MRG owns the
9 exclusive right to use the MANDALAY BAY Marks in connection with resort, hotel, casino and
10 related services.

11 24. The MANDALAY BAY Marks have become distinctive and famous in the United
12 States and around the world for resort, hotel and casino services.

13 25. New York-New York Hotel & Casino, LLC ("New York-New York"), is a Nevada
14 limited liability company, doing business as New York-New York Hotel & Casino, which owns
15 and operates the New York-New York hotel casino in Las Vegas, Nevada.

16 26. Since opening in 1997, New York-New York has continuously used the NEW
17 YORK-NEW YORK marks in connection with various goods and services (collectively NEW
18 YORK-NEW YORK Marks"). New York-New York owns several federal trademark
19 registrations for NEW YORK-NEW YORK Marks on the Principal Register of the USPTO
20 including, among others, NEW YORK-NEW YORK for casino services (Registration Nos.
21 2,187,031 and 2,436,898) (collectively "New York-New York Trademark Registrations"). The
22 New York-New York Trademark Registrations are valid and subsisting and constitute prima facie
23 evidence of New York-New York's exclusive rights to use NEW YORK-NEW YORK Marks in
24 connection with the goods and services recited in these registrations. These federal and state
25 registrations have not been abandoned, cancelled or revoked. Moreover, federal trademark
26 registrations 2,187,031 and 2,436,898 have become incontestable through the filing of Section 8
27 and 15 affidavits in the Patent and Trademark Office. New York-New York also owns Nevada
28

1 state trademark registration for the mark NEW YORK-NEW YORK, as well as common law
2 rights in the NEW YORK-NEW YORK Marks.

3 27. New York-New York has spent substantial sums of money to advertise and
4 promote the NEW YORK-NEW YORK Marks in print, broadcast media, and on the Internet
5 through the "New York-New York" website accessible throughout the United States and around
6 the world at <nynyhotelcasino.com>. A true and accurate copy of the home page of this website
7 is attached hereto as Exhibit 4, and incorporated by this reference. In addition, New York-New
8 York has made extensive use of the NEW YORK-NEW YORK Marks on, among other things,
9 signage, wearing apparel, souvenirs and promotional materials.

10 28. Based on its federal trademark registrations and extensive use, New York-New
11 York owns the exclusive right to use the NEW YORK-NEW YORK Marks in connection with
12 hotel, casino and related services.

13 29. The NEW YORK-NEW YORK Marks have become distinctive and famous in the
14 United States and around the world for hotel and casino services.

15 30. Treasure Island Corp. ("Treasure Island"), is a Nevada corporation, doing business
16 as TI Treasure Island, which owns and operates the TI Treasure Island hotel casino in Las Vegas,
17 Nevada.

18 31. The Treasure Island hotel and casino opened in 1993. Since its opening, Treasure
19 Island has continuously used the TREASURE ISLAND marks in connection with various goods
20 and services as well as with the advertisement and promotion of the property in the United States
21 and around the world (collectively "TREASURE ISLAND Marks"). Treasure Island owns
22 Nevada state trademark registration for the mark TREASURE ISLAND, as well as common law
23 rights in the TREASURE ISLAND Marks. These state registrations have not been abandoned,
24 cancelled or revoked.

25 32. Treasure Island has spent substantial sums of money to advertise and promote the
26 TREASURE ISLAND Marks in print, broadcast media, and on the Internet through the "Treasure
27 Island" website accessible throughout the United States and around the world at
28 <treasureisland.com>. A true and accurate copy of the home page of this website is attached

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1 hereto as Exhibit 5, and incorporated by this reference. In addition, Treasure Island has made
2 extensive use of the TREASURE ISLAND Marks on, among other things, signage, wearing
3 apparel, souvenirs and promotional materials.

4 33. The TREASURE ISLAND Marks have become distinctive and famous in the
5 United States and around the world for hotel and casino services.

6 34. On or about the period of May 7, 2008 through May 18, 2008, Defendants
7 registered the Internet domain names listed below (collectively "Infringing Domain Names") with
8 MyDomain, Inc., ("MyDomain"), a domain name registrar.

