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7 Attorneys for Plaintiff  
 Venetian Casino Resort, LLC

8  
 9 **UNITED STATES DISTRICT COURT**  
 10 **DISTRICT OF NEVADA**  
 11

12 VENETIAN CASINO RESORT, LLC

Case No.:

13 Plaintiff,

14 vs.

**COMPLAINT FOR DECLARATORY  
 JUDGMENT OF NON-INFRINGEMENT**

15 PALAZZO DESIGN CORPORATION

16 Defendant.

17 Plaintiff, Venetian Casino Resort, LLC, by way of Complaint against Defendant, Palazzo  
 18 Design Corporation, hereby alleges as follows:

19 **THE PARTIES**

20 1. Venetian Casino Resort, LLC is a limited liability company organized under the  
 21 Laws of the State of Nevada. Plaintiff owns and operates the Venetian Hotel Resort Casino  
 22 (“Venetian”) and the Palazzo Resort Hotel Casino (“Palazzo”) in Las Vegas, Nevada. Plaintiff  
 23 shall hereinafter be referred to as “The Venetian.”  
 24

1 2. Palazzo Design Corporation has a usual place of business in Houston Texas.  
2 Upon information and belief the Defendant manufactures and sells "T-Shirts" over the internet  
3 and in some retail establishments. Upon information and belief defendant's products are offered  
4 for sale, advertised and sold within the jurisdiction of this court.

5 **VENUE AND JURISDICTION**

6 3. Jurisdiction is proper in this court because this litigation arises under federal law,  
7 namely 17 U.S.C. §1051 et seq (Lanham Act) The Court has jurisdiction over this action under  
8 28 U.S.C. §1331 (federal question), 28 U.S.C. §1338(a) (trademarks) and 28 U.S.C. §2201  
9 (Declaratory Judgment Act).

10 4. This Court has personal jurisdiction over Defendant because it conducts business  
11 within this district and has threatened litigation within this district.

12 5. Venue is proper within this district under 28 U.S.C. §1391(b) and 1391(c)

13 6. An actual case or controversy has arisen between the parties. Defendant has  
14 asserted that the Venetian's use of the word "Palazzo" on certain clothing items constitutes  
15 trademark infringement. These statements threaten injury to the Venetian.

16 **GENERAL ALLEGATIONS**

17 7. The Venetian owns and operates two major hotel resort casino properties on the  
18 Las Vegas Strip – the Venetian and the Palazzo. Like many hotels and resorts, the properties  
19 contain gift shops and souvenir shops which sell items which have the hotel names on them.  
20 This is done primarily to advertise the Venetian and Palazzo properties.

21 8. The Defendant owns U.S. Trademark Registration No. 3, 337, 6000 for the mark  
22 "Palazzo" for clothing items. It also maintains an internet site at [www.palazzotees.com](http://www.palazzotees.com).

23

24

1 Attached hereto as Exhibit "A" are printouts from Defendant's website evidencing the type of  
2 articles offered by Defendant.

3 **PRESENT DISPUTE**

4 9. On or about June 26, 2008 Defendant, by its attorneys Jones & Smith LLP, sent  
5 The Venetian a letter claiming that the Venetian's use of its Palazzo name sold on its premises  
6 infringed on Defendant's trademark.

7 10. Defendant requested that The Venetian either enter into a license with it or  
8 purchase its mark. The clear implication of the letter is that absent such actions by The  
9 Venetian, litigation would result (Exhibit "B").

10 11. Despite this notice from Defendant, The Venetian does not believe that its use of  
11 "Palazzo" on clothing violates the Lanham Act.

12 **CLAIM FOR RELIEF**

13 12. The Venetian incorporates by reference the allegations contained in Paragraphs 1  
14 through 11, inclusive.

15 13. Defendant has claimed that The Venetian's use of "Palazzo" on clothing sold  
16 within its premises constitutes trademark infringement, and has demanded that The Venetian  
17 enter into either a purchase or license with Plaintiff.

