

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES -- GENERAL

Case No. **CV 17-04404-JFW (PJWx)**

Date: September 21, 2017

Title: The Greater Los Angeles Softball Association -v- Eric Ryan

PRESENT:

HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

**Shannon Reilly
Courtroom Deputy**

**None Present
Court Reporter**

ATTORNEYS PRESENT FOR PLAINTIFF:

None

ATTORNEYS PRESENT FOR DEFENDANT:

None

PROCEEDINGS (IN CHAMBERS):

**ORDER GRANTING PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION [Docket No. 18; filed
8/28/17]**

On August 28, 2017, Plaintiff Greater Los Angeles Softball Association ("GLASA") filed a Motion for Preliminary Injunction ("Motion"). Defendant Eric Ryan ("Ryan") filed an Opposition on September 5, 2017. On September 11, 2017, Ryan filed a Reply. Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court found the matter appropriate for submission on the papers without oral argument. The matter was, therefore, removed from the Court's September 25, 2017 hearing calendar and the parties were given advance notice. After considering the moving, opposing, and reply papers, and the arguments therein, the Court rules as follows:

I. Findings of Fact¹

¹The Court has elected to issue its findings in narrative form. Any finding of fact that constitutes a conclusion of law is also hereby adopted as a conclusion of law, and any conclusion of law that constitutes a finding of fact is also hereby adopted as a finding of fact. Although the parties have various minor factual disputes in their marked-up versions of the Findings of Fact and Conclusions of Law filed on September 19, 2017 and September 20, 2017 [Docket Nos. 50, 52-54], the facts relevant to the Court's ruling on this Motion are largely undisputed. To the extent that the Court has relied on evidence to which the parties have objected, the Court has considered and overruled those objections. As to the remaining objections, the Court finds that it is unnecessary to rule on those objections because the disputed evidence was not relied on by the Court.

GLASA is a non-profit corporation dedicated to providing a safe space for athletes to come together and compete in athletic competitions, with an emphasis on LGBT athletes and softball. Ryan was a member of GLASA and served on its Board of Directors until June of 2017. He also served as an officer of the organization and held various positions, including Assistant Commissioner.

For many years, GLASA owned, hosted, and operated a biennial softball tournament in Los Angeles called the Tournament of the Stars. In late 2006, GLASA decided to move the tournament to a new location so it could expand the tournament and use better softball fields. Around the end of 2006, one of GLASA's members suggested that it should host and operate a tournament in Las Vegas.

In 2007, Ryan became convinced that Las Vegas would be the perfect location for a softball tournament. He suggested "Sin City Shootout" as the name for the event. GLASA's members ultimately voted to host the tournament. The first Sin City Shootout was held over Martin Luther King Jr. weekend in January of 2008. Shortly thereafter, GLASA's members unanimously voted to replace its biennial Tournament of Stars with the Sin City Shootout. GLASA has hosted the Sin City Shootout every year since 2008 over the Martin Luther King Jr. holiday weekend in Las Vegas. Although it began as a softball tournament, it has grown into a multi-sport Olympic-style event and is now the largest LGBT sporting festival in the world.

Hosting the Sin City Shootout requires a great deal of planning and organization. Among other things, GLASA must contract with local hotels in Las Vegas to arrange housing for the athletes, secure field locations, and organize various social events for the athletes to attend. To facilitate this process, GLASA created a planning committee, which is comprised of numerous GLASA members. Ryan served as the Chairperson of the planning committee from its inception until his resignation in June of 2017.

In addition to the planning committee, several other GLASA members are involved in the Sin City Shootout. Indeed, dozens of GLASA volunteers help run the event each year. GLASA also provides financial support for the event and associates with various corporate sponsors. For example, GLASA pays for all advertising and marketing for the Sin City Shootout—including the website dedicated to the event—and equipment and storage costs. The planning committee approves all expenses related to the event.

