

# EXHIBIT A



1 JAMES D. BOYLE, ESQ.  
Nevada Bar No. 08384  
2 jboyle@nevadafirm.com  
3 SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON  
4 400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
5 Telephone: 702/791-0308  
Facsimile: 702/791-1912

6 DAVID J. STEWART, ESQ.  
7 Georgia Bar. No. 681149  
David.Stewart@alston.com  
8 NADYA MUNASIFI SAND, ESQ.  
9 Georgia Bar No. 156051  
Nadya.Sand@alston.com  
10 ALSTON & BIRD LLP  
1201 West Peachtree Street  
11 Atlanta, Georgia 30309-3424  
12 Telephone: 404/881-7000  
Facsimile: 404/881-7777

13 *Attorneys for Caesars World, Inc.*

14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 CAESARS WORLD, INC., a Florida corporation,

17 Plaintiff,

18 v.

19 MARCEL JULY, an individual; and OCTAVIUS  
20 TOWER LLC, a Nevada limited liability  
company,

21 Defendants.

CASE NO.: 2:11-cv-00536-GMN-(CWH)

**DECLARATION OF DAVID STEWART  
IN SUPPORT OF PLAINTIFF CAESARS  
WORLD, INC.'S EMERGENCY  
MOTION TO COMPEL AND FOR  
SANCTIONS**

22 Pursuant to 28 U.S.C. § 1746 and L.R. 26-7, I, David J. Stewart, declare as follows:

23 1. I am over eighteen years of age and suffer from no legal disability. I am familiar  
24 with the facts and circumstances in this action and am personally knowledgeable of the matters  
25 set forth in this declaration and, if called upon to do so, I could and would testify competently to  
26 the facts set forth herein.  
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2. I am an attorney at Alston & Bird, LLP and lead counsel for Plaintiff Caesars World, Inc. (“Caesars”) in the above-captioned matter. I make this Declaration in support of Caesars World, Inc.’s Emergency Motion to Compel and for Sanctions.

3. I certify that after personal consultation and sincere efforts to do so, the parties have been unable to resolve this matter without Court action.

4. As counsel for the parties exited the courtroom following the show cause hearing held on January 19, 2012, I requested that Michael Sanft, July’s counsel, provide dates when he and July would be available for July’s deposition in Las Vegas.

5. I followed-up with Mr. Sanft on several occasions by telephone and email, hoping to schedule July’s deposition at a time that would be convenient for July given that he would be travelling from Europe for the deposition. True and correct copies of my follow-up emails to Mr. Sanft are attached as Exhibit 1.

6. July and Mr. Sanft never objected to the deposition taking place in Las Vegas or provided me with any dates when he or July would be available for July’s deposition.

7. After two weeks of trying to get dates from July, and with the then-impending discovery cutoff deadline of February 15, 2012, I was left with no choice but to notice July’s deposition for February 15. A true and correct copy of the deposition notice is attached as Exhibit 2.

8. I informed July’s counsel that if the Court extended the discovery period, Caesars would be willing to push back July’s deposition date. A true and correct copy of my email to Mr. Sanft is attached as Exhibit 3.

9. On February 7, 2012, the Court extended the close of discovery in the case. On February 9, 2012, still not having received any dates from Mr. Sanft, I caused July’s deposition to be re-noticed for February 24, 2012, in Las Vegas, Nevada, giving July more than two weeks notice of the deposition. A true and correct copy of the deposition notice is attached as Exhibit 4.

1           10. After learning that July was refusing to appear for his deposition, I had a  
2 telephonic meet and confer conference with Mr. Sanft on Thursday, February 23, 2012.

3           11. Although I did not agree to vacate the deposition notice, Mr. Sanft stated that his  
4 client would not be appearing on the noticed date.

