

1 JASON D. FIRTH (Nevada Bar No. 8801)  
jfirth@bhfs.com  
2 JEFFREY S. RUGG (Nevada Bar No. 10978)  
jrugg@bhfs.com  
3 LAURA E. BIELINSKI (Nevada Bar No. 10516)  
lbielinski@bhfs.com  
4 BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 City Parkway, Suite 1600  
5 Las Vegas, Nevada 89106-4614  
Telephone: (702) 382-2101  
6 Facsimile: (702) 382-8135

7 Attorneys for Plaintiffs  
8 BELLAGIO, LLC, and  
MIRAGE RESORTS, INC.

9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA

11  
12 BELLAGIO, LLC, and MIRAGE  
RESORTS, INC., a Nevada corporation,

13 Plaintiffs,

14 v.

15 DOMINIC TORRINO, an individual, d/b/a  
16 BELLAGIO LIMOUSINES and  
17 GEORGIO STAMATIS MAILLIS, an  
individual, d/b/a BELLAGIO  
18 LIMOUSINES

19 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

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

BROWNSTEIN HYATT F. ARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

1 For their complaint against Defendants Dominic Torrino d/b/a Bellagio Limousines  
2 ("Torrino") and Georgio Stamatis Maillis d/b/a Bellagio Limousines ("Maillis") (collectively  
3 "Defendants"), Plaintiffs Bellagio, LLC ("Bellagio, LLC"), and Mirage Resorts, Inc. ("MRI")  
4 (together, "Bellagio") allege the following:

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. Bellagio seeks damages, attorneys' fees, costs, and  
10 preliminary and permanent injunctive relief.

11 **JURISDICTION AND VENUE**

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

15 2. This Court has personal jurisdiction over Defendants based upon the following: (a)  
16 Defendants operate a website on the Internet that is accessible to residents of the State of Nevada;  
17 (b) Defendants' website is interactive in that it allows web users to access the forms to order their  
18 limousine transportation services; (c) Defendants' operations include a facility in Los Angeles,  
19 California which provides service to residents of Nevada and to customers seeking services in  
20 Nevada; and (d) Defendants have committed tortious acts that he knew or should have known  
21 would cause injury to a 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).

24 **PARTIES**

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

27 5. MRI is a Nevada corporation with its principal place of business in Las Vegas,  
28 Nevada.

6. Upon information and belief, Torrino and Maillis are each individuals and residents of Canada and they do business as Bellagio Limousines. Bellagio Limousines has its principle places of business in Ontario, Canada and Los Angeles, California. Torrino and Maillis each claim to be the registrant of the domain name <bellagiolimousines.com>.

**BELLAGIO'S RIGHTS**

7. MRI is a Nevada corporation that owns the intellectual property rights for the Bellagio Hotel-Resort (the "Bellagio Property") operated by Bellagio, LLC, in Las Vegas, Nevada.

8. MRI owns several federal trademark registrations for BELLAGIO Marks on the Principal Register of the United States Patent and Trademark Office ("USPTO") including, among others:

- a) BELLAGIO for casino and live entertainment services (Reg. Nos. 2,232,486);
- b) BELLAGIO for casino, entertainment in the form of live performance, resort hotel, restaurant, bar, and health spa services (Reg. No. 2,771,155);
- c) BELLAGIO for convention, banquet and social function facilities for special occasions (Reg. No. 2,915,992);
- d) BELLAGIO for residential and commercial building and real estate related services (Reg. No. 2,873,849);
- e) BELLAGIO for wedding chapel services (Reg. No. 2,959,168);
- f) BELLAGIO for photography services (Reg. No. 2,964,701);
- g) BELLAGIO for real estate investment and management services (Reg. No. 2,873,850);
- h) BELLAGIO for Cologne, perfume, eau de toilette, body lotion, hand cream and related personal products (Reg. No. 2,559,405);
- i) BELLAGIO for wearing apparel (Reg. No. 2,313,142);
- j) BELLAGIO for hotels, beauty salons, and health spas (Reg. No. 2,232,487);