In 2011, Ryan became concerned that another softball league in Las Vegas might try to put on a similar Sin City Shootout. To alleviate his concern, Ryan directed GLASA's treasurer to file an application with the United States Patent and Trademark Office ("USPTO") to register the Sin City Shootout name. With Ryan's knowledge and direction, the treasurer filed the application, which listed GLASA as the owner of the service mark. GLASA failed to respond to requests from the USPTO regarding the application and, thus, the application was deemed abandoned in 2013. On October 27, 2016, without GLASA's knowledge, Ryan filed an application with the USPTO to register the Sin City Shootout name and listed himself as the owner. The mark became a registered service mark on June 6, 2017.

In 2017, Ryan was asked to provide GLASA's Board of Directors with copies of all contracts related to the Sin City Shootout. Ryan refused and ultimately resigned from the Board of Directors. Despite his resignation, Ryan is currently planning a 2018 Sin City Shootout for the Martin Luther King Jr. holiday weekend, without any involvement or input from GLASA, because he now contends that it is his event and that he owns the rights to its name. Ryan changed the password to the website associated with the event—www.sincityshootout.com—so that GLASA can no longer access it and he currently maintains exclusive control over the website's content. Although the website features the logo that GLASA has historically used in connection with its event, it indicates that Ryan is the tournament's director. Ryan has reserved softball fields for the 2018 event and caused the Tropicana hotel—which has historically been the host hotel for the Sin City Shootout—to enter into contracts with him personally to provide rooms for the event's participants.

After its discovery of Ryan's actions, GLASA sent Ryan a cease and desist letter demanding that Ryan refrain from moving forward with his Sin City Shootout event, relinquish his ownership claims to the event and mark, provide GLASA with all property related to the event, and resign from GLASA's Board of Directors. Notwithstanding GLASA's letter, Ryan continued to advertise the Sin City Shootout and operate the www.sincityshootout.com website. Accordingly, on June 14, 2017, GLASA filed this action against Ryan asserting claims for: (1) trademark infringement under the Lanham Act, 15 U.S.C. § 1125(a); (2) common law trademark infringement; (3) unfair competition, false designation and false advertising under California Business & Professions Code §§ 17200 and 17500; (4) conversion of corporate assets; (5) breach of fiduciary duty; (6) intentional interference with contractual relations; (7) intentional and negligent interference with prospective economic advantage; (8) declaratory judgment regarding ownership of assets; and (9) cancellation of federal service mark registration [Docket No. 1]. On August 28, 2017, Ryan filed a Cross-Claim against GLASA for: (1) trademark infringement; (2) common law trademark infringement; (3) unfair competition; (4) conversion of assets; (5) defamation; (6) intentional interference with contractual relations; (7) intentional and negligent interference with prospective economic advantage; (8) declaratory judgment regarding ownership of assets; (9) cancellation of federal trademark registration; and (10) intentional infliction of emotional distress [Docket No. 19]. The heart of the parties' dispute concerns the ownership of the Sin City Shootout mark.

II. Legal Standard

Injunctive relief is “an extraordinary remedy that may only be issued upon a clear showing that plaintiff is entitled to such relief.” *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 22 (2008). A plaintiff seeking a preliminary injunction must establish: (1) a likelihood of success on the merits; (2) a likelihood that the moving party will suffer irreparable harm absent a preliminary injunction; (3) that the balance of equities tips in the moving party's favor; and (4) that an injunction is in the public's interest. *Id.* at 20; see also *Am. Trucking Ass'ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009). The Ninth Circuit has confirmed that its “serious questions” sliding scale approach—which provided that the elements of the preliminary injunction test are such that a stronger showing on one element may offset a weaker showing of another—survived *Winter* when applied as part of the four-element *Winter* test. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134 (9th Cir. 2011); *Vanguard Outdoor, LLC v. City of Los Angeles*, 648 F.3d 737, 739 (9th Cir. 2011). In other words, “serious questions going to the merits’ and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the

plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest.” *Cottrell*, 632 F.3d at 1135.