5           12. I requested that Mr. Sanft, by the next morning, provide dates when he and his  
6 client could personally appear for July's deposition in Las Vegas. I further explained in detail  
7 why it was necessary for July's deposition to take place in person in the United States and  
8 requested confirmation that July would appear in person in either Las Vegas or, in the  
9 alternative, Atlanta (where Caesars' lead counsel is located) for his deposition. To date, I have  
10 not received a response from July or his counsel as to either issue.

11           13. Throughout this matter, July has been counseled by a German attorney named  
12 Christian Kaldenhoff who has shown a lack of knowledge of U.S. laws and procedural and  
13 ethical rules. He has contacted Caesars' officers directly despite knowledge that Caesars is  
14 represented by me, and he has repeatedly engaged in the practice of law in the United States even  
15 though he is, to my understanding, not a member of the bar of any State. True and correct copies  
16 of correspondence from Mr. Kaldenhoff, and correspondence I have sent addressing the issues  
17 discussed above, are attached as Exhibit 5.

18  
19 I declare under penalty of perjury that the foregoing is true and correct.

20 Executed on this 28th day of February, 2012.

21   
22 DAVID J. STEWART  
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# EXHIBIT 1

**Sand, Nadya**

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**From:** Stewart, David

**Sent:** Friday, January 20, 2012 8:39 PM

**To:** [sanftlawgroup@mac.com](mailto:sanftlawgroup@mac.com)

**Subject:** Do you have a minute Monday we could talk?

**David J. Stewart | Alston & Bird LLP**

One Atlantic Center | 1201 West Peachtree Street | Atlanta, GA 30309

Phone: 404-881-7952 | Fax: 404-253-8381 | Email: [david.stewart@alston.com](mailto:david.stewart@alston.com)

**Sand, Nadya**

---

---

**From:** Stewart, David  
**Sent:** Monday, January 30, 2012 7:24 PM  
**To:** [sanftlawgroup@mac.com](mailto:sanftlawgroup@mac.com)  
**Subject:** settlement and discovery

Do you have time to talk tomorrow? If so, give me some times that work for you and I will confirm a time and then call you at that time.

Thanks much,

Dave

**David J. Stewart | Alston & Bird LLP**  
One Atlantic Center | 1201 West Peachtree Street | Atlanta, GA 30309  
Phone: 404-881-7952 | Fax: 404-253-8381 | Email: [david.stewart@alston.com](mailto:david.stewart@alston.com)

**Sand, Nadya**

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**From:** Stewart, David  
**Sent:** Thursday, February 02, 2012 9:28 PM  
**To:** [sanftlawgroup@mac.com](mailto:sanftlawgroup@mac.com)  
**Cc:** Sand, Nadya  
**Subject:** Marcel July Deposition

Michael:

I had been hoping to talk with you this week about several topics, including settlement, supplemental discovery responses, and scheduling Marcel July's deposition. As I mentioned to you after the show cause hearing, I wanted to try to schedule Mr. July's deposition at a time that would be convenient for him given the distance he has to travel. Because we have not connected, and because your client has not agreed to a discovery extension, we have been left with no choice but notice the deposition for 2/15. If the court extends the discovery period, we will push the date back, but we will want to get the deposition taken no later than the first week of March. I believe your office was served with the deposition notice today.

I do think there remains a chance to get this case settled, but I need to speak with you to get the parties there. I have asked that you give me a time when we can talk and you have not done so. Given both our schedules, merely calling without knowing a time when we can each talk is not going to be productive. I will be out of the office tomorrow, but can still talk. If you will propose a time let me know what number I can call you at, I will call you then. I can talk early or late and will need only 5 minutes.

