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

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| Proceeding | 91170403 |
| Party | Defendant BVS Entertainment, Inc. BVS Entertainment, Inc. 500 South Buena Vista Street Burbank, CA 91521 |
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| Submission | Motion to Consolidate |
| Filer's Name | Linda K. McLeod |
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| Signature | /Linda K. McLeod/ |
| Date | 11/08/2006 |
| Attachments | motion to consolidate.pdf (3 pages)(126192 bytes) |

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

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| SMSC GAMING ENTERPRISE d/b/a MYSTIC LAKE CASINO HOTEL, Opposer v. BVS ENTERTAINMENT, INC., Applicant. | Consolidated Opposition Nos. 91170399 91170400 91170402 91170403 91170404 91170421 91170427 91170430 |
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MOTION TO CONSOLIDATE

BVS Entertainment, Inc. (“Applicant”), through its undersigned counsel, hereby moves to consolidate Opposition Nos. 91170399, 91170400, 91170402, 91170403, 91170404, 91170421, 91170427, and 91170430 (“the Oppositions”), and designate Opposition No. **91170399** as the “parent” case.

Fed. R. Civ. P. 42(a), as made applicable by Trademark Rule 2.116(a), provides that when actions involving a common question of law and fact are pending before the Board, it may order all the actions consolidated. In determining whether to consolidate cases, the Board weighs the savings in time, effort, and expense that may be gained from consolidation against any prejudice or inconvenience that may be caused by consolidation. TBMP § 511 and cases cited therein.

The Oppositions between SMSC Gaming Enterprise d/b/a Mystic Lake Casino Hotel (“Opposer”) and Applicant involve common questions of fact and law. All of the Oppositions concern Applicant’s marks MYSTIC RACER and MYSTIC SPEEDER, and

involve similar grounds for opposition based upon Opposer's alleged rights in MYSTIC-formative marks. As a result, much of the evidence at trial, as well as the witnesses at trial, will likely be the same in all of the cases. The evidence will substantially overlap and consolidation will avoid duplication of testimony evidence, trial briefs, and other issues in the proceedings. Absent consolidation of the actions, both parties will be compelled to continue with piecemeal prosecution of the separate proceedings. Accordingly, consolidation of the Oppositions will result in a significant savings of time and resources for both the parties and the Board.

Further, consolidation will not prejudice Opposer because all of the proceedings are in essentially the same stage (i.e., discovery is closed and all proceedings are about to enter the testimony period). Thus, the consolidation of all proceedings will not cause any prejudice or undue delay. Given the benefits of consolidation to both the Board and the parties, Applicant respectfully requests that the Board grant its motion and consolidate Opposition Nos. 91170399, 91170400, 91170402, 91170403, 91170404, 91170421, 91170427, and 91170430.

This request is made in good faith and is not filed for the purpose of delay.

Respectfully Submitted,



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Dated: November 8, 2006

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2006 a true and correct copy of the foregoing MOTION TO CONSOLIDATE was served by United States first class mail, postage prepaid, on counsel for Opposer:

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