

Federal Jury Rules Against Ultra Music Festival in European Trademark Dispute

by Zach Schlein

A Miami jury has ruled in favor of a Croatia-based production company in their trademark dispute with the titan of concerts, Ultra Music Festival.

A verdict reached in the Southern District of Florida on Friday found that Worldwide Entertainment, an arm of Ultra Miami responsible for licensing out the festival's trademark to production companies abroad, tortiously interfered with Adria MM Production's business relationships. In addition to being awarded \$866,000 in damages for the claim, the jury also ruled that Worldwide Entertainment breached its contract with Adria.

The legal troubles between the two entities began last year when Adria filed a complaint against Worldwide for making allegedly unreasonable demands of the company as well as accusing it of being in breach of contract. Adria's complaint charged that after the two companies failed



JOHN RINDO

The festival was locked in litigation with Croatian company Adria MM Productions over the right to use the Ultra brand for similar events in Europe.

to renegotiate a 2012 five-year contract giving Adria rights to throw Ultra-branded events in Europe and Croatia, Worldwide sabotaged the smaller production company's communication channels both internally and with customers. Adria's company emails and social media pages were allegedly affected.

Adria's lawsuit also alleged that although Worldwide accused it of breaching contract, Ultra's parent company had never actually registered the trademark for use in Europe and Croatia.

Shortly thereafter Worldwide filed a counter-complaint alleging that Adria had engaged in

trademark infringement, was unjustly enriched through its use of the Ultra brand and owed hundreds of thousands in licensing fees.

With regards to the latter charge, the jury also found that Adria had indeed breached its contract with Worldwide, and owed \$366,211 in damages.

According to Adria's attorney and Kozyak Tropin & Throckmorton partner Javier A. Lopez, the company conceded that it owed the sum named to Ultra Miami.

"That number is actually the last year's licensing fee. That's something that we openly admitted we wouldn't pay," Lopez told the Daily Business Review, citing the "undisputed" fact that Ultra had not registered a trademark for Ultra Europe when Worldwide initially licensed the brand to Adria.

"Ultra Miami sold us a bill of goods they didn't own. We paid millions of dollars for this mark [and] anybody could have used it," Lopez added. "How can you possibly infringe on a trademark that Ultra doesn't own?"

The award to Worldwide is offset by the aforementioned \$866,000 awarded to Adria for Worldwide's tortious interference and respective breach of contract. Additionally, besides the charge that Adria had failed

to pay a licensing fee, the jury sided with the Croatian company in the eight other charges filed against it in Worldwide's counter-complaint.

"We're obviously ecstatic with the verdict, and the jury understood that you can't sell what you don't own," Lopez said of Friday's verdict. "Ultra Miami has probably done this with licensees around the world, selling them a mark they don't own."

Lopez said Adria is "basically bankrupt," despite the victory, due to what he calls Ultra's "strong-arm tactics." With their legal matters concluded in Miami, the two parties are now taking one another to court in Croatia to resolve who will ultimately receive the rights to throw events bearing the Ultra brand in Croatia and Europe at large. After filing their corresponding lawsuits, both Adria and Worldwide rushed to register the Ultra trademark for use in Europe.

Worldwide's attorney Peter Francis Valori, managing partner at Miami law firm Damian & Valori, did not reply to requests for comment by deadline. Lopez



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Javier Lopez, a partner with Kozyak Tropin & Throckmorton in Coral Gables.

could not definitively confirm as to whether he would be assisting Adria in the next installment of their legal saga with Ultra. However, he felt confident advising other global licensees of the Ultra trademark to look into who actually does — or doesn't — own the brand

in their respective part of the world.

"When Ultra enters into contracts with a licensee, they better make sure that they're selling them a mark that they own. Because if not they're in breach and they're going to be in trouble," Lopez said. "My advice to the licensees around the world is to make sure that the trademarks that you bought and are paying millions of dollars for... make sure Ultra owns them. If not, hold Ultra accountable."

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