- 9 (a) <bellagiotellandcasino.net>
10 (b) <lasvegasbellagio.net>
11 (c) <lasvegasbellagibuffet.com>
12 (d) <bellagiotelllasvegas.net>
13 (e) <bellagiolasvegas.org>
14 (f) <circuscircushotelllasvegas.net>
15 (g) <circuscircuslasvegas.net>
16 (h) <circuscircusreno.net>
17 (i) <circuscircusrenonevada.net>
18 (j) <circuscircushotel.org>
19 (k) <circuscircuscasino.org>
20 (l) <circuscircusreno.org>
21 (m) <circuscircusrenonevada.org>
22 (n) <mandalaybaylasvegas.org>
23 (o) <newyorknewyorklasvegas.org>
24 (p) <treasureislandlasvegas.org>
25 (q) <treasureislandresort.org>
26 (r) <treasureislandhotel.org>
27
28

- 1 (s) <treasureislandhotellasvegas.net>
- 2 (t) <treasureislandvegas.net>
- 3 (u) <treasureislandresortandcasino.net>
- 4 (v) <treasureislandhotelandcasino.net>

5
 6 The Infringing Domain Names contain the BELLAGIO, CIRCUS CIRCUS, MANDALAY BAY,
 7 NEW YORK-NEW YORK and TREASURE ISLAND Marks (collectively "Plaintiffs' Marks")
 8 coupled with either the words "hotel," "resort," "casino," "las vegas" and/or "reno" which describe
 9 and identify the properties owned and operated by the Plaintiffs.

10 35. Some time after registration, Defendants linked the Infringing Domain Names to
 11 websites that each prominently featured a link to the online gambling entitled "Golden Casino"
 12 and it was marketed to players in the United States. See Defendants' Motion for Temporary
 13 Restraining Order, Exhibit I (April D. Chaparian Declaration) at Exhibit I (consisting of a true
 14 and accurate copy of the "Golden Casino" websites).

15 36. Defendants have not registered or used the Infringing Domain Names in good
 16 faith.

17 37. By registering and using domain names containing the Plaintiffs' Marks,
 18 Defendants were and are attempting to trade on the Plaintiffs' goodwill.

19 38. By registering and using domain names containing the Plaintiffs' Marks, and by
 20 linking the same to an online gambling website, Defendants were and are creating, or are
 21 attempting to create, an association between the Infringing Domain Names and the Plaintiffs.

22 39. By registering and using the Infringing Domain Names, Defendants were and are
 23 attempting to frustrate or divert Internet traffic intended for the Plaintiffs.

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COUNT I

(Cybersquatting under
the Lanham Act, 15 U.S.C. § 1125(d))

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3 40. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
4 forth herein.

5 41. Defendants have registered, trafficked in, and/or used domain names that are
6 confusingly similar to and/or dilutive of the Plaintiffs' Marks, which were distinctive and/or
7 famous at the time Defendant registered the Infringing Domain Names.

8 42. Upon information and belief, Defendants have or have had a bad faith intent to
9 profit from the Plaintiffs' Marks.

10 43. As a direct and proximate result of such conduct, Plaintiffs have suffered, and will
11 continue to suffer, monetary loss and irreparable injury to their business, reputation, and
12 goodwill.

COUNT II

(Trademark Infringement under
the Lanham Act, 15 U.S.C. § 1114)

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16 44. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
17 forth herein.

18 45. Defendants have used and/or are using in commerce the Infringing Domain
19 Names, which contain the Plaintiffs' Marks, thus, Defendants' domain names are confusingly
20 similar to the Plaintiffs' Marks.

21 46. Defendants' use in commerce of the Plaintiffs' Marks and/or confusingly similar
22 marks in domain names that are linked to an online gambling website constitutes a reproduction,
23 copying, counterfeiting, and colorable imitation of Plaintiffs' Marks in a manner that is likely to
24 cause confusion or mistake or that is likely to deceive consumers.

25 47. By using the Plaintiffs' Marks and/or marks confusingly similar to the Plaintiffs'
26 Marks with the knowledge that the Plaintiffs own and have used, and continue to use, their
27 trademarks in Las Vegas, Nevada, across the United States, and around the world, Defendants
28 have intended to cause confusion, cause mistake, or deceive consumers.

1 48. Defendants are using marks that are the same and/or confusingly similar to the
2 Plaintiffs' Marks in connection with the sale, offering for sale, or advertising of services in a
3 manner that is likely to cause confusion or mistake, or to deceive consumers as to an affiliation,
4 connection, or association with the Plaintiffs, or as to the origin, sponsorship, or approval of
5 Defendants' services or commercial activities by Plaintiffs.

