

1 JASON D. FIRTH (Nevada Bar No. 8801)  
jfirth@bhfs.com  
2 LAURA E. BIELINSKI (Nevada Bar No. 10516)  
lbielinski@bhfs.com  
3 BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 City Parkway, Suite 1600  
4 Las Vegas, Nevada 89106-4614  
Telephone: (702) 382-2101  
5 Facsimile: (702) 382-8135

6 Attorneys for Plaintiff  
M HOLDINGS. LLC  
7

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

10  
11 M HOLDINGS. LLC, a Nevada  
Corporation.

12 Plaintiff.

13 v.  
14

15 HU MEI LI, an individual,

16 Defendant.  
17  
18  
19  
20  
21  
22

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) Common Law Trademark  
Infringement
- (5) Deceptive Trade Practices  
under N.R.S. § 598.0903. et seq.
- (6) Intentional Interference with  
Prospective Economic Advantage

23 For its complaint against Defendant Hu Mei Li ("Defendant"), Plaintiff M Holdings, LLC  
24 ("M Holdings"), 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/or common law claims for trademark infringement.  
28

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

1 deceptive trade practices, and intentional interference with prospective economic advantage.  
2 Plaintiff seeks 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 Defendant based upon the following: (a)  
8 Defendant operates a website on the Internet that is accessible to residents of the State of Nevada;  
9 (b) Defendant's website is interactive in that it provides access to reservation services that enable  
10 consumers to book and purchase hotel rooms online; and (c) Defendant has committed tortious  
11 acts that Defendant knew or should have known would cause injury to a resident in the State of  
12 Nevada.

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

15 **PARTIES**

16 4. Plaintiff M Holdings, LLC is a Nevada limited liability company that owns the  
17 intellectual property of M Resort Spa Casino (the "Property" or "M Resort") in Las Vegas.  
18 Nevada.

19 5. Upon information and belief, Defendant Hu Mei Li is an individual residing in  
20 Shanghai, China, who operates a website accessible to United States residents.

21 **PLAINTIFF'S RIGHTS**

22 6. Plaintiff owns the intellectual property for M Resort, a well-renown resort spa  
23 casino located in Las Vegas, Nevada.

24 7. Plaintiff and the public at large colloquially refer to the Property as "M Resort" or  
25 simply "M."

26 8. Plaintiff owns eight (8) trademark registrations with the United States Patent and  
27 Trademark Office (the "USPTO") for the marks identified below, among others (collectively, the  
28 "M RESORT Marks"):

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

BROWNSTEIN HYATT FARRER SCURIECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

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

- a) **M** (and Design) for hotel services (Reg. No. 3.411,031);
- b) **M RESORT SPA CASINO LAS VEGAS** (and Design) for hotel, bar and restaurant services (Reg. No. 3,544,752);
- c) **M RESORT SPA CASINO LAS VEGAS** (and Design) for casinos: arranging for ticket reservations for shows and other entertainment events; entertainment in the nature of theater productions; entertainment in the nature of visual and audio performances, and musical, variety, news and comedy shows; entertainment in the nature of music concerts; amusement arcades; movie theaters; night clubs; health club services, namely, providing equipment in the field of physical exercise; providing facilities for recreation activities; conducting and providing facilities for special events featuring casino and gaming contests and tournaments; special event planning (Reg. No. 3.627.974);
- d) **M** (and Design) for bar and restaurant services (Reg. No. 3,628.876);
- e) **M** (and Design) for cocktail lounges and bar services (Reg. No. 3.667,648);
- f) **M CAFÉ** (and design) for restaurant services (Reg. No. 3,632,946);
- g) **M RESORT SPA CASINO LAS VEGAS** (and Design) for barbershops, beauty salons, health spa services, namely cosmetic body care services, massage, and tanning salons (Reg. No 3.664,380);
- h) **M RESORT SPA CASINO LAS VEGAS** (and Design) for retail clothing stores, retail gift shops, retail store services featuring a wide variety of consumer goods of others (Reg. No. 3,627,983);

True and accurate copies of Plaintiff's federal trademark registrations are attached hereto as **Exhibit A**, and are incorporated herein by this reference.

9. The priority of Plaintiff's federal trademark rights in the **M RESORT** Marks dates back to October 1, 2007, the date of Plaintiff's first application for hotel services.

10. Plaintiff's federal registrations have not been abandoned, cancelled or revoked.

1 11. Plaintiff has spent substantial sums of money to advertise and promote the  
2 Property and the M RESORT Marks. in print and broadcast media. and on the Internet through  
3 the M Resort website <themresort.com>, which is accessible throughout the United States and  
4 around the world. True and accurate copies of the homepage of this website is attached hereto as  
5 **Exhibit B**, and is incorporated herein by this reference.

6 12. Plaintiff has also made extensive use of the M RESORT Marks on, among other  
7 things, signage, wearing apparel, souvenirs and promotional materials.

8 13. Based on its trademark registrations and extensive use, Plaintiff owns the  
9 exclusive right to use the M RESORT Marks in connection with casino, hotel and related  
10 services.

