

Malloy & Malloy, P.A.

Patent, Trademark & Copyright Law

"Since 1999"
Registered Patent Attorneys
Members of the Florida Bar
Trial and Appellate Counsel

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Reply to: Miami Office
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Florida (800) 337-7230

T95000000730

May 3, 1995

Secretary of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

300001486933
-05/15/95--01005--005
*****87.50 *****87.50

Re: Florida Trademark Application -
"CASINO"
Our Ref.: 2.551

Dear Sir:

Enclosed please find a trademark application, along with the appropriate specimens, to be filed with the State of Florida regarding the above-referenced trademark. Also enclosed is our check in the amount of \$87.50 to cover the appropriate filing fee.

Very truly yours,

John Cyril Malloy, III
John Cyril Malloy, III
For the Firm

JCMIII/mc
Enclosures

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DIVISION OF CORPORATIONS
95 JUN 19 PM 12:59

Name Availability	EA
Document Examiner	GSH
Updater	GSH
Updater Verifier	GSH
Acknowledgement	GSH
W. P. Verifier	GSH

789-744-708
John Cyril Malloy, III GAVE
AUTHORIZATION BY PHONE TO
CORRECT Part III & Disclaimer
DATE 6/19/95
DOC. EXAM EA

T95-730



FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

May 18, 1995

JOHN CYRIL MALLOY, III, ESQ.
MALLOY & MALLOY, P.A.
ONE BISCAYNE TOWER, 37TH FLOOR
MIAMI, FL 33131-1803

SUBJECT: CASINO
Ref. Number: W95000010540

We have received your document for CASINO and your check(s) totaling \$87.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

We must deny registration pursuant to section 495.021(1)exit(f), Florida Statutes, because we have a mark registered under the same or similar name and class.

Enclosed is an application for refund.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (904) 487-6917.

Gretchen Harvey
Corporate Specialist Supervisor

Letter Number: 295A00025491

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Malloy & Malloy, P.A.

"Since 1959"
Registered Patent Attorneys
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Fl. Lauderdale Office
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Reply to: Miami Office
Broward (305) 625-0011
Florida (800) 337-7230

June 6, 1995

Secretary of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

Attn: Gretchen Harvey
Corporate Specialist Supervisor

Re: Florida Trademark Application -
"CASINO"
Your Ref.: W95000010540
Letter No.: 295A00025491
Our Ref.: 2.551

Dear Ms. Harvey:

This letter follows our telephone conversation earlier today regarding the above-referenced trademark application for "CASINO" on limousines services.

ARGUMENT

You have rejected the application based upon a prior registration for "CASINO CONNECTIONS & Design of Dice" used for "casino junkets, and/or travel to various casino properties." Indeed, the word "CASINO" is disclaimed."

Our position is simple. The use of the word "casino" in the "CASINO CONNECTIONS & Design of Dice" trademark is a generic use of the word "casino." It does not carry any trademark significance, in and of itself. That is because the owner of that registration uses the trademark in connection with casino-related services. Anybody can use the word "casino" in connection with casino-related services, including other transportation companies.

On the other hand, our client is not using the word "casino" in the generic sense. Rather, our client uses "CASINO" as a trademark in the arbitrary sense, much like the word "APPLE" is used arbitrarily for computers even though it is a common word. The context of use governs the issue.

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The idea is that there is no conflict between our client's arbitrary use and the other company's generic use. It does not matter that both parties are offering similar services -- it only matters how the word relates to the particular niche of services. The law is very clear that we could never use our "CASINO" trademark rights against anybody offering casino-related services, and conversely, that other company cannot stop our client from using "CASINO" for non-casino services.

For your convenience, we enclose some materials on this point:

1. Copy of the case of Clipper Cruise Line, Inc. vs. Star Clippers, Inc., which we talked about.
2. Copies of the print-outs of both the "CLIPPER CRUISE LINE" registration and "STAR CLIPPERS" registration to demonstrate how both registrations are permitted under these circumstances.
3. Copies of relevant excerpts from the well-known treatise McCarthy on Trademarks and Unfair Competition regarding the inability to enforce a generically-used term against someone else.

We have added some hand-written comments on the copy of the case of Clipper Cruise Line, Inc. vs. Star Clippers, Inc. Our office handled that case through Missouri counsel. You will see that there was no conflict between the arbitrary use of the word "clipper" in "CLIPPER CRUISE LINE" and the generic use of the same word in "STAR CLIPPERS." That is because "STAR CLIPPERS" offered cruises on real clipper ships (tall-masted sailing ships), which is a generic use of the word. However, "CLIPPER CRUISE LINE" offered cruises on regular cruise ships (motor-driven ships), which meant the use of "clipper" was arbitrary as applied to those different services within the same general class of cruise services.

The Star Clippers opinion contains some wonderful examples, such as the word "ivory." That word is generic when used on products made from the tusks of elephants, but it is arbitrary when used as "IVORY" soap. There is no conflict between those two uses. It works both ways -- the generic user cannot interfere with the arbitrary user and the arbitrary user cannot interfere with the generic user.