6 49. Defendants are also using marks that are the same and/or confusingly similar to the
7 Plaintiffs' Marks in the Infringing Domain Names to cause initial interest confusion and to divert
8 Internet users away from the Plaintiffs' websites.

9 50. Defendants' use of the Plaintiffs' Marks and/or marks confusingly similar to the
10 Plaintiffs' Marks has created a likelihood of confusion among consumers who may falsely believe
11 that Defendants' business or the online gambling website linked to the Infringing Domain Names
12 is associated with the "Bellagio," "Circus Circus," "Excalibur," "Mandalay Bay," "New York-
13 New York" and/or "Treasure Island" hotel casinos or that Plaintiffs sponsor or approve of
14 Defendants' services or commercial activities.

15 51. As a direct and proximate result of Defendants' infringement, Plaintiffs have
16 suffered, and will continue to suffer, monetary loss and irreparable injury to their business,
17 reputation, and goodwill.

18 **COUNT III**
19 (Unfair Competition under
20 the Lanham Act, 15 U.S.C. § 1125(a))

21 52. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
22 forth herein.

23 53. Defendants' use in commerce of marks that are the same and/or confusingly
24 similar to the Plaintiffs' Marks in connection with Defendants' Infringing Domain Names
25 constitutes a false designation of origin and/or a false or misleading description or representation
26 of fact, which is likely to cause confusion, cause mistake, or deceive as to an affiliation,
27 connection, or association with the Plaintiffs, or as to the origin, sponsorship, or approval of
28 Defendants' services or commercial activities by the Plaintiffs.

1 54. Defendants' use in commerce of the Plaintiffs' Marks and/or marks confusingly
2 similar thereto with the knowledge that the Plaintiffs own and have used, and continue to use,
3 their trademarks, constitutes intentional conduct by Defendants to make false designations of
4 origin and false descriptions about Defendants' services and commercial activities.

5 55. As a direct and proximate result of such unfair competition, Plaintiffs have
6 suffered, and will continue to suffer, monetary loss and irreparable injury to their business,
7 reputation, and goodwill.

8 **COUNT IV**
9 (Trademark Dilution under
10 the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c))

11 56. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
12 forth herein.

13 57. The Plaintiffs' Marks are inherently distinctive.

14 58. Through their adoption and consistent and extensive use, the Plaintiffs' Marks have
15 acquired fame.

16 59. Defendants began using marks that are the same and/or nearly identical to the
17 Plaintiffs' Marks in connection with Defendants' Infringing Domain Names after the Plaintiffs'
18 Marks became famous.

19 60. Defendants' use of the Plaintiffs' Marks and/or marks confusingly similar thereto
20 has and will cause dilution of the distinctive quality of the Plaintiffs' trademarks and will
21 otherwise cause irreparable injury to its business, reputation, and goodwill.

22 61. Upon information and belief, Defendants' use of the Plaintiffs' Marks and/or
23 marks confusingly similar thereto was willful in nature, in that Defendants willfully intended to
24 trade on the Plaintiffs' reputation or to dilute the Plaintiffs' Marks.

25 62. As a direct and proximate result of Defendants' dilution of the Plaintiffs' Marks,
26 Plaintiffs have suffered, and will suffer, irreparable injury to their business, reputation, and
27 goodwill.

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COUNT V
(State Trademark Infringement
under N.R.S. 600.420)

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3 63. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
4 forth herein.

5 64. Defendants have used and/or are using the Infringing Domain Names, which
6 contain the Plaintiffs' Marks, without Plaintiffs' consent.

7 65. Defendants' use in commerce of Plaintiffs' Marks and/or marks confusingly
8 similar to the Plaintiffs' Marks in the Infringing Domain Names and linking the same to an online
9 gambling website, constitutes a reproduction, copying, counterfeiting, and colorable imitation of
10 the Plaintiffs' trademarks in a manner that is likely to cause confusion or mistake or that is likely
11 to deceive consumers.

12 66. By using the Plaintiffs' Marks and/or marks confusingly similar to the Plaintiffs'
13 Marks with the knowledge that the Plaintiffs own and have used, and continue to use, their
14 trademarks in Las Vegas, Nevada, Defendants have intended to cause confusion, cause mistake,
15 or deceive consumers.