Regards,

Dave

**David J. Stewart | Alston & Bird LLP**  
One Atlantic Center | 1201 West Peachtree Street | Atlanta, GA 30309  
Phone: 404-881-7952 | Fax: 404-253-8381 | Email: [david.stewart@alston.com](mailto:david.stewart@alston.com)



## EXHIBIT 2



1 NICHOLAS J. SANTORO, ESQ.  
Nevada Bar No. 00532  
2 nsantoro@nevadafirm.com  
JAMES D. BOYLE, ESQ.  
3 Nevada Bar No. 08384  
jboyle@nevadafirm.com  
4 SANTORO, DRIGGS, WALCH,  
5 KEARNEY, HOLLEY & THOMPSON  
400 South Fourth Street, Third Floor  
6 Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
7 Facsimile: 702/791-1912

8 David Stewart, Esq. (admitted pro hac vice)  
Georgia Bar No. 681149  
9 david.stewart@alston.com  
Nadya Munasifi, Esq. (admitted pro hac vice)  
10 Georgia Bar No. 156051  
nadya.sand@alston.com  
11 ALSTON & BIRD LLP  
12 1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
13 Telephone: 404/881-7000  
Facsimile: 404/881-7777

14 *Attorneys for Caesars World, Inc.*

15 **UNITED STATES DISTRICT COURT**  
16 **DISTRICT OF NEVADA**

17 CAESARS WORLD, INC., a Florida corporation,

18 Plaintiff,

19 v.

20 MARCEL JULY, an individual; and OCTAVIUS  
21 TOWER LLC, a Nevada limited liability  
22 company,

23 Defendants.

Case No: 2:11-cv-00536-GMN-CWH

**PLAINTIFF CAESARS WORLD, INC.'S  
NOTICE OF DEPOSITION OF MARCEL  
JULY**

**Date of Deposition: February 15, 2012**

**Time of Deposition: 9:00 a.m.**

**Place of Deposition: Santoro, Driggs,  
Walch, et al.  
400 South Fourth St.  
Suite 300  
Las Vegas, NV 89101  
(702) 791-0308**

24 TO: MARCEL JULY; and

25 TO: MICHAEL W. SANFT, ESQ., his counsel of record.  
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1           Please take notice that pursuant to Rules 26 and 30 of the Federal Rules of Civil  
2 Procedure, Plaintiff Caesars World, Inc. (“Caesars”) by and through its attorneys of record, will  
3 take the deposition of Marcel July, individually, at the law offices of Santoro, Driggs, Walch,  
4 Kearney, Holley & Thompson, 400 South Fourth Street, Third Floor, Las Vegas, Nevada 89101,  
5 (702) 791-0308, at 9:00 a.m. Pacific Standard Time on the 15<sup>th</sup> day of February, 2012, and  
6 continuing thereafter from day to day, excluding Sundays and holidays, until completed.

7           Caesars will take the deposition before a deposition officer or other person duly  
8 authorized by law to administer oaths, will record the deposition by stenographic and/or  
9 videographic means, and will conduct the deposition pursuant to the provisions of the Federal  
10 Rules of Civil Procedure and Federal Rules of Evidence for the purpose of discovery, use as  
11 evidence at trial, and any other purpose allowed by law. Please take further notice that the  
12 transcription of said deposition may include the instant visual display of testimony via LiveNote  
13 or similar program.

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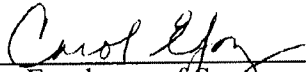


**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b), I certify that on the 2nd of February, 2012, I caused the document entitled **PLAINTIFF CAESARS WORLD, INC.'S NOTICE OF DEPOSITION OF MARCEL JULY**, to be served as follows:

Attorneys of Record	Parties Represented	Method of Service
Michael W. Sanft, Esq. Sanft Law Group 520 South Fourth St. Suite 320 Las Vegas, Nevada 89101		<input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Email/E-File <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service

DATED this 2nd day of February, 2012.

