

ESTTA Tracking number: **ESTTA71058**

Filing date: **03/15/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Shakopee Mdewakanton Sioux Community
Granted to Date of previous extension	03/15/2006
Address	2330 Sioux Trail NW Prior Lake, MN 55347 UNITED STATES
Correspondence information	Eunice P. de Carvalho Attorney Faegre & Benson LLP 90 South Seventh Street 2200 Wells Fargo Center Minneapolis, MN 55402-3901 UNITED STATES trademarkmpls@faegre.com Phone:612/766-7064

Applicant Information

Application No	76604964	Publication date	11/15/2005
Opposition Filing Date	03/15/2006	Opposition Period Ends	03/15/2006
Applicant	Ketelhut, John 730 Woodside Lane East #9 Sacramento, CA 95825 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and sevicees in the class are opposed, namely: entertainment services, namely live performances by a musical band

Attachments	327470 MYSTIC FOG GARDEN Not. of Opp.pdf (5 pages)
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Signature	/Eunice P. de Carvalho kad/
Name	Eunice P. de Carvalho
Date	03/15/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application No. 76/604,964
For the Mark: MYSTIC FOG GARDEN
Date of Filing: August 2, 2004

SHAKOPEE MDEWAKANTON SIOUX
COMMUNITY,

Opposer,

v.

JOHN KETELHUT,

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

This Notice of Opposition concerns the application to register the mark MYSTIC FOG GARDEN (the "Mark"), Serial No.76/604,964, filed on August 2, 2004 in the name of John Ketelhut ("Applicant"). The Mark was published for opposition in the Official Gazette of November 15, 2005. Opposer Shakopee Mdewakanton Sioux Community ("Opposer") believes that it would be damaged by registration of the Mark and hereby opposes same.

The grounds of opposition are as follows:

1. Opposer, through the Shakopee Mdewakanton Sioux Community Gaming Enterprise, operates Mystic Lake Casino, the largest gaming and entertainment facility in the Midwest. Aside from numerous gambling opportunities such as slot machines and blackjack tables, it has a state of the art 800 seat electronic bingo facility, a 2,200 seat entertainment venue, over 1,300 square feet of meeting/banquet space, four restaurants, and 600 rooms and

suites. Mystic Lake Casino currently has over 500,000 square feet of gaming, entertainment, shopping, dining, and hotel space.

2. Beginning in 1992, Opposer adopted and began to use trademarks consisting of or incorporating the word MYSTIC in connection with a variety of gaming and casino related goods and services, and has used such trademarks continuously from that time until the present in connection with such goods and services. In addition to these common law rights, Opposer is the registered owner of several federal trademark and service mark registrations for marks consisting of or incorporating the word MYSTIC.

3. Opposer is the owner of the following trademark registrations, among others:

Mark	Reg. No.	Date of First Use	Reg. Date	Goods/Services
MYSTIC	2,126,487	5/12/92	1/6/98	entertainment services, namely providing casino facilities
MYSTIC (stylized)	2,799,696	5 /12/92	12/30/03	casino services, entertainment services, namely, live entertainment in the nature of musical, theatrical, dancing, sporting, and comedy performances; hotel services, arena services, namely, providing facilities for sports, concerts, conventions, trade shows, conferences, exhibitions, and banquets, restaurant services; food preparation and catering services
CLUB MYSTIC	2,111,108	8/17/95	11/4/97	entertainment services, namely providing casino facilities
THE MAGIC'S AT MYSTIC	2,433,743	5/1/98	3/6/01	entertainment services, namely providing casino facilities
MYSTIC LAKE	1,882,743	5/13/92	3/7/95	entertainment services, namely providing casino facilities
MYSTIC LAKE	2,408,284	5/12/92	11/28/00	casino services in the nature of providing gaming machines, namely, slot machines, video poker machines, video slot machines, video lottery terminals and roulette machines, for use by casino patrons
MYSTIC LAKE	1,787,487	5/12/92	8/10/93	playing cards, score cards, merchandise bags, calendars, pencils, pens, paper coasters, coin holders and postcards
MYSTIC LAKE	2,601,008	5/12/92	7/30/02	gaming equipment, namely slot machine tokens and blackjack chips