III. Discussion

GLASA moves for a preliminary injunction to preclude Ryan from using the Sin City Shootout mark. Specifically, GLASA requests the Court enter the following three Orders against Ryan, pending resolution of this action:

1. Refrain from using the Sin City Shootout name, logo or any other associated mark or term, including “Sin City Sports Festival” and “Sin City Sports”;
2. Refrain from engaging in any acts of infringement, unfair competition, false advertising, false designation of origin, passing off, or unlawful and unfair and fraudulent business practices through the use of the Sin City Shootout name or logo;
3. Refrain from engaging in any acts that may interfere with GLASA’s ability to plan and execute the 2018 Sin City Shootout, including, without limitation, interfering with GLASA’s relationships with softball teams, softball leagues, other sports leagues, sports partners, any athlete or other participant in the Sin City Shootout, and any hotel, vendor, field, venue or other third party with whom GLASA has or needs a relationship with to plan and execute the Sin City Shootout in 2018 and thereafter, including, in particular, GLASA’s relationship with all field and sports facilities necessary to run the event.

Notice of Mot. 1–2; Proposed Order, Docket No. 18-4.

GLASA claims that the Court should grant injunctive relief because there is little doubt that it will prevail on its claim for trademark infringement under the common law and Lanham Act, 15 U.S.C. § 1125(a).² Section 1125(a) of the Lanham Act “prohibits any person from using any word, term, name [or] symbol . . . which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person.” 15 U.S.C. § 1125(a)(1). “This section, unlike certain other Lanham Act provisions, protects against infringement of unregistered marks and trade dress as well as registered marks.” *See S. Cal. Darts Ass’n v. Zaffina*, 762 F.3d 921, 926 (9th Cir. 2014 (quoting *Brookfield Commc’ns, Inc. v. W. Coast Entm’t Corp.*, 174 F.3d 1036, 1046 n.8 (9th Cir. 1999) (internal quotation marks omitted)).

A. Likelihood of Success on the Merits

² The Court finds it unnecessary to reach GLASA’s requests for relief based on its state law claims, as a preliminary injunction based on GLASA’s trademark infringement claim will adequately protect GLASA.

To obtain an order for a preliminary injunction, GLASA must demonstrate a likelihood of success on the merits of its trademark infringement claim. To prevail on a common law trademark infringement claim and a claim under section 1125(a) of the Lanham Act, a plaintiff must demonstrate: “(1) that it has a protectable ownership interest in the mark; and (2) that the defendant’s use of the mark is likely to cause customer confusion.” See *Rearden LLC v. Rearden Commerce, Inc.*, 683 F.3d 1190, 1202 (9th Cir. 2012); see also *Grey v. Campbell Soup Co.*, 650 F. Supp. 1166, 1173 (C.D. Cal. 1986) (“the tests for infringement of a federally registered mark under § 32(1), 15 U.S.C. § 1114(1) . . . and infringement of a common law trademark . . . are the same.”). GLASA has made a clear showing that it is likely to succeed on the merits.

1. Ownership of a Valid Mark

The parties do not contest that Sin City Shootout is a valid, protectable mark. Rather, they each contend that they own the mark and are entitled to protection from the other’s infringement. Ryan argues he owns the mark because he first conceived of it in February of 2007 and he is currently the owner of the registered mark. GLASA argues that Ryan’s creation and registration of the mark is irrelevant because it first used the mark in commerce.

The “standard test” of ownership of a mark “is priority of use.” *Sengoku Works Ltd. v. RMC Intern., Ltd.*, 96 F.3d 1217, 1219 (9th Cir. 1996). “To acquire ownership of a trademark it is not enough to have invented the mark first or even to have registered it first.” *Id.* Rather, “the party claiming ownership must have been the first to actually use the mark in the sale of goods or services.” *Id.* “For both goods and services, the use in commerce requirement includes (1) an element of actual use, and (2) an element of display.” *Chance v. Pac-Tel Teletrac Inc.*, 242 F.3d 1151, 1159 (9th Cir. 2001).