18 14. An actual, present, and justiciable controversy has arisen between the parties.

19 15. The Venetian seeks a declaratory judgment from this Court that its use of  
20 "Palazzo" on items of clothing sold by the Venetian and Palazzo Casino Resort Hotels does not  
21 constitute trademark infringement.

22 ...

23 ...

24

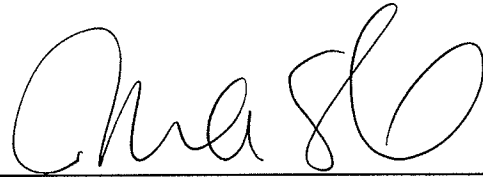
**PRAYER FOR RELIEF**

WHEREFORE, The Venetian respectfully requests that the Court:

1. Enter judgment according to the declaratory relief sought;
2. Award The Venetian its costs and attorneys' fees in this action;
3. Enter such other relief as is just.

DATED this 14<sup>th</sup> day of July, 2009.

BY: \_\_\_\_\_



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*Attorneys for Venetian Casino Resort, LLC*

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# EXHIBIT A

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# EXHIBIT A

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Palazzo

Palazzo Design Corporation  
5727 Hummingbird  
Houston, TX 77096  
ph 713.551.9003  
fax 713.551.9004

EMAIL: STEVE@PALAZZOTEES.COM  
ALL DEALER INQUIRIES, CALL (713) 551 9003

YOU HAVE 0 ITEMS  
WITH A TOTAL OF \$0.00

*"I have never condoned the use of  
drugs, sex, alcohol or violence to anyone  
but they have always worked for me."*

- Archbishop Joseph Ratzinger, now Pope Benedict XVI



**Palazzo**

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5727 Hummingbird  
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ph 713.551.9003  
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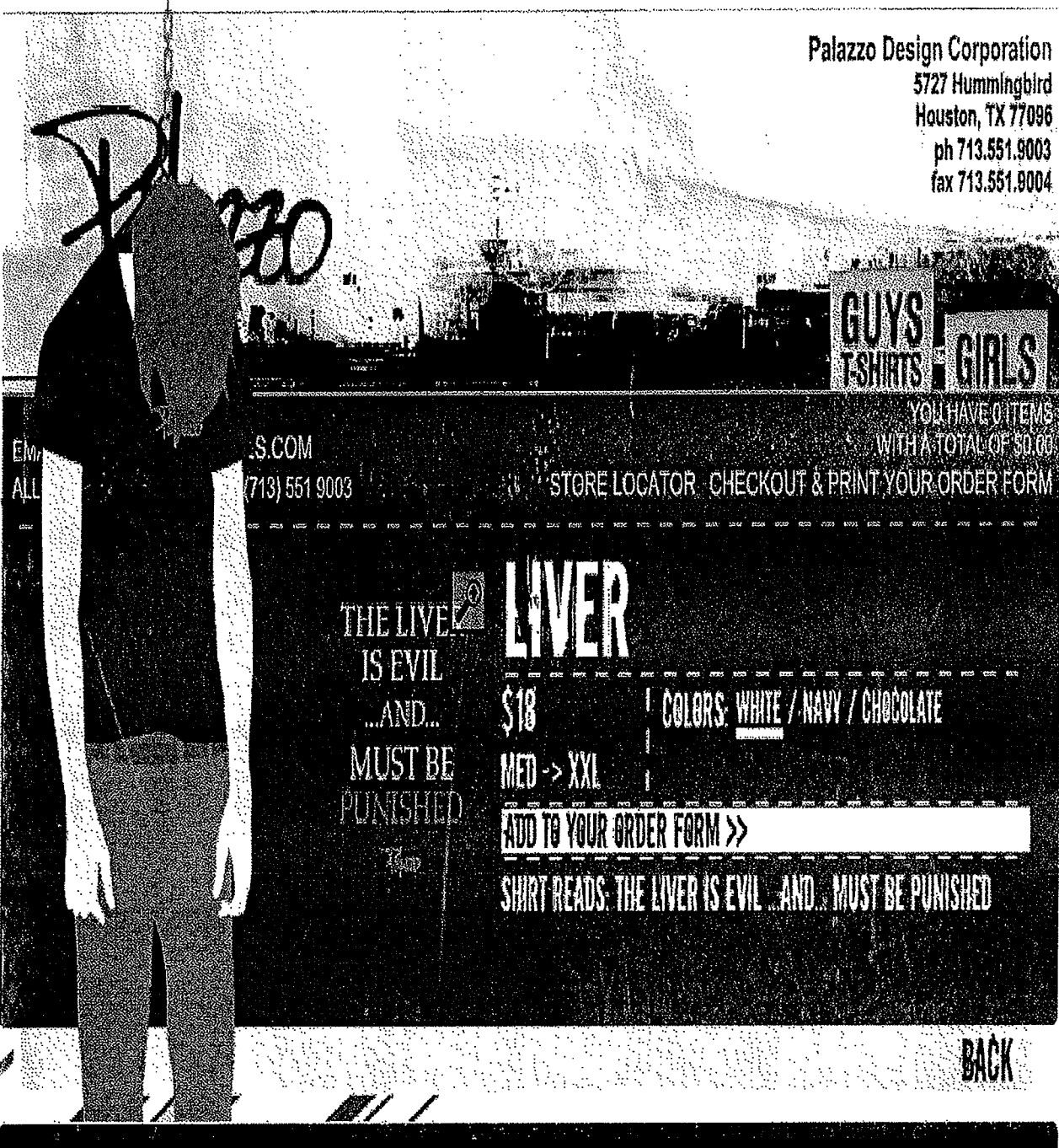
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Houston, TX 77096  
ph 713.551.9003  
fax 713.551.9004