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

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- k) B BELLAGIO for casino and live entertainment services (Reg. No. 2,570,928);
- l) B BELLAGIO for hotel, beauty salons and health spas (Reg. No. 2,514,690);
- m) B BELLAGIO for wedding chapel services (Reg. No. 2,924,850);
- n) B BELLAGIO for photography services (Reg. No. 2,964,700);
- o) B BELLAGIO for restaurant, bar, convention, banquet, and travel agency services (Reg. No. 3,491,777);
- p) B BELLAGIO for gaming related special events, health club services, exercise services, and other entertainment related services (Reg. No. 3,466,805);
- q) B BELLAGIO for art galleries, gift certificates, public meeting facilities, and internet based shopping services (Reg. No. 3,466,804);
- r) B for apparel (Reg. No. 2,702,242);
- s) B for serving ware, beverage containers, coasters, statues, hair brushes and hair combs (Reg. No. 2,788,138);
- t) SALON BELLAGIO for beauty salon and health spa services (Reg. No. 2,859,595);
- u) FOUNTAINS OF BELLAGIO for prerecorded audio cassette tapes and compact discs featuring music and prerecorded video tapes featuring musical and dramatic performances (Reg. No. 2,561,706);
- v) BELLAGIO GALLERY OF FINE ART for art gallery services (Reg. No. 2,260,030);
- w) CAFÉ BELLAGIO for restaurant services (Reg. No. 2,250,567);
- x) VIA BELLAGIO for shopping center leasing services (Reg. No. 2,298,934);

(collectively, the "Bellagio Trademark Registrations").

1 9. MRI also owns several federal trademark applications for BELLAGIO Marks on  
2 the Principal Register of the USPTO, including, among others:

- 3 a) BELLAGIO for retail store services (Serial No. 78934884);
- 4 b) B BELLAGIO for retail store services (Serial No. 78934899);
- 5 c) B BELLAGIO for clothing services (Serial No. 77330981);

6 (collectively, the "Bellagio Trademark Applications," and together with the Bellagio Trademark  
7 Registrations, the "BELLAGIO Marks").

8 10. Since opening in 1998, Bellagio has continuously used the BELLAGIO Marks in  
9 connection with various goods and services including hotel, casino, restaurant, spa, concierge and  
10 other resort services.

11 11. The Bellagio Trademark Registrations are valid and subsisting and constitute  
12 prima facie evidence of Bellagio's exclusive rights to use BELLAGIO Marks in connection with  
13 the goods and services recited in these registrations. Bellagio also owns Nevada state trademark  
14 registrations for mark BELLAGIO, as well as common law rights in the BELLAGIO mark. These  
15 federal and state registrations have not been abandoned, cancelled or revoked. Moreover, the  
16 Bellagio Trademark Registrations have become incontestable through the filing of Section 8 and  
17 15 affidavits in the Patent and Trademark Office.

18 12. Bellagio has spent substantial sums of money to advertise and promote the  
19 BELLAGIO Marks in print, broadcast media, and on the Internet through the Bellagio website  
20 accessible throughout the United States and around the world at <bellagio.com>. In addition,  
21 Bellagio has made extensive use of the BELLAGIO Marks on, among other things, signage,  
22 wearing apparel, souvenirs and promotional materials.

23 13. Based on their federal trademark registrations and extensive use, Bellagio owns  
24 the exclusive right to use the BELLAGIO Marks in connection with hotel, casino, restaurant, spa,  
25 concierge and other resort services.

26 14. These services include limousine transportation services. These transportation  
27 services are advertised on and can be booked through Bellagio's website.  
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BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

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

3 **DEFENDANTS' INFRINGING ACTIVITIES**

4 16. On or about July 4, 2008, Defendants registered the <bellagiolimousines.com>  
5 Internet domain name (the "Infringing Domain Name") with Tucows, Inc. ("Registrar"), a  
6 Registrar for domain names.

7 17. Some time after registration, Defendants linked the Infringing Domain Name to a  
8 website entitled "Bellagio Limousines," offering limousine services for weddings and other  
9 events in the United States and Canada ("Infringing Website"). Moreover, in addition to offering  
10 services via the Internet, Defendants offered services over the telephone. Defendants' telephone  
11 numbers include those starting with the "310" area code associated with Los Angeles, California  
12 and the toll free "866" area code to attract customers from Nevada and elsewhere throughout the  
13 United States and Canada.

14 18. The Infringing Domain Name contains Bellagio's famous BELLAGIO Marks  
15 coupled with the descriptive word "limousines," which describes the very services offered by  
16 Bellagio at the Bellagio Property. The Infringing Website offers limousine transportation  
17 services using the famous BELLAGIO Marks.

18 19. In addition to incorporating the BELLAGIO Marks in the Infringing Domain  
19 Name, the Infringing Website included images of the Bellagio Property and the stylized "B"  
20 which is part of the BELLAGIO Marks. Defendants also display the stylized "B" on their  
21 vehicles.