“In determining whether the two prongs of the use in commerce test have been satisfied,” the Ninth Circuit has “generally followed a totality of the circumstances approach.” *Rearden*, 683 F.3d at 1205. “This approach turns on evidence showing, first, adoption, and, second, use in a way sufficiently public to identify or distinguish the marked goods in an appropriate segment of the public mind.” *Id.*; see also *Pac-Tel*, 242 F.3d at 1159 (stating that when applying the totality of the circumstances approach, a district court should also consider non-sales activities to determine whether a service mark has been “rendered in commerce.”). Based on the evidence submitted by the parties, the Court easily concludes that GLASA has demonstrated it first used the Sin City Shootout mark in commerce and that it has continuously used the mark since 2007.

It is undisputed that GLASA sponsored the first Sin City Shootout event in January of 2008, well before Ryan registered the Sin City Shootout mark.³ In the fall of 2007, in preparation for the

³ Federal registration of a trademark is prima facie evidence that the registrant is the owner of the mark. Lanham Act § 7(b), 15 U.S.C. § 1057(b); Lanham Act § 33(a), 15 U.S.C. § 1115(a). “Therefore, [a] registrant is granted a presumption of ownership, dating to the filing date of the application for federal registration” *Sengoku Works*, 96 F.3d at 1119. A non-registrant can rebut this presumption, however, by showing by a preponderance of the evidence that he used the mark in commerce first. *Id.* at 1220. Where a non-registrant satisfies this burden, a trademark registration may be invalidated. *Id.*

event, GLASA created sign up sheets that referred to the event as the GLASA Sin City Shootout and the Sin City Shootout Presented by GLASA.⁴ See Ex. 15–20; Ex. D. Emails were also sent to participants on GLASA’s behalf advertising the event and bearing GLASA’s logo. See Ex. R. Moreover, participants were directed to make their enrollment checks payable to GLASA/Sin City. See Ex. 19. And, at the actual event, banners were displayed identifying GLASA as the event’s sponsor. See Ex. S.

In addition, in the years following the initial Sin City Shootout, advertisements for the event have typically referred to the Sin City Shootout as being presented by GLASA. See Ex. O–P. The advertisements also displayed the GLASA logo, further identifying it as the provider of the event. See Ex. O–Q. Even the most recent advertisements for the 2017 Sin City Shootout state that GLASA “will celebrate and host its 10th annual Sin City Shootout Sports Festival in Las Vegas, Nevada,” further demonstrating GLASA’s total involvement with and control of the event. See Ex. Y. The advertisements simply refer to Ryan as the “Tournament Director.” See Ex. Y.

Despite the overwhelming evidence that GLASA has continually used the mark in commerce since the fall of 2007, Ryan argues that he owns the mark because he first used it in commerce in April of 2007, when he printed copies of a “green street traffic sign announcing the event” and distributed the flyers at softball tournaments in Birmingham and Phoenix. See Decl. of Eric Ryan ¶ 5; Ex. 3. Ryan also claims that he purchased the domain name “www.sincityshootout.com” and used it in July 2007 to promote the 2008 Sin City Shootout. See Decl. of Eric Ryan ¶ 7; Ex. 4. The Court finds Ryan’s evidence unpersuasive. Although “non-sales activities such as solicitation of potential customers may be taken into account as part of the totality of the circumstances inquiry,” *Rearden*, 683 F.3d at 120, “mere advertising by itself [does] not establish priority of use.” *Dept. of Parks & Recreation for State of Cal. v. Bazaar del Mundo, Inc.*, 448 F.3d 1118, 1126 (9th Cir. 2006). None of the documents Ryan relies on indicate that he owns or operates the tournament or make any attempt to associate the Sin City Shootout, either directly or indirectly, with him. Accordingly, the Court concludes that Ryan’s advertisements of the event via handouts and on the website were not sufficient for the public to identify him as the source of the mark. See *Brookfield Commc’ns*, 174 F.3d at 1051 (“[t]he purpose of a trademark is to help consumers identify the source, but a mark cannot serve as source-identifying until it is used in public in a manner that creates an association among consumers between the mark and the mark’s owner.”). Therefore, the Court finds that GLASA first used the Sin City Shootout mark in commerce in 2007 and has used the mark continuously since that date. Based on the evidence of GLASA’s use, which predates Ryan’s registration of the mark, the Court concludes GLASA is the owner of the Sin City Shootout mark.