EM...  
ALL...  
S.COM  
(713) 551 9003

STORE LOCATOR CHECKOUT & PRINT YOUR ORDER FORM

YOU HAVE 0 ITEMS  
WITH A TOTAL OF \$0.00

GUYS  
T-SHIRTS - GIRLS

THE LIVER  
IS EVIL  
...AND...  
MUST BE  
PUNISHED

LIVER

\$18

COLORS: WHITE / NAVY / CHOCOLATE

MED -> XXL

ADD TO YOUR ORDER FORM >>

SHIRT READS: THE LIVER IS EVIL ...AND... MUST BE PUNISHED

BACK



Palazzo Design Corporation  
5727 Hummingbird  
Houston, TX 77096  
ph 713.551.9003  
fax 713.551.9004

EM... ALL... S.COM  
(713) 551 9003

GUYS T-SHIRTS GIRLS

YOU HAVE 0 ITEMS WITH A TOTAL OF \$0.00

STORE LOCATOR CHECKOUT & PRINT YOUR ORDER FORM

**VAGINATARIAN**

\$18 | COLORS: OLIVE

MED -> XXL

**ADD TO YOUR ORDER FORM >>**

SHIRT READS: VAGINATARIAN, BETTER THAN BEAN SPROUTS

**VAGINATARIAN**  
Better than bean sprouts

**BACK**

Palazzo Design Corporation

5727 Hummingbird

Houston, TX 77096

ph 713.551.9003

fax 713.551.9004

7130

GUYS T-SHIRTS | GIRLS

YOU HAVE 0 ITEMS WITH A TOTAL OF \$0.00

STORE LOCATOR CHECKOUT & PRINT YOUR ORDER FORM

**GANJA**

\$18 | COLORS: CREME

MED -> XXL

ADD TO YOUR ORDER FORM >>

SHIRT READS: GIRLS, BUNS! & GANJA

BACK

Palazzo Design Corporation  
 5727 Hummingbird  
 Houston, TX 77096  
 ph 713.551.9003  
 fax 713.551.9004