22 20. The BELLAGIO Marks were distinctive and famous at the time Defendants  
23 registered the Infringing Domain Name.

24 21. Bellagio has not consented or authorized Defendants to register a domain name  
25 containing the BELLAGIO Marks.

26 22. Upon information and belief, by registering and using a domain name containing  
27 the BELLAGIO Marks, Defendants were and are attempting to trade on the goodwill of Bellagio.  
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BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

BROWNSTEIN HYATT FARBER SCHIECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

1 23. Upon information and belief, by registering and using a domain name containing  
2 the BELLAGIO Marks, and by linking the same to a website offering the same services as  
3 Bellagio, Defendants were and are attempting to create an association between the Infringing  
4 Domain Name and Bellagio and its trademarks.

5 24. Upon information and belief, by registering and using a domain name containing  
6 the BELLAGIO Marks coupled with the descriptive word "limousines," Defendants were and are  
7 attempting to create an association between the Bellagio Limousines website and Bellagio's  
8 concierge and limousine transportation services.

9 25. Upon information and belief, by registering and using a domain name containing  
10 the BELLAGIO Marks, Defendants were and are intending to divert customers from Bellagio's  
11 website to a site accessible under the Infringing Domain Name in a manner that could harm the  
12 goodwill represented by the BELLAGIO Marks.

13 26. Upon information and belief, Defendants registered the Infringing Domain Name  
14 with the bad faith intent to profit from the BELLAGIO Marks.

15 27. Upon information and belief, Defendants have no trademark or other intellectual  
16 property rights in the BELLAGIO name or Marks.

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

19 29. Upon information and belief, Defendants did not believe or have reasonable  
20 grounds to believe that their use of the Infringing Domain Name was a fair use or otherwise  
21 lawful.

22 **BELLAGIO'S UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY**  
23 **("UDRP") ACTION**

24 30. On April 17, 2009, Bellagio filed a UDRP action against Torino with the National  
25 Arbitration Forum, alleging that the Infringing Domain Name and Infringing Website infringed  
26 upon Bellagio's trademark rights.

27 31. At the time Bellagio filed its UDRP action, Defendants' bad-faith use of the  
28 Infringing Domain Name was demonstrated by their transparent attempts to create a likelihood of

1 confusion with Bellagio's goods and services. Defendants' limousines were marked with  
2 Bellagio's stylized "B." Defendants mislead internet users by using elements of the BELLAGIO  
3 Marks on their website to attract patrons to their limousine service. In particular, Defendants'  
4 website contained Bellagio's stylized "B," the word "Bellagio," and pictures of the Bellagio  
5 Hotel-Resort with its world-famous fountains.

6 32. When Defendants' website first came to Bellagio's attention, it featured a  
7 photograph of the Bellagio fountains prominently on the homepages. After Bellagio confronted  
8 Defendants challenging their improper use of the BELLAGIO marks, Defendants resorted to  
9 using a smaller image of the fountain, while continuing his use of Bellagio's stylized "B."

10 33. Defendants failed to respond to Bellagio's UDRP Complaint.

11 34. On June 5, 2009, the National Arbitration Forum panelist rendered a decision in  
12 Bellagio's favor and ordering the Registrar to transfer the Infringing Domain Name to Bellagio.  
13 The panelist found that "[t]he disputed domain name resolves to a website that mimics  
14 [Bellagio's] marketing schematics and purports to offer limousine services, a service [Bellagio]  
15 legitimately offers to its customers." The panelist further found that the Infringing Domain Name  
16 is confusingly similar to a trademark or service mark in which Bellagio has rights; that Torino  
17 has no rights or legitimate interests in the domain name; and the domain name was registered and  
18 used in bad faith.

19 35. Since the UDRP decision was rendered, Defendants have removed the Bellagio  
20 "B" logo from their website, but continue to offer services through the Infringing Website and  
21 exploiting the goodwill associated with the BELLAGIO Marks.

22 **COUNT I**

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

24 36. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
25 forth herein.

26 37. Defendants have registered, trafficked in, and/or used a domain name that is  
27 confusingly similar to and/or dilutive of the BELLAGIO Marks.  
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BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101



1 38. The BELLAGIO Marks were distinctive and/or famous at the time Defendants  
2 registered the Infringing Domain Name.

3 39. Upon information and belief, Defendants have and/or had a bad faith intent to  
4 profit from the BELLAGIO Marks.

5 40. As a direct and proximate result of Defendants' conduct, Bellagio has suffered, and  
6 will continue to suffer, monetary loss and irreparable injury to its business, reputation, and  
7 goodwill.