  
\_\_\_\_\_  
An Employee of Santoro, Driggs, Walch, Kearney,  
Holley & Thompson

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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# EXHIBIT 3

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**From:** Stewart, David  
**Sent:** Thursday, February 02, 2012 9:28 PM  
**To:** [sanftlawgroup@mac.com](mailto:sanftlawgroup@mac.com)  
**Cc:** Sand, Nadya  
**Subject:** Marcel July Deposition

Michael:

I had been hoping to talk with you this week about several topics, including settlement, supplemental discovery responses, and scheduling Marcel July's deposition. As I mentioned to you after the show cause hearing, I wanted to try to schedule Mr. July's deposition at a time that would be convenient for him given the distance he has to travel. Because we have not connected, and because your client has not agreed to a discovery extension, we have been left with no choice but notice the deposition for 2/15. If the court extends the discovery period, we will push the date back, but we will want to get the deposition taken no later than the first week of March. I believe your office was served with the deposition notice today.

I do think there remains a chance to get this case settled, but I need to speak with you to get the parties there. I have asked that you give me a time when we can talk and you have not done so. Given both our schedules, merely calling without knowing a time when we can each talk is not going to be productive. I will be out of the office tomorrow, but can still talk. If you will propose a time let me know what number I can call you at, I will call you then. I can talk early or late and will need only 5 minutes.

Regards,

Dave

**David J. Stewart | Alston & Bird LLP**  
One Atlantic Center | 1201 West Peachtree Street | Atlanta, GA 30309  
Phone: 404-881-7952 | Fax: 404-253-8381 | Email: [david.stewart@alston.com](mailto:david.stewart@alston.com)

# EXHIBIT 4





DENNIS R. HANEY  
KENNETH A. WOLOSON  
GREGORY J. WALCH  
NICHOLAS J. SANTORO  
J. DOUGLAS DRIGGS, JR.  
RICHARD F. HOLLEY  
RONALD J. THOMPSON  
JAMES E. WHITMIRE, III

VICTORIA L. NELSON  
JEFFREY R. ALBREGTS  
DEAN S. BENNETT  
ANDREW J. GLENDON  
OLIVER J. FANCHERI  
BRIAN W. BOSCHEE  
BRYCE K. EARL  
OGONNA M. ATAMOH

JAMES W. PUZEY  
JAMES D. BOYLE  
STACY D. HARROP  
F. THOMAS EDWARDS  
JASON D. SMITH  
KIMBERLY J. COOPER

SHEMILLY A. BRISCOE  
DONNA M. WITTIG  
WILLIAM N. MILLER

CHARLES L. TITUS  
(1948 - 2009)

From the desk of: James D. Boyle  
e-mail: [jboyle@nevadafirm.com](mailto:jboyle@nevadafirm.com)

February 9, 2012

*Via Electronic and U.S. Mail Only*

Michael W. Sanft, Esq.  
Sanft Law Group P.C.  
520 South Fourth Street  
Suite 320  
Las Vegas, Nevada 89101

**Re: *Caesars World, Inc. v. Marcel July and Octavius Tower, LLC***  
***U.S.D.C. – Nevada Case No. 2:11-cv-0536-GMN-PAL***

Dear Michael:

Enclosed please find a Revised Notice of Deposition of Marcel July (the "Renewed Notice"), which sets a new date for Mr. July's deposition of February 24, 2012, beginning at 9:00 a.m. at my office.

My office attempted to serve the Renewed Notice yesterday by Receipt of Copy, but your office informed my runner that no one at your office was authorized to accept service of the Renewed Notice and that you were out of the office for the remainder of the week for trial.

Insofar as you are counsel of record for Mr. July, I do not understand why your office would refuse to accept service of a discovery document. Regardless, I am now sending you the Renewed Notice via U.S. Mail, which is a permissible means for service pursuant to Fed. R. Civ. P. 5(b)(1) and 5(b)(2)(C).

We look forward to seeing you and Mr. July on February 24<sup>th</sup>.