That gets a bit confusing because both may own registrations. To show that to you, we enclose the print-outs of the two registrations from the Star Clippers case. Both were registered and there is no conflict. Perhaps most important, you will see that the "STAR CLIPPERS" registration contains a disclaimer of "clippers" but the "CLIPPER CRUISE LINE" registration does not have a disclaimer. That is the same situation as the disclaimer of

June 6, 1995
Page 3

"casino" in the "CASINO CONNECTIONS & Design of Dice." Our client should receive a registration and should not be required to disclaim "casino."

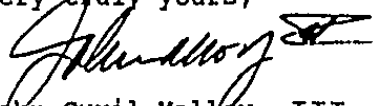
The purpose of this is to allow the arbitrary user to attack other arbitrary users ("APPLE COMPUTER" beats "APPLE KEYBOARDS"), but not generic users ("APPLE COMPUTER" cannot stop generic use of "JOHN'S APPLES"). Similarly, the generic user with a trademark registration can only attack others for using different parts of the registration ("JOHN'S APPLES" beats "JONNIE'S APPLES" but there is no case against "MARY'S APPLES"). Using the "STAR CLIPPERS" example, the "STAR CLIPPERS" registration is not effective against other people using the word "clippers," but it is effective against other people using the word "STAR."

As such, the "CASINO CONNECTIONS & Design of Dice" registration cited by you is not effective against our arbitrary use of "CASINO." Our client should receive a registration and should not be required to disclaim "casino."

We hope that this clarifies the matter such that you will be able to withdraw the refusal. As always, if you have any questions or comments, please do not hesitate to call or write.

Kindest regards,

Very truly yours,



John Cyril Malloy, III
For the Firm

JCM3/mc
enclosures

MCB:2551.lt

Florida Department of State, Sandra B. Matham, Secretary of State

APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK

PURSUANT TO CHAPTER 495, FLORIDA STATUTES

TO: Division of Corporations
Post Office Box 6327
Tallahassee, FL 32314

Name & address to whom
acknowledgement should be sent:

MALLOY & MALLOY, P.A.

2 South Biscayne Boulevard, Suite 3760

Miami, Florida 33131

(305) 374-8418
Daytime Telephone number

PART I

1. (a) Applicant's name: Casino Limousines, Inc.

(b) Applicant's business address: 7109 S.W. 127th Court
Miami, Florida Zip: 33183

(c) Applicant's telephone number: (305) 374-8418

Individual Corporation Joint Venture Other: _____
 General Partnership Limited Partnership Union

If other than an individual,

(1) Florida registration number: P94000014830

(2) Federal Employer Identification Number: 65-0469106

(3) Domicile State: Florida

2. (a) If the mark to be registered is a service mark, the services in connection with which the mark is used: (i.e., furniture moving services, diaper services, house painting services, etc.)
Transportation services, namely limousine services.

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(b) If the mark to be registered is a trademark, the goods in connection with which the mark is used: (i.e., ladies sportswear, cat food, barbeque grills, shoe laces, etc.)
N/A

(c) The mode or manner in which the mark is used: (i.e., labels, decals, newspaper advertisements, brochures, etc.)
signs, flyers, advertisements, letterhead, and solicitations.

(Continued)

(d) The class(es) in which goods or services fall:
39

PART II

- 1. Date first used by the applicant, predecessor, or a related company (must include month, day and year):
 - (a) Date first used anywhere: February 25, 1995
 - (b) Date first used in Florida: February 25, 1995

PART III

- 1. The mark to be registered is: (If logo/design is included, please give brief written description which must be 25 words or less.)
Only the word "CASINO LIMOUSINES, INC."

2. DISCLAIMER (if applicable)

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM "LIMOUSINES, INC."
" APART FROM THE MARK AS SHOWN.

I, Jose Castillo, being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and no other person except a related company has the right to use such mark in Florida either in the identical form or in such near resemblance as to be likely to deceive or confuse or to be mistaken therefor. I make this affidavit and verification on my/the applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct.

Casino Limousines, Inc.
Typed or printed name of applicant

[Signature]
Applicant's signature or authorized person's signature
(List name and title)

Jose Castillo, President

STATE OF Florida
COUNTY OF Dade

On this 27th day of April, 19 95, Jose Castillo
personally appeared before me,

- who is personally known to me
- whose identity I proved on the basis of _____

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DIVISION OF CORPORATIONS
95 JUN 19 AM 1:00



Maritza Cabello
Notary Public Signature
MARITZA CABELLO
Notary's Printed Name

Seal

My Commission Expires: 10-17-97

LIMOUSINE

CASINO LIMOUSINES, INC.

PH. (305) 385-5577 BP. (305) 464-5707

WEDDINGS
PROMS
PRIVATE PARTIES

CORPORATE RATES
ESCORT
SECURITY

"WE WILL ACCOMMODATE YOUR NEEDS"