8 **COUNT II**

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

10 41. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
11 forth herein.

12 42. By registering a domain name containing the BELLAGIO Marks and linking it to  
13 a website offering the same limousines transportation services Bellagio offers at the Bellagio  
14 Property and on it's own website, Defendants intentionally and knowingly used in commerce a  
15 reproduction, counterfeit, copy and/or colorable imitation of Bellagio's trademarks in connection  
16 with the sale, offering for sale, or advertising of services in a manner that is likely to cause  
17 confusion or mistake, or to deceive consumers as to an affiliation, connection, or association with  
18 Bellagio.

19 43. Defendants' use of a domain name containing the BELLAGIO Marks has created a  
20 likelihood of confusion among consumers who may falsely believe that the Infringing Domain  
21 Name is associated with the Bellagio Property or that Bellagio sponsors or approves of  
22 Defendants' services or commercial activities.

23 44. Defendants' use of a domain name containing the BELLAGIO Marks is also likely  
24 to cause initial interest confusion and to divert Internet users away from Bellagio's website.

25 45. Defendants' continued and knowing use of the BELLAGIO Marks without  
26 Bellagio's consent or authorization constitutes intentional infringement of Bellagio's federal  
27 registered trademarks in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.  
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BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

1 46. As a direct and proximate result of Defendants' infringement, Bellagio has  
2 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,  
3 reputation, and goodwill.

4 **COUNT III**

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

6 47. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
7 forth herein.

8 48. Defendants' use of a domain name that is confusingly similar to the BELLAGIO  
9 Marks constitutes intentional conduct by Defendants to make false designations of origin and  
10 false descriptions about Defendants' services and commercial activities.

11 49. Defendants' actions have created a likelihood of confusion among consumers who  
12 will falsely believe that Defendants' services are produced by, or affiliated or associated with  
13 Bellagio, when in fact they are not.

14 50. Upon information and belief, Defendants acted knowingly, deliberately, and  
15 willfully with the intent to trade on Bellagio's reputation. Defendants' conduct is willful, wanton  
16 and egregious.

17 51. As a direct and proximate result of such unfair competition, Bellagio has suffered,  
18 and will continue to suffer, monetary loss and irreparable injury to their business, reputation, and  
19 goodwill.

20 **COUNT IV**

21 **(Federal Trademark Dilution –15 U.S.C. § 1125(c))**

22 52. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
23 forth herein.

24 53. The BELLAGIO Marks are inherently distinctive.

25 54. Based on Bellagio's continuous and extensive use of the BELLAGIO Marks, they  
26 are entitled to be recognized as famous under 15 U.S.C. § 1125(c).

27 55. Defendants began using, in commerce, a domain name containing the BELLAGIO  
28 Marks, after the BELLAGIO Marks became famous.

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100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

1 56. Defendants' unauthorized use of a domain name that is confusingly similar to the  
2 BELLAGIO Marks has and will cause dilution of the distinctive quality of the BELLAGIO  
3 Marks and the goodwill associated with them, in violation of Section 43(c) of the Lanham Act, 15  
4 U.S.C. § 1125(c).

5 57. Upon information and belief, Defendants' actions were willful in nature, in that  
6 Defendants willfully intended to trade on Bellagio's reputation or to dilute the BELLAGIO  
7 Marks.

8 58. As a direct and proximate result of Defendants' dilution of the BELLAGIO Marks,  
9 Bellagio has suffered, and will suffer, irreparable injury to its business, reputation, and goodwill.

10 **COUNT V**

11 **(State Trademark Infringement – N.R.S. § 600.420)**

12 59. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
13 forth herein.

14 60. By registering a domain name containing the BELLAGIO Marks and linking it to  
15 a website offering the exact limousine transportation services Bellagio provides at its Property  
16 and through its own website, Defendants intentionally and knowingly used in commerce a  
17 reproduction, counterfeit, copy and/or colorable imitation of Bellagio's trademarks in connection  
18 with the sale, offering for sale, or advertising of services in a manner that is likely to cause  
19 confusion or mistake, or to deceive consumers as to an affiliation, connection, or association with  
20 Bellagio.

21 61. Defendants' use of a domain name containing the BELLAGIO Marks has created a  
22 likelihood of confusion among consumers who may falsely believe that the Infringing Domain  
23 Name is associated with the Bellagio Property or that Bellagio sponsors or approves of  
24 Defendants' services or commercial activities.