Mark	Reg. No.	Date of First Use	Reg. Date	Goods/Services
MYSTIC LAKE	2,726,584	5/12/92	6/17/03	casino services, entertainment services, namely, live entertainment in the nature of musical, theatrical, dancing, sporting, and comedy performances; hotel services; arena services, namely, providing facilities for sports, concerts, conventions, trade shows, conferences, and exhibitions; restaurant services; food preparation and catering services
MYSTIC LAKE (stylized)	2,699,711	5/12/92	3/25/03	casino services; entertainment services in the nature of providing games and gaming machines, such as slot machines, video slot machines, video poker machines, video lottery terminals, video keno machines, video craps machines, video roulette machines, and pull tab games; entertainment services in the nature of providing and conducting blackjack games and tournaments, bingo game events and promotions, slot machine events and promotions, sporting-related promotions, and providing and conducting drawings for cash and prize giveaways; entertainment services in the nature of providing movies and video games for use by guests; providing live entertainment in the nature of musical, theatrical, dancing, sporting, comedy, and celebrity performances and events
MYSTIC LAKE & Design	2,998,124	9/30/01	9/20/05	casino services; golf tournaments; entertainment services, namely, providing live entertainment in the nature of musical, sporting, comedy, and celebrity performances and events; entertainment services in the nature of providing and conducting blackjack games and tournaments, bingo game events and promotions, slot machine events and promotions, sporting-related promotions; providing and conducting drawings for cash and prize giveaways; providing facilities for sports and concerts
MYSTIC LAKE CASINO HOTEL	2,760,867	7/31/96	9/9/03	casino services, entertainment services, namely, live entertainment in the nature of musical, theatrical, dancing, sporting, and comedy performances; hotel services, arena services, namely, providing facilities for sports, concerts, conventions, trade shows, conferences, exhibitions, and banquets, restaurant services; food preparation and catering services
MYSTIC BINGO	2,645,630	1/00	11/5/02	entertainment services, namely providing and conducting bingo game events and promotions
MYSTIC BLACKJACK	2,645,651	11/12/01	11/5/02	casino services; entertainment services in nature of blackjack games and tournaments

Mark	Reg. No.	Date of First Use	Reg. Date	Goods/Services
MYSTIC GAMING	2,677,172	11/12/01	1/21/03	casino services in the nature of providing for the use of games of chance, bingo games, casino table games, and gaming machines
MYSTIC PROMOTIONS	2,639,270	11/12/01	10/22/02	entertainment services in the nature of providing and conducting bingo game events and promotions, blackjack tournaments, drawings for cash and prize giveaways, and sporting-related promotions

(hereinafter “MYSTIC MARKS.”) These registrations are valid and subsisting, unrevoked and uncanceled.

4. By virtue of extensive advertising and sales of its goods and services thereunder, Opposer’s MYSTIC MARKS have become well and favorably known to the public and have become valuable symbols of Opposer’s business and the goodwill appurtenant thereto.

5. On information and belief, Applicant is an individual with an address at 730 Woodside Lane East, #9, Sacramento, CA 95825.

6. On information and belief, the Mark was not used prior to 1992.

7. On information and belief, the services for which the Applicant seeks registration of the Mark are related to the goods and services upon which Opposer has used its MYSTIC MARKS and for which it owns valid federal trademark registrations.

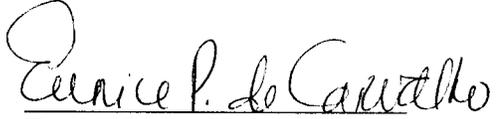
8. Upon information and belief, the Mark so resembles the MYSTIC MARKS as to be likely, when applied to the services of Applicant, to cause confusion or mistake or to deceive purchasers, resulting in damage and detriment to Opposer.

9. Upon information and belief, the Mark cannot be registered consistent with Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes that it would be damaged by registration of the Mark, and prays that application Serial No. 76/604,964 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Opposer submits herewith a filing fee of \$300. If this amount submitted is determined to be incorrect, the Commissioner may charge any additional fees or to credit any overpayment to Deposit Account No. 06-0029.

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**Attorneys for Opposer
Shakopee Mdewakanton Sioux
Community**

Dated: March 15, 2006

M2:20782150.01