Ryan argues that even if GLASA first used the mark, it is barred from asserting a claim for trademark infringement by the doctrine of laches. “Laches is an equitable time limitation on a

⁴ GLASA presents sign up sheets that state “GLASA Sin City Shootout” at the top. See Ex. D. Ryan contends the sign up sheets (Exhibit D) were not used at the tournament, but rather the sign up sheets he offers (Exhibits 15–21) were actually used. Either way, GLASA is the only source identified in the sign up sheets as presenting the tournament. Indeed, the only mention of Ryan in any of these sign up sheets is that he is the Tournament Director. See Exhibits 15–17 and 21

party's right to bring suit, resting on the maxim that one who seeks the help of a court of equity must not sleep on his rights." *Jarrow Formulas, Inc. v. Nutrition Now, Inc.*, 304 F.3d 829, 835 (9th Cir. 2002) (internal citations and quotation marks omitted). It is a "defense to . . . Lanham Act claims . . ." *Id.* Ryan bears the burden of showing that he is likely to succeed on this affirmative defense. To demonstrate GLASA's claim is barred by laches, Ryan must show: (1) unreasonable delay by GLASA in bringing suit, and (2) prejudice. See *Miller v. Glenn Miller Prods., Inc.*, 454 F.3d 975, 997 (9th Cir. 2006) (citing *Couveau v. Am. Airlines, Inc.*, 218 F.3d 1078 (9th Cir. 2000)). To determine whether a delay was unreasonable, a court "assess[es] the length of the delay, which is measured from the time the plaintiff knew or should have known about its potential cause of action."

Ryan argues that GLASA was aware of his infringing use since at least 2009 and, thus, it should not have waited 8 years to bring an infringement suit. The Court disagrees. Although Ryan states that he informed GLASA's then-Commissioner Scearce in 2009 that he would not turn over all information related to the Sin City Shootout because it was his proprietary information, GLASA has presented evidence that Ryan's statements are not credible. See Decl. Of Ken Scearce ¶ 4. GLASA also presents evidence that demonstrates that Ryan never seriously asserted that he owned the Sin City Shootout or threatened to end GLASA's involvement with the event. In fact, Ryan admits that he directed GLASA's treasurer to file the trademark registration application in 2011 listing GLASA as the mark's owner. Accordingly, the Court finds that GLASA did not know and had no reason to suspect that it had grounds for an infringement lawsuit in 2009 and that it certainly did not unreasonably delay bringing suit against Ryan.

2. Likelihood of Confusion

Likelihood of confusion "requires the factfinder to determine whether a reasonably prudent consumer in the marketplace is likely to be confused as to the origin of the good or service bearing one of the marks." *Survivor Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 630 (9th Cir. 2005). Likelihood of confusion is determined by evaluating: (1) the similarity of the marks; (2) relatedness or proximity of the products or services; (3) marketing channels used; (4) strength of the mark; (5) evidence of actual confusion; (6) degree of care likely to be exercised by the purchaser in selecting goods; (7) the accused infringers' intent in selecting his mark; and (8) likelihood of expansion of the product lines. *AMF, Inc. v. Sleekcraft Boats*, 599 F.2d 341, 348–49 (9th Cir. 1979). This test is "pliant" and the "relative importance of each individual factor" is "case-specific" and will vary in each case. *Brookfield Commc'ns*, 174 F.3d at 1054. Upon consideration of the *Sleekcraft* factors, the Court finds that GLASA has demonstrated that consumers are likely to be confused as to which group is presenting the 2018 Sin City Shootout.