Best regards,

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

James D. Boyle

cc: David Stewart, Esq. (via email only)



1 NICHOLAS J. SANTORO, ESQ.  
Nevada Bar No. 00532  
2 nsantoro@nevadafirm.com  
JAMES D. BOYLE, ESQ.  
3 Nevada Bar No. 08384  
jboyle@nevadafirm.com  
4 SANTORO, DRIGGS, WALCH,  
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5 400 South Fourth Street, Third Floor  
6 Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
7 Facsimile: 702/791-1912

8 David Stewart, Esq. (admitted pro hac vice)  
Georgia Bar No. 681149  
9 david.stewart@alston.com  
Nadya Munasifi, Esq. (admitted pro hac vice)  
10 Georgia Bar No. 156051  
nadya.sand@alston.com  
11 ALSTON & BIRD LLP  
12 1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
13 Telephone: 404/881-7000  
14 Facsimile: 404/881-7777

*Attorneys for Caesars World, Inc.*

15 **UNITED STATES DISTRICT COURT**  
16 **DISTRICT OF NEVADA**

17 CAESARS WORLD, INC., a Florida corporation,  
18  
19 Plaintiff,

20 v.

21 MARCEL JULY, an individual; and OCTAVIUS  
22 TOWER LLC, a Nevada limited liability  
company,  
23 Defendants.

Case No: 2:11-cv-00536-GMN-CWH

**PLAINTIFF CAESARS WORLD, INC.'S  
FIRST REVISED NOTICE OF  
DEPOSITION OF MARCEL JULY**

**Date of Deposition: February 24, 2012**  
**Time of Deposition: 9:00 a.m.**  
**Place of Deposition: Santoro, Driggs,  
Walch, et al.  
400 South Fourth St.  
Suite 300  
Las Vegas, NV 89101  
(702) 791-0308**

24 TO: MARCEL JULY; and

25 TO: MICHAEL W. SANFT, ESQ., his counsel of record.  
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1           Please take notice that pursuant to Rules 26 and 30 of the Federal Rules of Civil  
2 Procedure, Plaintiff Caesars World, Inc. ("Caesars") by and through its attorneys of record, will  
3 take the deposition of Marcel July, individually, at the law offices of Santoro, Driggs, Walch,  
4 Kearney, Holley & Thompson, 400 South Fourth Street, Third Floor, Las Vegas, Nevada 89101,  
5 (702) 791-0308, at 9:00 a.m. Pacific Standard Time on the 24<sup>th</sup> day of February, 2012, and  
6 continuing thereafter from day to day, excluding Sundays and holidays, until completed.

7           Caesars will take the deposition before a deposition officer or other person duly  
8 authorized by law to administer oaths, will record the deposition by stenographic and/or  
9 videographic means, and will conduct the deposition pursuant to the provisions of the Federal  
10 Rules of Civil Procedure and Federal Rules of Evidence for the purpose of discovery, use as  
11 evidence at trial, and any other purpose allowed by law. Please take further notice that the  
12 transcription of said deposition may include the instant visual display of testimony via LiveNote  
13 or similar program.

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**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b), I certify that on the 9<sup>th</sup> day of February, 2012, I caused the document entitled **PLAINTIFF CAESARS WORLD, INC.'S FIRST REVISED NOTICE OF DEPOSITION OF MARCEL JULY**, to be served as follows:

Attorneys of Record	Parties Represented	Method of Service
Michael W. Sanft, Esq. Sanft Law Group 520 South Fourth St. Suite 320 Las Vegas, Nevada 89101		<input type="checkbox"/> Personal Service <input type="checkbox"/> Email/E-File <input type="checkbox"/> Fax Service <input checked="" type="checkbox"/> Mail Service

DATED this 9<sup>th</sup> day of February, 2012.