16 67. Defendants are using marks that are the same and/or confusingly similar to the
17 Plaintiffs' Marks in connection with the sale, offering for sale, or advertising of services in a
18 manner that is likely to cause confusion or mistake, or to deceive consumers as to an affiliation,
19 connection, or association with the Plaintiffs, or as to the origin, sponsorship, or approval of
20 Defendant's services or commercial activities by Plaintiffs.

21 68. Defendants are also using marks that are the same and/or confusingly similar to the
22 Plaintiffs' Marks in the Infringing Domain Names to cause initial interest confusion and to divert
23 Internet users away from the Plaintiffs' websites.

24 69. Defendants' use of the Plaintiffs' Marks and/or marks confusingly similar to the
25 Plaintiffs' Marks has created a likelihood of confusion among consumers who may falsely believe
26 that Defendants' business or the online gambling website Defendants linked to the Infringing
27 Domain Names is associated with the "Bellagio," "Circus Circus," "Mandalay Bay," "New York-

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1 New York" and/or "Treasure Island" resort hotel casinos or that the Plaintiffs sponsor or approve
2 of Defendants' services or commercial activities.

3 70. As a direct and proximate result of Defendants' infringement, Plaintiffs have
4 suffered, and will continue to suffer, monetary loss and irreparable injury to their business,
5 reputation, and goodwill.

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7 **COUNT VI**
(State Trademark Dilution under
8 N.R.S. § 600.435)

9 71. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
10 forth herein.

11 72. The Plaintiffs' Marks are inherently distinctive.

12 73. Through their adoption and consistent and extensive use, the Plaintiffs' Marks have
13 acquired fame in the State of Nevada.

14 74. Defendants began using marks that are the same and/or confusingly similar to the
15 Plaintiffs' Marks in connection with Defendants' services by associating infringing domain names
16 with online gambling websites after the Plaintiffs' Marks became famous in the State of Nevada.

17 75. Defendants' use of the Plaintiffs' Marks and/or marks confusingly similar thereto
18 has and will cause dilution of the distinctive quality of the Plaintiffs' Marks and will otherwise
19 cause irreparable injury to the Plaintiffs' business, reputation, and goodwill.

20 76. Upon information and belief, Defendants' use of the Plaintiffs' Marks and/or
21 marks confusingly similar thereto was willful in nature, in that Defendants intended to cause
22 dilution of the Plaintiffs' Marks or willfully intended to trade on the Plaintiffs' reputation.

23 77. As a direct and proximate result of Defendants' dilution of the Plaintiffs' Marks,
24 Plaintiffs have suffered, and will suffer, irreparable injury to their business, reputation, and
25 goodwill.

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COUNT VII
(Common Law Trademark Infringement)

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3 78. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
4 forth herein.

5 79. By virtue of having used and continuing to use the Plaintiffs' Marks, the Plaintiffs
6 have acquired common law trademark rights in the Plaintiffs' Marks.

7 80. Defendants' use of the Plaintiffs' Marks and/or confusingly similar marks infringes
8 the Plaintiffs' common law trademark rights in its Plaintiffs' Marks and is likely to cause
9 confusion, mistake, or deception among consumers, who will believe that Defendants' services,
10 the associated online gambling website and/or infringing domain names originate from, are
11 affiliated with, or are endorsed by Plaintiffs, when, in fact, they are not.

12 81. As the direct and proximate result of Defendants' infringement of the Plaintiffs'
13 common law trademark rights under Nevada and other common law, Plaintiffs have suffered, and
14 will continue to suffer, monetary damages and irreparable injury to their business, reputation, and
15 goodwill.

COUNT VIII
(Deceptive Trade Practices
under N.R.S. § 598.0915)

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18 82. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
19 forth herein.

20 83. Upon information and belief, in the course of conducting business, Defendants
21 knowingly made false representations as to an affiliation, connection, and/or association with the
22 Plaintiffs by using marks identical and/or confusingly similar to the Plaintiffs' Marks, and
23 otherwise engaged in deceptive trade practices.

24 84. As the direct and proximate result of Defendants' deceptive conduct, Plaintiffs
25 suffered, and will continue to suffer, monetary damages and irreparable injury to their business,
26 reputation, and goodwill.

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2 **COUNT IX**
3 (Intentional Interference with
4 Prospective Economic Advantage)

5 85. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set
6 forth herein.