a. Similarity of the Marks, Relatedness of the Goods and Marketing Channels Used

The parties do not dispute that they are using identical marks or that the marks are used to promote the same product: a sporting event in Las Vegas. Accordingly, the first two factors weigh in favor of finding confusion. See *Adidas-America, Inc. v. Payless Shoesource, Inc.*, 546 F. Supp. 2d 1029, 1052 (9th Cir. 2008) ("the greater the similarity between the two marks at issue, the greater the likelihood of confusion"); *Sleekcraft*, 599 F.2d at 350 (explaining that the relatedness requirement is met where the parties' products are essentially identical in use and function). It is

also undisputed that the parties are marketing their sporting event to the same consumers; thus, the third factor also weighs in favor of finding confusion. See *id.*, 599 F.2d at 353 (stating that confusion is more likely where the general class of purchasers of the respective products is the same).

b. Strength of the Mark

The stronger the mark, the greater protection it receives. See *Entrepreneur Media, Inc. v. Smith*, 279 F.3d 1135, 1141 (9th Cir. 2002). A mark's strength is based on its conceptual and commercial strength. *GoTo.com*, 202 F.3d at 1207. Conceptual strength is based on the mark's placement "along a spectrum of increasing distinctiveness." *Id.* "From weakest to strongest, marks are categorized as generic, descriptive, suggestive, and arbitrary or fanciful. *Id.* (internal citation omitted).

The Court concludes the Sin City Shootout mark is strong because it is suggestive. A suggestive mark "requires imagination, thought and perception to reach a conclusion as to the product's nature." *Brookfield Commc'ns*, 174 F.3d at 1058 n. 19 (internal citation and quotation marks omitted). A suggestive mark receives trademark protection without proof of secondary meaning. The Sin City Shootout mark does not convey an immediate idea of a sporting event in Las Vegas. Although the Sin City portion of the mark conveys an association with Las Vegas, the entire mark suggests a battle, gun fight or high scoring game taking place in Las Vegas. Indeed, the Court concludes an inferential leap in imagination is needed to surmise that the Sin City Shootout is a multi-event Olympic-style sports competition in Las Vegas. Accordingly, this factor weighs in favor of finding confusion.

c. Evidence of Actual Confusion

"Evidence that use of a mark or name has already caused actual confusion as to the source of a product or service is 'persuasive proof that future confusion is likely.'" *Rearden*, 597 F. Supp. 2d 1023 (quoting *Sleekcraft*, 599 F.2d at 352). "The focus is confusion with respect to the source of a product or service." *Groupion, LLC v. Groupon, Inc.*, 826 F. Supp. 2d 1156, 1166 (quoting *Rearden*, 597 F. Supp. 2d at 1023); see also *Entrepreneur Media*, 279 F.3d at 1151. "However, actual confusion is hard to prove, so the absence of such evidence is generally not noteworthy." *Rearden*, 597 F. Supp. 2d at 1023 (citing *Brookfield Commc'ns*, 174 F.3d at 1050). Thus, the importance of this factor "is diminished at the preliminary injunction stage of the proceedings." *Network Automation, Inc. v. Advanced Sys. Concepts, Inc.*, 638 F.3d 1137, 1151 (9th Cir. 2011).

However, in this case, GLASA has submitted evidence of instances of actual confusion. Decl. of Lawrence Ruiz ¶ 39. According to GLASA, it has received "numerous inquiries from other softball leagues, other sports that participate in the festival, and numerous athlete participants, asking . . . why there are two groups advertising the 2018 event. *Id.* "The groups and individuals are unsure if they should deal with GLASA or [Ryan] and unsure how they should sign up for the event." *Id.* Accordingly, the Court finds this factor weighs in favor of finding confusion.

d. Infringer's Intent in Selecting the Mark

A party claiming trademark infringement need not to demonstrate that the alleged infringer intended to deceive customers. *E.&J. Gallo Winery v. Gallo Cattle Co.*, 967 F.2d 1280, 1293 (9th Cir. 1992). But, when the alleged infringer knowingly adopts a mark similar to another, a court must presume that the public will be deceived. *Sleekcraft*, 599 F.2d at 354. There is no dispute that Ryan has intentionally adopted and intends to use GLASA's mark. Thus, this factor weighs in favor of finding infringement.