11 14. The M RESORT Marks have become distinctive in the United States for resort.  
12 hotel and casino services.

13 **DEFENDANT'S INFRINGING ACTIVITIES**

14 15. On or about September 5, 2009, Defendant registered the <wwwmresort.com>  
15 Internet domain name (the "Infringing Domain Name") with Directi Internet Solutions PVT, Ltd.,  
16 d/b/a PublicDomainRegistry.com ("Registrar"), a Registrar for domain names. A true and  
17 accurate copy of the DomainTools WhoIs Records for the Infringing Domain Name is attached  
18 hereto as **Exhibit C**. and is incorporated herein by this reference.

19 16. The registration date of the Infringing Domain Name, September 5, 2009, is nearly  
20 two years after Plaintiff's federal trademark priority date of October 1, 2007, for the M RESORT  
21 Marks.

22 17. Some time after registration, Defendant linked the Infringing Domain Name to a  
23 website featuring adult content, namely provocative images of women. Since that time,  
24 Defendant has changed the background image associated with the website.

25 18. In addition, the website associated with the Infringing Domain Name features  
26 sponsored links to hotel-related services. Originally, the links were entitled "Resort," "Hotel,"  
27 "Discount Hotel," "Hotel Reservations," and "Motel." The current version of the website still  
28 contains sponsored links to discount hotel websites where the user can book discounted hotel

BROWNSTEIN HYATT FARBER SCHURECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

1 rooms at M Resort or competing resort hotel casinos. A true and accurate copy of the  
2 <wwwmresort.com> website pages, both as Plaintiff originally found them September 23, 2009,  
3 and as they currently can be viewed, are attached hereto as **Exhibit D**, and are incorporated  
4 herein by this reference.

5 19. The Infringing Domain Name contains Plaintiff's distinctive M RESORT Marks.

6 20. The M RESORT Marks were distinctive at the time Defendant registered the  
7 Infringing Domain Name.

8 21. Defendant did not obtain Plaintiff's consent or authorization to register a domain  
9 name containing Plaintiff's M RESORT Marks.

10 22. Upon information and belief, by registering and using a domain name containing  
11 the M RESORT Marks, Defendant was and is attempting to trade of the goodwill Plaintiff has  
12 built up in the Marks.

13 23. Upon information and belief, by registering and using a domain name containing  
14 Plaintiff's M RESORT Marks, and placing sponsored links thereupon to sites where users can  
15 book discounted rooms at M Resort or its competitors, Defendant was and is attempting to create  
16 an association between the Infringing Domain Name and Plaintiff's M RESORT Marks.

17 24. Upon information and belief, by registering and using a domain name containing  
18 Plaintiff's M RESORT Marks, Defendant was and is intending to divert customers from  
19 Plaintiff's website to a site accessible under the Infringing Domain Name in a manner that could  
20 harm the goodwill represented by Plaintiff's M RESORT Marks.

21 25. Upon information and belief, Defendant registered the Infringing Domain Name  
22 with the bad faith intent to profit from Plaintiff's M RESORT Marks.

23 26. Upon information and belief, Defendant has no trademark or other intellectual  
24 property rights in the M RESORT name or Marks.

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

27 28. Upon information and belief, Defendant did not believe or have reasonable  
28 grounds to believe that its use of the Infringing Domain Name was a fair use or otherwise lawful.

**COUNT I**

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

1  
2  
3 29. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set  
4 forth herein.

5 30. Defendant has registered, trafficked in, and/or used a domain name that is  
6 confusingly similar to Plaintiff's M RESORT Marks.

7 31. Plaintiff's M RESORT Marks were distinctive at the time Defendant registered the  
8 Infringing Domain Name.

9 32. Upon information and belief, Defendant has and/or had a bad faith intent to profit  
10 from Plaintiff's M RESORT Marks.

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

**COUNT II**

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

13  
14  
15 34. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set  
16 forth herein.

17 35. By registering a domain name containing Plaintiff's M RESORT Marks and  
18 providing access to reservation services that enable consumers to book and purchase hotel rooms  
19 online at M Resort or its competitors, Defendant intentionally and knowingly used in commerce a  
20 reproduction, counterfeit, copy and/or colorable imitation of Plaintiff's trademarks in connection  
21 with the sale, offering for sale, or advertising of services in a manner that is likely to cause  
22 confusion or mistake, or to deceive consumers as to an affiliation, connection, or association with  
23 Plaintiff.

24 36. Defendant's use of a domain name containing Plaintiff's M RESORT Marks has  
25 created a likelihood of confusion among consumers who may falsely believe that the Infringing  
26 Domain Name is associated with the M Resort or that Plaintiff sponsors or approves of  
27 Defendant's services or commercial activities.  
28

BROWNSTEIN HYATT FARBER SCHRECK, L.L.P.  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

1 37. Defendant's use of a domain name containing Plaintiff's M RESORT Marks is also  
2 likely to cause initial interest confusion and to divert Internet users away from Plaintiff's website.

