



**CIVIL COURT
FIRST HALL**

**THE HON. MR. JUSTICE
GIANNINO CARUANA DEMAJO**

Sitting of the 1 st February, 2011

Rikors Number. 1082/2010

**Advocate Anna Mallia on behalf of Giovanni
Cusumano**

Versus

Everleaf Gaming Limited

1. This decree concerns a request made by Giovanni Cusimano (“the Applicant”) for a remedy in terms of art. 873(4) of the Code of Organisation and Civil Procedure against *Everleaf Gaming Limited* (the “Respondent Company”) for failure by Respondent Company to abide by a prohibitory injunction issued against it.

2. By virtue of an injunction issued on the 22 April 2010 Respondent Company was restrained from making use of the domain www.alicepoker.eu. Applicant is claiming that on the 24 April 2010 Respondent Company advised the clients of *Alice poker* that its services will henceforth be accessible on www.pentapoker.com. The

former site was deactivated on the following day. However, according to Applicant, the site was reactivated on the following day albeit under the logo of *Pentapoker*. For this reason Applicant is seeking a remedy in terms of art. 873(4) of the Code of Organisation and Civil Procedure¹.

3. Respondent Company denied all Applicant's allegations and, in particular, it denied that it is providing a service to www.alicepoker.com.

4. The evidence tendered by Applicant consists of screenshots purportedly showing that Respondent Company is in breach of the injunction. However, no evidence was tendered showing that the screenshots were of actual websites controlled or maintained by Respondent Company, or for which Respondent Company is in some way responsible. Under the circumstances, the court cannot find that Respondent Company has acted in breach of the injunction.

5. For this reason Applicant's request is rejected, with costs.

< Final Judgement >

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¹ **873.** (4) If on an application, it is proved to the satisfaction of the court that subsequent to the issue of the warrant of prohibitory injunction the person restrained has acted directly or indirectly in breach of the court's order, the court shall, without prejudice to any other action competent to it at law, at a request of applicant, condemn the person against whom the warrant had been issued to remedy what was committed in breach of its order and to authorise in default the applicant to carry out such remedial works as the court may direct at the expense of the person restrained.