e. Other Factors

The parties have not addressed the two remaining factors—degree of care exercised in purchasing the goods and likelihood of expanding the product line. Based on the evidence in the record, there is no indication that either party intends to expand the Sin City Shootout event. As to the second factor, the Court cannot discern from the evidence the degree of care used by the participants in deciding between the events. Accordingly, neither of these factors weigh in favor of finding confusion. Nevertheless, because these factors have little bearing on the Court's overall analysis, the Court concludes, based on applying the most important of the *Sleekcraft* factors, that consumers are likely to be confused as to the presenter of the 2018 Sin City Shootout. Therefore, the Court finds that GLASA is likely to prevail on its trademark infringement claim.

B. Likelihood of Irreparable Harm

A party seeking a preliminary injunction in a trademark case must affirmatively show that it will suffer irreparable injury in the absence of an injunction. See *Winter*, 552 U.S. at 22. GLASA has introduced evidence that potential participants have experienced actual confusion between its event and Ryan's event and that it will likely lose revenue as a result of the confusion. See *Stuhlberg Int'l Sales Co v. John D. Brush & Co.*, 240 F.3d 832, 841 (9th Cir. 2001) (finding loss of customers created irreparable harm). For example, GLASA is unable to access the website that it has used for over a decade to advertise the Sin City Shootout, which has become familiar to past participants and, thus, it cannot prevent confusion that will undoubtedly occur when past event participants consult the website for information about the upcoming event. As GLASA notes, once Ryan opens registration for the 2018 Sin City Shootout, there is significant danger that past participants will register for Ryan's event erroneously believing that it is GLASA's event. Moreover, because Ryan has secured the softball fields that GLASA has traditionally used for its event, he has effectively precluded GLASA from being able to put on the event over the Martin Luther King Jr. holiday weekend.

GLASA's evidence also demonstrates that GLASA has no control over Ryan's event and the quality of the participants in the event. "The Ninth Circuit has recognized that potential loss of goodwill or the loss of ability to control one's reputation may constitute irreparable harm" for purposes of a preliminary injunction. *Mortgage Elec. Registration Sys., Inc. v. Brosnan*, 2009 WL 3647125, at * 8 (N.D. Cal. Sept. 4, 2009); see also *Apple Computer, Inc. v. Formula Int'l Inc.*, 725 F.2d 521, 526 (9th Cir. 1984) (finding irreparable injury where continuing infringement would result in loss of control over the plaintiff's reputation and loss of goodwill). The evidence demonstrates that GLASA has invested significant time and resources building an outstanding reputation for its event over the course of a decade. The potential misidentification as to which event GLASA is actually presenting poses a real and significant threat to its goodwill and reputation. Accordingly, the Court concludes that GLASA has amply demonstrated that it will suffer irreparable harm in the

absence of an injunction.

C. Balance of Equities

In considering whether injunctive relief is appropriate, a court “must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief.” *Winter*, 555 U.S. at 24 (internal citations and quotation marks omitted); see also *Int’l Jensen, Inc. v. Metrosound U.S.A., Inc.*, 4 F.3d 819, 827 (9th Cir. 1993) (“In evaluating the balance of hardships a court must consider the impact granting or denying a motion for a preliminary injunction will have on the respective enterprises.”). The Court concludes the balance of equities favors GLASA.