GUYS T-SHIRTS | GIRLS

YOU HAVE 0 ITEMS  
 WITH A TOTAL OF \$0.00

STORE LOCATOR CHECKOUT & PRINT YOUR ORDER FORM

CLINTON

\$18 | COLORS: WHITE

MED -> XXL

ADD TO YOUR ORDER FORM >>

SHIRT READS: YOU GOTTA PERTY MOUTH

YOU GOTTA PERTY MOUTH

BACK



Palazzo Design Corporation  
 5727 Hummingbird  
 Houston, TX 77096  
 ph 713.551.9003  
 fax 713.551.9004

GUYS T-SHIRTS | GIRLS

YOU HAVE 0 ITEMS WITH A TOTAL OF \$0.00

EM ALL .S.COM (713) 551 9003 STORE LOCATOR CHECKOUT & PRINT YOUR ORDER FORM

**SURF SHOP**

\$18 | COLORS: CHARCOAL  
 MED -> XXL

ADD TO YOUR ORDER FORM >>

SHIRT READS: JESUS IS LORD SURF SHOP

BACK

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# EXHIBIT B

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# EXHIBIT B

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JONES & SMITH, LLP  
ATTORNEYS AT LAW

E. RANDALL SMITH  
rsmith@jonesmith.net

JOHN WILSON JONES  
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INTELLECTUAL PROPERTY LAW  
PATENTS, TRADEMARKS, COPYRIGHTS  
TRADE SECRETS, LITIGATION

June 26, 2009

Mr. J. Alberto Gonzalez-Pita  
Sr. Vice President & General Counsel  
Las Vegas Sands Corporation  
3355 Las Vegas Blvd. South  
Las Vegas, Nevada 89109

*VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED*

Re: Trademark "PALAZZO"

Dear Mr. Gonzalez-Pita:

We represent Palazzo Design Corporation of Houston, Texas, which owns the exclusive nationwide trademark rights in the word mark "PALAZZO" in connection with shirts, hats and other apparel pursuant to U.S. Trademark Registration No. 3,337,600. A copy of the registration is attached at Tab "A" for your convenience. The Las Vegas Sands Corporation (LVS) has begun using the mark on shirts, hats and other items for sale at the Palazzo casino after unsuccessfully attempting to register the same. The purpose of this letter is to initiate a positive business resolution that will benefit both sides, such as a license or outright sale of the mark to LVS.

In connection with the Palazzo casino, your company has, to date, filed a total of 36 trademark applications in the U.S. Patent & Trademark Office covering a wide array of products and services. While most have been approved, all of your applications involving apparel have consistently been rejected based upon my client's registration. In your application Serial Number 77/360,976 for PALAZZO for various clothing items, after unsuccessfully arguing there is no likelihood of confusion between the parties' marks, your counsel expressly abandoned the application. See Tab "B". (Subtabs 1-4 include the Trademark Office rejections and LVS responses.) Your application SN 77/298,259 for PALAZZO for retail store services was rejected three times by the Trademark Office based upon my client's registration, even after your counsel removed clothing as a listed retail sale item. The application was finally approved only after your lawyers agreed to explicitly exclude the sale of apparel. That application now limits the services to "Retail variety stores not including apparel or clothing items. . ." See Tab "C" and Subtabs 1-6. Nevertheless, it has come to our client's attention that the Palazzo casino is marketing and selling shirts, hats and other apparel bearing its protected mark. See Tab "D".

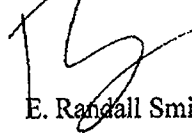
To allow LVS to rightfully use the PALAZZO mark on clothing and related items, my client is willing to consider a licensing arrangement. Alternately, if LVS would rather be empowered as the exclusive owner of the mark, my client would likewise consider the sale of Reg. No. 3,337,660 and its estimated 15 years of accrued use-based rights to LVS.



Mr. J. Alberto Gonzalez-Pita  
June 26, 2009

Accordingly, we ask that you please take a look at this situation and let us hear from you by July 21, 2009. We appreciate your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'E. Randall Smith', written over the printed name.

E. Randall Smith