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

17 CAESARS WORLD, INC., a Florida
 corporation,
 18
 Plaintiff/Counterclaim-Defendant,
 19
 v.
 20

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

**CAESARS WORLD, INC.’S ANSWER TO
 COUNTERCLAIM**

21 MARCEL JULY, an individual; and
 OCTAVIUS TOWER LLC, a Nevada limited
 22 liability company,
 23
 Defendants/Counterclaim-Plaintiff.
 24

25 Plaintiff and Counterclaim Defendant Caesars World, Inc. (“Caesars”) hereby answers
 26 the Counterclaim of Defendant and Counterclaim Plaintiff Marcel July (“July”) as follows:

- 27 1. Caesars admits the allegations of Paragraph 67.
 28

SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON



1 2. Caesars is without knowledge or information sufficient to form a belief as to the
2 truth of the allegations of Paragraph 68, and the same are therefore denied.

3 3. Caesars is without knowledge or information sufficient to form a belief as to the
4 truth of the allegations of Paragraph 69, and the same are therefore denied.

5 4. Caesars is without knowledge or information sufficient to form a belief as to the
6 truth of the allegations of Paragraph 70, and the same are therefore denied.

7 5. Caesars is without knowledge or information sufficient to form a belief as to the
8 truth of the allegations of Paragraph 71, and the same are therefore denied.

9 6. Caesars is without knowledge or information sufficient to form a belief as to the
10 truth of the allegations of Paragraph 72, and the same are therefore denied.

11 7. Caesars is without knowledge or information sufficient to form a belief as to the
12 truth of the allegations of Paragraph 73, and the same are therefore denied.

13 8. Caesars is without knowledge or information sufficient to form a belief as to the
14 truth of the allegations of Paragraph 74, and the same are therefore denied.

15 9. Caesars is without knowledge or information sufficient to form a belief as to the
16 truth of the allegations of Paragraph 75, and the same are therefore denied.

17 10. Caesars is without knowledge or information sufficient to form a belief as to the
18 truth of the allegations of Paragraph 76, and the same are therefore denied.

19 11. Caesars is without knowledge or information sufficient to form a belief as to the
20 truth of the allegations of Paragraph 77, and the same are therefore denied.

21 12. Caesars is without knowledge or information sufficient to form a belief as to the
22 truth of the allegations of Paragraph 78, and the same are therefore denied.

23 13. With regard to the allegations of Paragraph 79, Caesars admits that July registered
24 the domain name <octaviustower.com> as a result of Harrah's' announcement in February 2007
25 of its plans to build a new hotel tower at Caesars Palace named "Octavius Tower." Caesars
26 further admits that, shortly after he registered the domain name, he uploaded a new website that
27 offered this and other Caesars Palace and Octavius Tower related domain names for sale.
28 Caesars denies the remaining allegations of Paragraph 79.

1 14. Caesars admits that, on May 7, 2008, July filed a federal service mark application
2 with the U.S. Patent and Trademark Office (“USPTO”) to register the mark OCTAVIUS
3 TOWER in connection with “Entertainment services, namely, providing a web site featuring
4 musical performances, musical videos, related film clips and photographs.” Caesars denies that,
5 other than the foregoing application, July filed any trademark or service mark registration
6 applications with the USPTO in 2008. Caesars further denies that a trademark registration is a
7 necessary step to protect a trade name. Caesars is without knowledge or information sufficient to
8 form a belief as to the truth of the remaining allegations of Paragraph 80, and the same are
9 therefore denied.

10 15. Caesars is without knowledge or information sufficient to form a belief as to the
11 truth of the allegations of Paragraph 81, and the same are therefore denied.

12 16. Caesars admits that, on May 7, 2008, July filed a federal service mark application
13 with the USPTO to register the mark OCTAVIUS TOWER in connection with “Entertainment
14 services, namely, providing a web site featuring musical performances, musical videos, related
15 film clips and photographs” and that the application was assigned Serial No. 77/467,916.
16 Caesars further admits that the USPTO issued July Certificate of Registration No. 3,675,168 for
17 the mark. Caesars denies the remaining allegations of Paragraph 82.

18 17. Caesars admits that, on July 23, 2009, July filed a second service mark
19 registration application with the USPTO to register the OCTAVIUS TOWER mark in connection
20 with “Entertainment in the nature of visual and audio performances, and musical, variety, news
21 and comedy shows; Presentation of live show performances; Theatrical and musical floor shows
22 provided at discotheques and nightclubs; Theatrical and musical floor shows provided at
23 performance venues” in International Class 41. Caesars further admits that the USPTO assigned
24 the application Serial No. 77/787,941 and that, on January 12, 2010, the USPTO issued July
25 Certificate of Registration No. 3,736,945 for the mark. Caesars denies the remaining allegations
26 of Paragraph 83.