As previously discussed, GLASA has invested significant time, money, and resources to promote and operate the event bearing the Sin City Shootout mark over the last decade. Without an injunction, Ryan will improperly reap the benefits of GLASA’s efforts, while simultaneously undermining and damaging GLASA’s reputation and branding. Although the Court recognizes that granting the requested injunction may cause Ryan monetary losses due to contractual obligations with the host hotel and related expenses, he expressly assumed that risk by attempting to hijack GLASA’s event. See *Warner Bros. Entm’t Inc. v. WTV Sys. Inc.*, 824 F. Supp. 2d 1003, 1004–15 (C.D. Cal. 2011) (quoting *Triad Systems Corp. v. Southeastern Exp. Co.*, 64 F.3d 1330, 1338 (9th Cir. 1995) (alterations omitted) (a defendant “cannot complain of the harm that will befall [him] when properly forced to desist from [his] infringing activities.”); see also *Kreation Juicery, Inc. v. Shekarchi*, 2014 WL 754679, at *12 (C.D. Cal. Sept. 17, 2014) (“any injury that [d]efendants may suffer as a result of the preliminary injunction may be discounted by the fact that [d]efendants brought the injury upon themselves by intentionally adopting a deceptively similar trademark to [p]laintiff’s.”) (citation and quotation omitted). Moreover, the damage to GLASA will be far more significant. In contrast, the requested injunction does not preclude Ryan from organizing a sporting event in Las Vegas. Rather, it primarily seeks to preclude Ryan from planning and promoting an event for the Martin Luther King Jr. holiday weekend in 2018 using the Sin City Shootout mark. Accordingly, the balance of equities weighs in favor of issuing the injunction.

D. Injunctive Relief is in the Public’s Interest

“A plaintiff seeking an injunction must establish that the injunction is in the public interest.” *Internet Specialities W., Inc. v. Milon-DiGiorgio Enters., Inc.*, 559 F.3d 985, 993 (9th Cir. 2009). “[T]he most basic public interest at stake in all Lanham Act cases [is] the interest in prevention of confusion, particularly as it affects the public in truth and accuracy.” *Warner Bros. Entm’t v. Glob. Asylum, Inc.*, 2012 WL 6951315, at *23 (C.D. Cal. Dec. 10, 2012), aff’d sub nom. *Warner Bros. Entm’t v. Glob. Asylum, Inc.*, 544 Fed. Appx. 683 (9th Cir. 2013) (quoting *Kos Pharm., Inc. v. Andrx Corp.*, 369 F.3d 700, 730 (3d Cir. 2004)). GLASA has presented evidence that the public is currently confused as to the sponsor of the 2018 Sin City Shootout and the confusion will continue to occur absent the Court’s intervention. Accordingly, the public interest favors issuing an injunction. See *Internet Specialities*, 559 F.3d at 993 (an injunction that prevents consumer confusion in trademark cases serves the public interest).

E. Bond

Pursuant to Federal Rule of Civil Procedure 65(c), the Court “may issue a preliminary injunction . . . only if the movant gives security in an amount that the [C]ourt considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Although Ryan expresses concern that the issuance of an injunction may cause him severe financial hardship, he has failed to present any evidence justifying his potential damages claim of \$500,000. Accordingly, the Court orders GLASA to post a bond of \$75,000, which is “an amount that the Court considers proper to pay costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c); *see also GoTo.com*, 202 F.3d at 1199. The bond of \$75,000 shall be posted within two business days of the Court’s signing the preliminary injunction.

IV. Conclusion

The Court concludes that GLASA is entitled to a preliminary injunction. GLASA carried its burden and has clearly demonstrated (1) a likelihood of success on the merits of its trademark claim; (2) a likelihood of irreparable harm if a preliminary injunction is not granted; (3) that the balance of equities tips in its favor; and (4) that a preliminary injunction is in the public’s interest. Accordingly, the Court **GRANTS** GLASA’s Motion as to GLASA’s requested Orders 1 and 2.

The parties are ordered to meet and confer *in person* and agree on a joint proposed Preliminary Injunction which is consistent with this Order. The parties shall lodge the joint proposed Preliminary Injunction with the Court on or before **September 29, 2017**. In the unlikely event that counsel are unable to agree upon a joint proposed Preliminary Injunction, the parties shall each submit separate versions of a proposed Preliminary Injunction along with a Joint Statement setting forth their respective positions no later than **September 29, 2017**.

IT IS SO ORDERED.