7 86. Upon information and belief, at the time Defendants adopted and began using
8 marks that are the same and/or confusingly similar to the Plaintiffs' Marks, and since that time,
9 Defendants knew and has known that the Plaintiffs are in the business of providing resort hotel
10 casino services, and that the Plaintiffs advertise these services on the Internet using the Plaintiffs'
11 Marks.

12 87. Upon information and belief, Defendants committed acts intended or designed to
13 disrupt the Plaintiffs' prospective economic advantage arising from providing these services.

14 88. Defendants' actions have disrupted or are intended to disrupt the Plaintiffs'
15 business by, among other things, diverting web users away from the Plaintiffs' websites and to the
16 online gambling website Defendants linked to the Infringing Domain Names.

17 89. Defendants have no legal right, privilege or justification for this conduct.

18 90. As a direct and proximate result of Defendants' intentional interference with the
19 Plaintiffs' prospective economic advantage, Plaintiffs have suffered, and will continue to suffer,
20 monetary damages and irreparable injury.

21 91. Based on the intentional, willful and malicious nature of Defendants' actions,
22 Plaintiffs are entitled to recover monetary damages, exemplary or punitive damages and
23 reasonable attorneys' fees, and costs incurred in connection with this action.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

26 A. A preliminary and permanent injunction prohibiting Defendants, Defendants'
27 respective officers, agents, servants, employees and/or all persons acting in concert or
28 participation with Defendants, from: (1) using the Plaintiffs' Marks or confusingly similar
variations thereof, alone or in combination with any other letters, words, letter strings, phrases or

1 designs, in commerce or in connection with any business or for any purpose whatsoever
2 (including, but not limited to, on websites, in domain names, in hidden text and metatags); and (2)
3 registering or trafficking in any domain names containing the Plaintiffs' Marks or confusingly
4 similar variations thereof, alone or in combination with any other letters, words, phrases or
5 designs.

6 B. A permanent injunction requiring the current domain name registrar to transfer the
7 Infringing Domain Names to Plaintiffs' designee and sister corporation, MGM MIRAGE
8 Operations, Inc.;

9 C. An award of compensatory, consequential, statutory, exemplary, and/or punitive
10 damages to Plaintiffs in an amount to be determined at trial;

11 D. An award of interest, costs and attorneys' fees incurred by Plaintiffs in prosecuting
12 this action; and

13 E. All other relief to which Plaintiffs are entitled.

14 DATED this 13th day of November, 2008

Respectfully submitted,

BROWNSTEIN HYATT FARBER SCHRECK

By: /s/ Christopher M. Law
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Christopher M. Law
100 City Parkway, Suite 1600
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Attorneys for Plaintiffs
BELLAGIO, LLC;
MANDALAY RESORT GROUP;
NEW YORK-NEW YORK HOTEL &
CASINO, LLC; and TREASURE ISLAND
CORP.

BROWNSTEIN HYATT FARBER SCHRECK, LLP
ATTORNEYS AT LAW
LAS VEGAS

JS 44 (Rev. 12/97)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1973, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

BELLAGIO, LLC; MANDALAY RESORT GROUP; NEW YORK-NEW YORK HOTEL & CASINO, LLC; TREASURE ISLAND

(b) County of Residence of First Listed Plaintiff Clark
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jason D. Firth, Esq., Christopher M. Law, Esq., Brownstein Hyatt Farber Schreck, 100 City Parkway, #1600, Las Vegas, NV 89106

DEFENDANTS

SMART ANSWER S.A. and SUSANNA GONZALES

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (if known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instruments <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage - Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DMC/DIWA (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 430 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <input type="checkbox"/> 490 State Reapportionment <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Consumer <input type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodity/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 E and Condemnation <input type="checkbox"/> 230 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DMC/DIWA (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

V. ORIGIN

- (Place an "X" in One Box Only)
- 1 Original Proceeding
 - 2 Removed from State Court
 - 3 Remanded from Appellate Court
 - 4 Reinstated or Reopened
 - 5 Transferred from another district (SPECIFY)
 - 6 Multidistrict Litigation
 - 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity).
15 U.S.C. Sec. 1125(a)(c)(d); 15 U.S.C. Sec. 1174

Brief description of cause:
Cybersquatting and trademark infringement

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$ _____
- CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions) JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING FPP _____ JUDGE _____ MAG. JUDGE _____