  
 An Employee of Santoro, Driggs, Walch, Kearney,  
 Holley & Thompson

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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# EXHIBIT 5

# ALSTON & BIRD LLP

One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

404-881-7000  
Fax: 404-881-7777  
www.alston.com

David J. Stewart

Direct Dial: 404-881-7952

E-mail: david.stewart@alston.com

April 16, 2011

*Via E-Mail (c.kaldenhoff@prikalneg.de)*

Christian Kaldenhoff, Esq.  
Pribilla Kaldenhoff Negm  
Goebenstrasse 3  
50672 Cologne  
GERMANY

**Re: OCTAVIUS TOWER**

Dear Mr. Kaldenhoff:

It has come to our client's attention that you are sending letters to certain third parties in the United States regarding your client's alleged rights in the OCTAVIUS TOWER mark. These third parties include the Clark County Department of Development Services and Fitch, Inc. Neither of these parties is involved in the use of the OCTAVIUS TOWER mark by Caesars World, Inc. Rather, the first party is a government agency that merely issued a certificate of occupancy to Caesars for its tower and the second is a debt rating agency. Your correspondence to these parties is not legitimately calculated to protect your client's alleged rights. Rather, it is clearly no more than harassment by your client in an attempt to coerce Caesars to accede to your client's unfounded demands. As such, your letters constitute tortious interference with business relations under Nevada law.

You are likely aware that our client has filed suit against Mr. July in federal district court in Nevada seeking a declaration of non-infringement and cancellation of his trademark registrations on the basis of fraud. A courtesy copy of the complaint is attached. The issues between the parties can and should be resolved in that proceeding, not through correspondence to third parties.

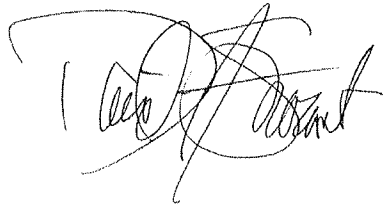
On behalf of our client, we demand that you refrain from sending further letters to third parties of the kind you have sent to Clark County and Fitch and that you confirm in writing your agreement to do the same by the close of business on Tuesday, April 19, 2011. If we do not receive your written assurances by that time, Caesars will take such legal action as it deems necessary to protect its legal rights.

Finally, I note that in your response letter to me dated March 23, 2011, you copied various individuals at Caesars. It is unethical in the United States for a lawyer to communicate directly with a party that is represented by counsel. Please direct all future

Christian Kaldenhoff, Esq.  
April 16, 2011  
Page 2

correspondence in this matter to my attention alone or to my colleague Nadya Munasifi.  
You can be certain that anything you send us will be passed on to our client appropriately.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Stewart". The signature is stylized with large, sweeping loops and a prominent horizontal stroke across the middle.

David J. Stewart

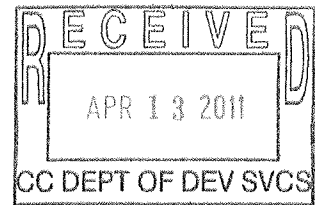
LEGAL02/32521403v1

Attachment

cc: Nadya Munasifi, Esq.



PRIBILLA KALDENHOFF NEGM  
RECHTSANWÄLTE



ANWALTSKANZLEI - GÖBENSTRASSE 3 - 50672 KÖLN

Mr. Ronald L. Lynn, Director  
Clark County Department of Development Services  
4701 W. Russell Rd  
Las Vegas, Nevada 89118

U. S. A.

DR. JUR. HANS PRIBILLA II (1940-1995)  
CHRISTIAN KALDENHOFF  
SAMI NEGM-AWAD  
AMIN NEGM-AWAD

Tel.: 0221 / 515263  
Tel.: 0221 / 8606060  
Fax: 0221 / 5101145  
Email: c.kaldenhoff@prikalneg.de  
http: www.PriKalNeg.de

LG - Fach: K 1551

Unser Zeichen: 43/11KC06

Datum: 11.04.2011

**Octavius Tower - Marcel July  
Trademark Infringement**

Dear Mr. Lynn,

Our firm has been retained by Mr. Marcel July who is the owner of the Federal Registration for the name "Octavius Tower" under registrations # 3,675,168 and 3,736,945, together with a State of Nevada Trademark for "Octavius Tower" under certificate # C20090630-0720, and a Service Mark for "Octavius Tower" under certificate # C20090909-1592, as well as a State of Nevada Limited Liability Company, "Octavius Tower, LLC", and finally, the Internet Domain Name, OctaviusTower.com (see attached).