25 62. Defendants' use of a domain name containing the BELLAGIO Marks is also likely  
26 to cause initial interest confusion and to divert Internet users away from Bellagio's website.  
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BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

1 63. Defendants' continued and knowing use of the BELLAGIO Marks without  
2 Bellagio's consent or authorization constitutes intentional infringement of Bellagio's registered  
3 state trademarks in violation of N.R.S. § 600.420.

4 64. As a direct and proximate result of Defendants' infringement, Bellagio has  
5 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,  
6 reputation, and goodwill.

7 **COUNT VI**

8 **(State Trademark Dilution – N.R.S. § 600.435)**

9 65. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
10 forth herein.

11 66. The BELLAGIO Marks are inherently distinctive.

12 67. Based on Bellagio's continuous and extensive use of the BELLAGIO Marks, they  
13 have acquired fame in the State of Nevada.

14 68. Defendants began using, in commerce, a domain name containing the BELLAGIO  
15 Marks, after the BELLAGIO Marks became famous in Nevada.

16 69. Defendants' unauthorized use of a domain name that is confusingly similar to the  
17 BELLAGIO Marks has and will cause dilution of the distinctive quality of the BELLAGIO  
18 Marks and the goodwill associated with them.

19 70. Upon information and belief, Defendants' actions were willful in nature, in that  
20 Defendants willfully intended to trade on Bellagio's reputation or to dilute the BELLAGIO  
21 Marks.

22 71. As a direct and proximate result of Defendants' dilution of the BELLAGIO Marks,  
23 Bellagio has suffered, and will suffer, irreparable injury to its business, reputation, and goodwill.

24 **COUNT VII**

25 **(Common Law Trademark Infringement)**

26 72. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
27 forth herein.  
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100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

1 73. By virtue of having used and continuing to use the BELLAGIO Marks, Bellagio  
2 has acquired common law trademark rights in the marks.

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

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

10 **COUNT VIII**

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

12 76. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
13 forth herein.

14 77. Upon information and belief, in the course of conducting business, Defendants  
15 knowingly made false representations as to an affiliation, connection, and/or association with  
16 Bellagio by using marks identical and/or confusingly similar to the BELLAGIO Marks, and  
17 otherwise engaged in deceptive trade practices.

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

21 **COUNT IX**

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

23 79. Bellagio incorporates the allegations in the preceding paragraphs as if fully set  
24 forth herein.

25 80. Upon information and belief, at and since the time Defendants began using the  
26 BELLAGIO Marks, Defendants knew and have known that Bellagio is in the business of  
27 providing resort hotel casino services including limousine and other transportation services, and  
28 that Bellagio advertises these services on the Internet using the BELLAGIO Marks.

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

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

4 82. Defendants' actions have disrupted or are intended to disrupt Bellagio's business  
5 by, among other things, diverting web users away from Bellagio's website and to the website  
6 Defendants linked to the Infringing Domain Name that offers the same limousine transportation  
7 services Bellagio offers at its Property and via its website.

8 83. Defendants have no legal right, privilege or justification for this conduct.

9 84. As a direct and proximate result of Defendants' intentional interference with the  
10 Bellagio's prospective economic advantage, Bellagio has suffered, and will continue to suffer,  
11 monetary damages and irreparable injury.

12 85. Based on the intentional, willful and malicious nature of Defendants' actions,  
13 Bellagio is entitled to recover monetary damages, exemplary or punitive damages and reasonable  
14 attorneys' fees and costs incurred in connection with this action.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Bellagio respectfully prays that the Court grant the following relief:

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

26 B. A permanent injunction requiring the current domain name registrar to transfer the  
27 <bellagiolimousines.com> domain name to MRI;

28 C. An award of compensatory, consequential, statutory, exemplary, and/or punitive

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100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101

1 damages to Bellagio in an amount to be determined at trial;

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

4 E. All other relief to which Bellagio is entitled.

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6 DATED this 23rd day of November, 2009 Respectfully submitted,

7 BROWNSTEIN HYATT FARBER SCHRECK,  
8 LLP

9 By: /s/ Jeffrey S. Rugg  
10 Jason D. Firth (Nevada Bar No. 8801)  
11 Jeffrey S. Rugg (Nevada Bar No. 10978)  
12 Laura E. Bielinski (Nevada Bar No. 10516)  
13 100 City Parkway, Suite 1600  
14 Las Vegas, Nevada 89106-4614

15 Attorneys for Plaintiffs  
16 BELLAGIO, LLC, and  
17 MIRAGE RESORTS, INC.  
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21  
22  
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25  
26  
27  
28

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV 89106-4614  
(702) 382-2101