3 38. Defendant's continued and knowing use of Plaintiff's M RESORT Marks without  
4 Plaintiff's consent or authorization constitutes intentional infringement of Plaintiff's federal  
5 registered trademarks in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

6 39. As a direct and proximate result of Defendant's infringement, Plaintiff has  
7 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,  
8 reputation, and goodwill.

9 **COUNT III**

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

11 40. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set  
12 forth herein.

13 41. Defendant's use of a domain name that is confusingly similar to Plaintiff's M  
14 RESORT Marks constitutes intentional conduct by Defendant to make false designations of  
15 origin and false descriptions about Defendant's services and commercial activities.

16 42. Defendant's actions have created a likelihood of confusion among consumers who  
17 will falsely believe that Defendant's services are produced by, or affiliated or associated with  
18 Plaintiff, when in fact they are not.

19 43. Upon information and belief, Defendant acted knowingly, deliberately, and  
20 willfully with the intent to trade on Plaintiff's reputation. Defendant's conduct is willful, wanton  
21 and egregious.

22 44. As a direct and proximate result of such unfair competition, Plaintiff has suffered,  
23 and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and  
24 goodwill.

25 **COUNT IV**

26 **(Common Law Trademark Infringement)**

27 45. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set  
28 forth herein.

BROWNSTEIN JIYATI FARBER SCHRECKS, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

1 46. By virtue of having used and continuing to use Plaintiff's M RESORT Marks,  
2 Plaintiff has acquired common law trademark rights in the marks.

3 47. Defendant's use of a domain name containing Plaintiff's M RESORT Marks  
4 infringes Plaintiff's common law trademark rights in its M RESORT Marks and is likely to cause  
5 confusion, mistake, or deception among consumers, who will believe that Defendant's services  
6 originate from, are affiliated with, or are endorsed by Plaintiff, when, in fact, they are not.

7 48. As a direct and proximate result of Defendant's infringement, Plaintiff has  
8 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,  
9 reputation, and goodwill.

10 **COUNT V**

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

12 49. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set  
13 forth herein.

14 50. Upon information and belief, in the course of conducting business, Defendant  
15 knowingly made false representations as to an affiliation, connection, and/or association with M  
16 Resort by using marks identical and/or confusingly similar to Plaintiff's M RESORT Marks, and  
17 otherwise engaged in deceptive trade practices.

18 51. As the direct and proximate result of Defendant's deceptive conduct, Plaintiff  
19 suffered, and will continue to suffer, monetary damages and irreparable injury to its business,  
20 reputation, and goodwill.

21 **COUNT VI**

22 **(Intentional Interference with Prospective Economic Advantage)**

23 52. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set  
24 forth herein.

25 53. Upon information and belief, at and since the time Defendant began using  
26 Plaintiff's M RESORT Marks, Defendant knew and has known that M Resort is in the business of  
27 providing resort spa casino services, and that M Resort advertises these services on the Internet  
28 using Plaintiff's M RESORT Marks.



1 54. Upon information and belief, Defendant committed acts intended or designed to  
2 disrupt Plaintiff's prospective economic advantage arising from advertising and/or providing  
3 these services.

4 55. Defendant's actions have disrupted or are intended to disrupt Plaintiff's business  
5 by, among other things, diverting web users away from M Resort's website containing Plaintiff's  
6 M RESORT Marks and to the website Defendant linked to the Infringing Domain Name.

7 56. Defendant has no legal right, privilege or justification for this conduct.

8 57. As a direct and proximate result of Defendant's intentional interference with the  
9 Plaintiff's prospective economic advantage, Plaintiff has suffered, and will continue to suffer,  
10 monetary damages and irreparable injury.

11 58. Based on the intentional, willful and malicious nature of Defendant's actions,  
12 Plaintiff is entitled to recover monetary damages, exemplary or punitive damages and reasonable  
13 attorneys' fees and costs incurred in connection with this action.

14 **PRAYER FOR RELIEF**

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

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

25 B. A permanent injunction requiring the current domain name registrar to transfer the  
26 <wwwmresort.com> domain name to Plaintiff;

27 C. An award of compensatory, consequential, statutory, exemplary, and/or punitive  
28 damages to Plaintiff in an amount to be determined at trial:

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

1 D. An award of interest, costs and attorneys' fees incurred by Plaintiff in prosecuting  
2 this action; and

3 E. All other relief to which Plaintiff is entitled.

4  
5 DATED this 27th day of October, 2009

Respectfully submitted,

6 BROWNSTEIN HYATT FARBER SCHRECK,  
7 LLP

8 By: /s/ Laura Bielinski

9 Jason D. Firth (Nevada Bar No. 8801)  
10 Laura E. Bielinski (Nevada Bar No. 10516)  
11 100 City Parkway, Suite 1600  
12 Las Vegas, Nevada 89106-4614

13 Attorneys for Plaintiff  
14 M HOLDINGS, LLC.

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101