It has come to our attention via a letter received from Caesars Entertainment's attorney, Mr. David Stewart, that a portion of the so-called "Caesars Octavius Tower" was opened a year ago. Therefore, we have completed some research and found the attached Temporary Certificates of Occupancy (TCO) under Permit # 07-38573, the first of which was issued December 2, 2010 covering the BASEMENT LEVEL 1 CORRIDORS AT TOWER & CAFÉ LARGO, LEVEL 2 VILLA SUITES 1, 2 & 3 & WALK OVER TO EXISTING TOWER. A second TCO was issued on March 3, 2011, covering the same areas. Both of these TCO's were issued in violation of our client's above described service and trademarks.

Therefore, we demand that you Cease and Desist from issuing any further licenses, permits or certificates of occupancy with respect to this building, and further, that you revoke, withdraw and void any existing or pending permits or occupancy certificates immediately due to the fact that they have been issued to a building which is named, Caesars, "Octavius Tower", a name Caesars does not own, nor has any legal rights to and therefore Caesars has been and continues to infringe on our Client's Trademarks. We believe that this is equivalent to fraud on the part of Caesars and their contractors.

Be advised that Caesars has been put on notice of this infringement issue, and to date, we are unaware of any measures taken by them to correct this problem.

If you have any questions regarding this matter, please contact us at the above contact information.

Sincerely,

A handwritten signature in black ink, appearing to read "Kaldenhoff". The signature is written in a cursive, flowing style.

Kaldenhoff

Rechtsanwalt



**United States Patent and Trademark Office**

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# OCTAVIUS TOWER

**Word Mark** OCTAVIUS TOWER  
**Goods and Services** IC 041. US 100 101 107. G & S: Entertainment in the nature of visual and audio performances, and musical, variety, news and comedy shows; Presentation of live show performances; Theatrical and musical floor shows provided at discotheques and nightclubs; Theatrical and musical floor shows provided at performance venues. FIRST USE: 19920204. FIRST USE IN COMMERCE: 19930608  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 77787941  
**Filing Date** July 23, 2009  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** October 27, 2009  
**Registration Number** 3736945  
**Registration Date** January 12, 2010  
**Owner** (REGISTRANT) Marcel July INDIVIDUAL FED REP GERMANY Luitertweg 4 Luitertweg 4 Brabant,Klein Zundert NETHERLANDS 4882TD  
**Prior Registrations** 3675168

## Stewart, David

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**From:** Stewart, David  
**Sent:** Thursday, December 08, 2011 9:02 PM  
**To:** sanftlawgroup@mac.com; fyrdnrc2@mac.com; timothy.bennett@webmail.azbar.org  
**Cc:** Jim Boyle; Sand, Nadya  
**Subject:** Christian Kaldenhoff

Michael and Tim:

We received the attached letter from Mr. Kaldenhoff today. We have serious concerns about this letter and similar communications from Mr. Kaldenhoff that could lead to a motion for sanctions against your client unless we receive immediate assurances that this conduct will stop immediately.

Mr. Kaldenhoff has for some time been engaging in the practice of law in connection with this case without admission to practice in the case, or, to my knowledge, a license to practice anywhere in the United States. Mr. Kaldenhoff has also repeatedly sent correspondence to our client directly, despite the fact that he is aware that it is represented by counsel. I have previously communicated to Mr. Kaldenhoff that it is unethical in the United States for an attorney to contact a represented party, and I have demanded that he discontinue such conduct. Mr. Kaldenhoff agreed that he would not send further communication directly to my client, yet the attached letter is addressed to the CEO of Caesars Entertainment.

