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Pinnacle Entertainment, Inc.

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

11 PINNACLE ENTERTAINMENT, INC., a
Delaware Corporation,

12 Plaintiff,

13 v.

14 ESKAY SEO, an unknown business entity,
15 and SULTAN SHAFIQUE, an individual,

16 Defendants.
17

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

- 14 (1) Cybersquatting
under 15 U.S.C. § 1125(d)
- 15 (2) Trademark Infringement
under 15 U.S.C. § 1114
- 16 (3) Unfair Competition
under 15 U.S.C. § 1125(a)
- 17 (4) Common Law Trademark
Infringement
- 18 (5) Common Law Intentional Interference with
Prospective Economic Advantage
- 19 (6) Deceptive Trade Practices under N.R.S. §
20 598.0915

23 For its complaint against Defendants Eskay SEO and Sultan Shafique ("Defendants"),
24 Plaintiff Pinnacle Entertainment, Inc. ("Pinnacle" or "Plaintiff") alleges the following:

25 **NATURE OF THE CASE**

26 This is an action for cybersquatting, trademark infringement and unfair competition under
27 federal statutes, with pendent state and common law claims for trademark infringement, deceptive
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1 trade practices, and intentional interference with prospective economic advantage. Plaintiff seeks
2 damages, attorneys' fees, costs, and preliminary and permanent injunctive relief.

3 **JURISDICTION AND VENUE**

4 1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§
5 1331 and 1338(a). This Court has supplemental jurisdiction over Plaintiff's state and common
6 law claims pursuant to 28 U.S.C. § 1367(a).

7 2. This Court has personal jurisdiction over Defendants based upon the following: (a)
8 Defendants operate a website on the Internet that is accessible to residents of the State of Nevada;
9 (b) Defendants' website is interactive in that it links web users to gaming websites; and (c)
10 Defendants have committed tortious acts that Defendants knew or should have known would
11 cause injury to a resident in the State of Nevada.

12 3. Venue is proper in the United States District Court for the District of Nevada
13 under 28 U.S.C. §§ 1391(b) and 1391(c).

14 **PARTIES**

15 4. Plaintiff Pinnacle is a Delaware corporation, and a leading developer, owner and
16 operator of casino gaming resorts. Pinnacle is headquartered in Las Vegas and owns and operates
17 seven major casinos in Nevada, Louisiana, Indiana and Missouri, as well as small casinos in
18 Argentina.

19 5. Upon information and belief, Defendant Eskay SEO is an unknown business entity
20 located in Pakistan that operates a website linked to an online casino accessible by, and directed
21 to United States residents.

22 6. Upon information and belief, Defendant Sultan Shafique is an individual residing
23 in Pakistan who operates a website linked to an online casino accessible to United States
24 residents.

25 **PLAINTIFF'S RIGHTS**

26 7. Plaintiff owns and operates the Belterra Casino Resort & Spa ("Belterra
27 Property"), a well-known resort hotel casino located in Florence, Indiana. Since the Belterra
28

1 Property opened in 2000, Plaintiff has continuously used the BELTERRA trademark in
2 connection with various goods and services, including but not limited to casino services.

3 8. Plaintiff owns federal trademark registrations for BELTERRA on the Principal
4 Register of the United States Patent and Trademark Office ("USPTO"), including the following:

- 5 a. **BELTERRA** for casino services (Reg. No. 2,454,036);
- 6 b. **BELTERRA CASINO RESORT** for casino services (Reg. No.
7 2,669,718);
- 8 c. **BELTERRA** for hotel services (Reg. No. 2,458,428);
- 9 d. **BELTERRA CASINO RESORT** for hotel services (Reg. No. 2,669,181);
10 and
- 11 e. **SHOP BELTERRA** for retail store services (Reg. No. 3,746,550).

12 (collectively the "BELTERRA Marks"). Plaintiff's federal trademark registrations have not been
13 abandoned, cancelled or revoked. Moreover, Plaintiff's federal trademark registrations, with the
14 exception of its SHOP BELTERRA Mark, have become incontestable through the filing of
15 Section 8 and 15 affidavits in the USPTO.