27 18. Caesars admits the allegations of Paragraph 84.
28

1 19. Caesars admits that, on July 30, 2009, July filed a trademark registration
2 application with the Nevada Secretary of State to register the OCTAVIUS TOWER mark in
3 connection with “entertainment services, namely providing a web site featuring musical
4 performances, musical videos, related film clips and photographs” in Classification 101. Caesars
5 further admits that, on July 30, 2009, July filed a service mark registration application with the
6 Nevada Secretary of State to register the OCTAVIUS TOWER mark in connection with
7 “entertainment services, namely providing a web site featuring musical performances, musical
8 videos, related firm clips and photographs” in Classification 107. Caesars admits that July listed
9 April 6, 2008, as the date of first use in Nevada on the foregoing two applications. Caesars
10 admits that, on September 9, 2009, July filed a service mark registration application with the
11 Nevada Secretary of State to register the OCTAVIUS TOWER mark in connection with
12 “entertainment in the nature os [sic] visual and audio performances, and musical variety, news
13 and comedy show; presentation of live show performances; theatrical and musical floor shows
14 provided on stage” in Classification 107. Caesars further admits that July listed April 6, 2008, as
15 the date of first use in Nevada on the foregoing application. Caesars denies the allegations of
16 Paragraph 85.

17 20. Caesars admits that, on June 29, 2009, July filed a service mark registration
18 application with the Florida Secretary of State to register the OCTAVIUS TOWER mark in
19 connection with “entertainment services, a name of a band, providing website featuring musical
20 performances, musical videos, related film clips & photographs.” Caesars further admits that
21 July listed May 10, 2008 as the date of first use in Florida on his application. Caesars is without
22 knowledge or information sufficient to form a belief as to the truth of the remaining allegations
23 of Paragraph 86, and the same are therefore denied.

24 21. Caesars admits that July filed Articles of Organization for a limited liability
25 company in Nevada under the name Octavius Tower LLC on November 6, 2009. Caesars is
26 without knowledge or information as to the remainder of the allegations of Paragraph 87, and the
27 same are therefore denied.
28

1 22. Caesars admits that, at the time July purchased the <octaviustower.com> domain
2 name he also purchased the domain name <caesarstower.com> and several other domain names
3 that infringe Caesars' rights in its famous CAESARS and CAESARS PALACE marks. Caesars
4 denies that any legitimate purpose supported July's registration of these domain names. Caesars
5 admits that it filed a UDRP complaint with the National Arbitration Forum to secure transfer of
6 the domain names and that the NAF provided notice of the complaint to July. Caesars is without
7 knowledge regarding the remaining allegations of paragraph 88, and the same are therefore
8 denied.

9 23. Caesars admits that it alleged in its Complaint that a website was located at July's
10 infringing Caesars and Octavius Tower formative domain names that offered the domain names
11 for sale. Caesars denies the remaining allegations of Paragraph 89.

12 24. Caesars admits that, on February 24, 2011, the USPTO issued an initial office
13 action to Caesars in which it denied Caesar's application to register the mark OCTAVIUS
14 TOWER on the grounds of a likelihood of confusion with the services listed in Reg. No.
15 3,736,945, owned by July. Caesars denies that this office action constitutes a refusal of
16 registration by the USPTO. Caesars denies that the USPTO cited July's Reg. No. 3,675,168 in
17 its office action to Caesars. Caesars is without knowledge of information sufficient to form a
18 belief as to the remaining allegations of Paragraph 90, and the same are therefore denied.

19 25. Caesars admits that, on or about March 8, 2011, July, through German attorney
20 Christian Kaldenhoff, sent a cease and desist letter to Mr. Gary Loveman, the CEO, and Mr. Tim
21 Donovan, the General Counsel, of Caesars Entertainment, Inc. Caesars is without knowledge or
22 information sufficient to form a belief as to the remaining allegations of Paragraph 91, and the
23 same are therefore denied.

24 26. Caesars denies the allegations of Paragraph 92.

25 27. Caesars denies the allegations of Paragraph 93.

26 28. Neither an admission nor denial is required to Paragraph 94.

27 29. Caesars denies the allegations of Paragraph 95.

28 30. Caesars denies the allegations of Paragraph 96.



1 31. July dismissed portions of Paragraph 97, maintaining only those portions
2 requesting injunctive relief and recovery of costs and attorneys' fees. Caesars denies the
3 allegations of Paragraph 97 that remain after July's dismissal.

4 32. July dismissed his dilution counterclaim. Therefore, neither an admission nor
5 denial is required to Paragraph 98.

6 33. July dismissed his dilution counterclaim. Therefore, neither an admission nor
7 denial is required to Paragraph 99.

8 34. July dismissed his dilution counterclaim. Therefore, neither an admission nor
9 denial is required to Paragraph 100.

10 35. July dismissed his dilution counterclaim. Therefore, neither an admission nor
11 denial is required to Paragraph 101.

12 36. To the extent not denied in response to Paragraphs 1 through 35 above, Caesars
13 hereby denies each and every other allegation made in July's remaining counterclaim in its
14 entirety.

15 Respectfully submitted, this 4th day of April, 2012.

16 SANTORO, DRIGGS, WALCH,
17 KEARNEY, HOLLEY & THOMPSON

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28 *Admitted Pro Hac Vice*

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I certify that on April 4, 2012, I served **CAESARS WORLD, INC.’S ANSWER TO COUNTERCLAIM** 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 checked="" type="checkbox"/> Email/E-File <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service

DATED this 4th day of April, 2012.

/s/ Nadya Munasifi Sand
Nadya Munasifi Sand