Mr. Kaldenhoff's actions are a blatant violation of both legal and ethical laws. We demand that he immediately discontinue all further practice of law in connection with this case, including any correspondence to me or any third party regarding Caesars' use of its OCTAVIUS TOWER mark, and that he discontinue any further contact with my client. Please inform both your client and Mr. Kaldenhoff that I will not open or consider any further communications from Mr. Kaldenhoff. If your client has something to communicate to me, I will expect that he do so through one of you.

Sincerely,

David

**David J. Stewart | Alston & Bird LLP**

One Atlantic Center | 1201 West Peachtree Street | Atlanta, GA 30309  
Phone: 404-881-7952 | Fax: 404-253-8381 | Email: [david.stewart@alston.com](mailto:david.stewart@alston.com)



Kaldenhoff  
Letter.pdf

**PRIBILLA KALDENHOFF NEGM**  
RECHTSANWÄLTE

ANWALTSKANZLEI · GÖBENSTRASSE 3 · 50672 KÖLN

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**Via Fax: 001404 881 7777**  
**Via Mail: David.Stewart@alston.com**

DR. JUR. HANS PRIBILLA II (1040-1026)  
CHRISTIAN KALDENHOFF  
SAMI NEGM-AWAD  
AMIN NEGM-AWAD

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http: www.PriKalNeg.de  
LG - Fach: K 1551

Unser Zeichen: 43/11KC06

Datum: 08.12.2011

**July J. Octavius Tower**

Mr. Stewart,

It has come to our attention that your client has made a public announcement of the opening of the Octavius Tower on January 2, 2012. You must be aware that this public announcement, which contains our clients' registered service mark "Octavius Tower", is a direct violation of our client's rights under his Federal Registration numbers 3,675,168 and 3,736,945.

Due to our client's refusal to sign a Coexistence Agreement with your client, you and your associated attorneys filed, in Federal District Court, a Declaratory Action Suit, and to date, this action is still pending. Therefore, Caesars does not possess the right to use our client's Mark in any manner whatsoever until after the pending litigation is complete, and then, only if the court rules in your clients' favor.

Our client has made every effort to settle this matter in good faith, only to be further insulted and rebuffed.

As you are aware, our client has secured a location to open the Octavius Tower in Las Vegas wherein he will be offering live entertainment and related goods and services. As part of his marketing plan, he will be advertising in the local media under the banner: "Octavius Tower

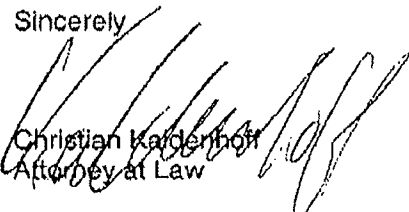
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presents"... live concerts featuring various performers, bands and acts. However, we believe that this marketing approach will cause mass confusion with potential customers due to the substantial money your client has spent on promoting their new hotel tower using our client's registered name.

It has also come to our attention that your client stands ready, willing and able to rebrand the name of their new tower, and that the minimal cost (in relative terms versus legal costs) associated with this name change is approximately fifty thousand dollars. Therefore, we do not understand why your client is putting our client thru this very time-consuming and expensive litigation. Your client's legal costs to date must be much more than their stated minimal cost to rebrand. This brings us to the conclusion that your client's only motivation is for the sole purpose of Intimidation and Harassment!

Therefore we are, once again, demanding that your client does not open their new hotel tower using our clients' registered name, and that your client Ceases & Desists from using my client's registered Service Marks in any manner whatsoever. Furthermore, we Demand that your client inform their customers that the email of September 2011 was sent to them in error, and, that your client re-send this opening notification using their rebranded name.

Sincerely



Christian Kardenhoff  
Attorney at Law

Cc: Gary Lovemann