16 9. Plaintiff uses its Marks in connection with its family of PINNACLE
17 ENTERTAINMENT Marks. Thus, the BELTERRA Marks are not only well-known through the
18 individual Belterra property, but are also well-known because consumers associate them with
19 their parent brand, PINNACLE ENTERTAINMENT, which Plaintiff started using in connection
20 with its casino properties in 2000. In 2000, Plaintiff owned seven (7) casinos in Nevada,
21 Louisiana, Mississippi, and Argentina. Plaintiff now owns nine (9) casinos. All of these casinos
22 have cross-promoted the Belterra Casino and BELTERRA Marks. Plaintiff has used the
23 BELTERRA Marks in conjunction with the PINNACLE ENTERTAINMENT house mark since
24 it opened the Belterra Property in 2000.

25 10. Plaintiff has spent substantial sums of money to advertise and promote its business
26 and the BELTERRA Marks, in print and broadcast media, and on the Internet through its
27 <www.pnkinc.com> and <belterracasino.com> websites, both of which are accessible throughout
28 the United States and around the world. Plaintiff has also made extensive use of the BELTERRA

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1 Marks on, among other things, signage, wearing apparel, souvenirs and promotional materials.
2 Based on its trademark registrations and extensive use, Plaintiff owns the exclusive right to use
3 the BELTERRA Marks in connection with casino, hotel, retail and related services.

4 11. Millions of visitors throughout the United States have visited and seen the Belterra
5 Property since it opened, and numerous consumer products and promotional items bearing the
6 BELTERRA Marks have been sold or otherwise distributed since the property opened. The
7 BELTERRA Marks have thus become distinctive in the United States for resort, hotel and casino
8 services.

9 12. Millions of visitors throughout the world have visited and seen the numerous
10 Pinnacle Entertainment properties, making the PINNACLE ENTERTAINMENT brand well-
11 known throughout the world for its casino services. Because consumers associate Pinnacle
12 Entertainment with the Belterra Property, the BELTERRA Marks and the Belterra Property's
13 casino services have become well-known to consumers around the world.

14 DEFENDANT'S INFRINGING ACTIVITIES

15 13. On or about November 1, 2009, Defendants registered the <belterracasino.info>
16 Internet domain name (the "Infringing Domain Name") with Key-Systems, a Registrar for
17 domain names.

18 14. Some time after registration, Defendants linked the Infringing Domain Name to a
19 website ("Infringing Website"), which suggests to Internet users that Plaintiff sponsors the
20 Infringing Website. For example, the Infringing Website's home page states "[o]ne can feel never
21 feel boring because there are multiple things to do here at Belterra Casino Indiana"

22 15. The Infringing Website contains links to a website entitled "Online Casino"
23 located at <onlinecasinozone.net> ("Online Casino Website"). The Online Casino Website
24 contains links to numerous online gaming websites, and provides information regarding one of
25 Plaintiff's competitors in the gaming industry, which the Online Casino Website refers to as the
26 "Rio Casino" in Las Vegas, Nevada.

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1 16. The Infringing Domain Name contains Plaintiff's well-known BELTERRA Marks
2 coupled with the descriptive word "casino," which describes the very services offered by
3 Plaintiff.

4 17. The BELTERRA Marks were distinctive and well-known at the time Defendants
5 registered the Infringing Domain Name.

6 18. Defendants did not obtain Plaintiff's consent or authorization to register a domain
7 name containing Plaintiff's BELTERRA Marks.

8 19. Upon information and belief, by registering and using a domain name containing
9 Plaintiff's BELTERRA Marks, Defendants were and are attempting to trade off the goodwill
10 Plaintiff has built in those Marks.

11 20. Upon information and belief, by registering and using a domain name containing
12 Plaintiff's BELTERRA Marks, and by linking the associated website to an online gaming
13 website, Defendants were and are attempting to create an association between the Infringing
14 Domain Name and Plaintiff's BELTERRA Marks.

15 21. Upon information and belief, by registering and using a domain name containing
16 Plaintiff's BELTERRA Marks coupled with the descriptive word "casino," Defendants were and
17 are attempting to create an association between the Online Casino Website and Plaintiff's casino
18 services.

19 22. Upon information and belief, by registering and using a domain name containing
20 Plaintiff's BELTERRA Marks, Defendants were and are intending to divert customers from
21 Plaintiff's websites to a site accessible under the Infringing Domain Name in a manner that could
22 harm the goodwill represented by Plaintiff's BELTERRA Marks.

23 23. Upon information and belief, Defendants registered the Infringing Domain Name
24 with the bad faith intent to profit from Plaintiff's BELTERRA Marks.

25 24. Upon information and belief, Defendants have no trademark or other intellectual
26 property rights in the BELTERRA name or Marks.

27 25. Upon information and belief, Defendants have never used the Infringing Domain
28 Name in connection with the bona fide offering of any goods or services.

1 26. Upon information and belief, Defendants did not believe or have reasonable
2 grounds to believe that their use of the Infringing Domain Name was a fair use or otherwise
3 lawful.

4 **COUNT I**

5 **(Cybersquatting – 15 U.S.C. § 1125(d))**

6 27. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
7 forth herein.

8 28. Defendants have registered, trafficked in, and/or used a domain name that is
9 confusingly similar to Plaintiff's BELTERRA Marks.

10 29. Plaintiff's BELTERRA Marks were distinctive at the time Defendants registered
11 the Infringing Domain Name.

12 30. Upon information and belief, Defendants have and/or had a bad faith intent to
13 profit from Plaintiff's BELTERRA Marks.

14 31. As a direct and proximate result of such conduct, Plaintiff has suffered, and will
15 continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

16 **COUNT II**

17 **(Federal Trademark Infringement – 15 U.S.C. § 1114)**

18 32. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
19 forth herein.

20 33. By registering a domain name containing Plaintiff's BELTERRA Marks and
21 linking the associated website to the Online Casino Website, Defendants intentionally and
22 knowingly used in commerce a reproduction, counterfeit, copy and/or colorable imitation of
23 Plaintiff's trademarks in connection with the sale, offering for sale, or advertising of services in a
24 manner that is likely to cause confusion or mistake, or to deceive consumers as to an affiliation,
25 connection, or association with Plaintiff.

26 34. Defendants' use of a domain name containing Plaintiff's BELTERRA Marks has
27 created a likelihood of confusion among consumers who may falsely believe that the Infringing
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1 Domain Name is associated with the Belterra Property or that Plaintiff sponsors or approves of
2 Defendants' services or commercial activities.

3 35. Defendants' use of a domain name containing Plaintiff's BELTERRA Marks is
4 also likely to cause initial interest confusion and to divert Internet users away from Plaintiff's
5 websites.

6 36. Defendants' continued and knowing use of Plaintiff's BELTERRA Marks without
7 Plaintiff's consent or authorization constitutes intentional infringement of Plaintiff's federal
8 registered trademarks in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

9 37. As a direct and proximate result of Defendants' infringement, Plaintiff has
10 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
11 reputation, and goodwill.

12 **COUNT III**

13 **(Unfair Competition: False Designation of Origin – 15 U.S.C. § 1125(a)(1)(A))**

14 38. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
15 forth herein.

16 39. Defendants' use of a domain name that is confusingly similar to Plaintiff's
17 BELTERRA Marks constitutes intentional conduct by Defendants to make false designations of
18 origin and false descriptions about Defendants' services and commercial activities.

19 40. Defendants' actions have created a likelihood of confusion among consumers who
20 will falsely believe that Defendants' services are produced by, or affiliated or associated with
21 Plaintiff, when in fact they are not.

22 41. Upon information and belief, Defendants acted knowingly, deliberately, and
23 willfully with the intent to trade on Plaintiff's reputation. Defendants' conduct is willful, wanton
24 and egregious.

25 42. As a direct and proximate result of such unfair competition, Plaintiff has suffered,
26 and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and
27 goodwill.

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COUNT IV

(Common Law Trademark Infringement)

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3 43. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
4 forth herein.

5 44. By virtue of having used and continuing to use its BELTERRA Marks, Plaintiff
6 has acquired common law trademark rights in the marks.

7 45. Defendants' use of a domain name containing Plaintiff's BELTERRA Marks
8 infringes Plaintiff's common law trademark rights in its BELTERRA Marks and is likely to cause
9 confusion, mistake, or deception among consumers, who will believe that Defendants' services
10 originate from, are affiliated with, or are endorsed by Plaintiff, when, in fact, they are not.

11 46. As a direct and proximate result of Defendants' infringement, Plaintiff has
12 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
13 reputation, and goodwill.

COUNT V

(Common Law Intentional Interference with Prospective Economic Advantage)

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16 47. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
17 forth herein.

18 48. Upon information and belief, at and since the time Defendants began using
19 Plaintiff's BELTERRA Marks, Defendants knew and have known that Plaintiff is in the business
20 of providing resort hotel casino services, and that Plaintiff advertises these services on the
21 Internet using Plaintiff's BELTERRA Marks.

22 49. Upon information and belief, Defendants committed acts intended or designed to
23 disrupt Plaintiff's prospective economic advantage arising from advertising and/or providing
24 these services.

25 50. Defendants' actions have disrupted or are intended to disrupt Plaintiff's business
26 by, among other things, diverting web users away from Plaintiff's websites to Defendants' Online
27 Casino Website associated with the Infringing Domain Name.

28 51. Defendants have no legal right, privilege or justification for this conduct.

1 52. As a direct and proximate result of Defendants' intentional interference with the
2 Plaintiff's prospective economic advantage, Plaintiff has suffered, and will continue to suffer,
3 monetary damages and irreparable injury.

4 53. Based on the intentional, willful and malicious nature of Defendants' actions,
5 Plaintiff is entitled to recover monetary damages, exemplary or punitive damages and reasonable
6 attorneys' fees and costs incurred in connection with this action.

7 **COUNT VI**

8 **(Deceptive Trade Practices – N.R.S. § 598.0915)**

9 54. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set
10 forth herein.

11 55. Upon information and belief, in the course of conducting business, Defendants
12 knowingly made false representations as to an affiliation, connection, and/or association with
13 Plaintiff by using marks identical and/or confusingly similar to Plaintiff's BELTERRA Marks,
14 and otherwise engaged in deceptive trade practices.

15 56. As the direct and proximate result of Defendants' deceptive conduct, Plaintiff
16 suffered, and will continue to suffer, monetary damages and irreparable injury to its business,
17 reputation, and goodwill.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff respectfully prays that the Court grant the following relief:

20 A. A preliminary and permanent injunction prohibiting Defendants, Defendants'
21 respective officers, agents, servants, employees and/or all persons acting in concert or
22 participation with Defendants, from: (1) using Plaintiff's trademarks or confusingly similar
23 variations thereof, alone or in combination with any other letters, words, letter strings, phrases or
24 designs, in commerce or in connection with any business or for any purpose whatsoever
25 (including, but not limited to, on websites, in domain names, in hidden text and metatags); and (2)
26 registering or trafficking in any domain names containing Plaintiff's trademarks or confusingly
27 similar variations thereof, alone or in combination with any other letters, words, phrases or
28 designs;

1 B. a permanent injunction requiring the current domain name registrar to transfer the
2 <belterracasino.info> domain name to Plaintiff, and preliminary injunctive relief maintaining the
3 *status quo* pending the outcome of this litigation;

4 C. an award of compensatory, consequential, statutory, exemplary, and/or punitive
5 damages to Plaintiff in an amount to be determined at trial;

6 D. an award of interest, costs and attorneys' fees incurred by Plaintiff in prosecuting
7 this action; and

8 E. all other relief to which Plaintiff is entitled.

9 DATED this 20th day of May, 2010

Respectfully submitted,

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