

ESTTA Tracking number: **ESTTA935449**

Filing date: **11/15/2018**

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

Proceeding	87419581
Applicant	Adrenalin Attractions, LLC
Applied for Mark	MYSTIC MOTEL
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Attachments	reply brief.pdf(127703 bytes)
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Date	11/15/2018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Adrenalin Attractions LLC
Serial No. : 87419581
Filed : April 21, 2017
Mark : MYSTIC MOTEL
Examining Attorney : Hanno Rittner

REPLY BRIEF

Assistant Commissioner for Trademarks
2900 Crystal Drive
Alexandria, VA 22202-3513

I. SECTION 2(d) REFUSAL

Applicant raised the www.mysticmotel.com and www.mystic-dunesresort.com websites in its original response to the non-final office action so such references were part of the record and should be considered. Moreover, the inability of geographic expansion of the Mystic Lake Casino Hotel or any other use of Mystic by the Shakopee Mdewakanton Sioux Community outside of the tribal lands was also raised in the response to the non-final office action and should be considered.

A. No Likelihood of Consumer Confusion Because the Marks are Dissimilar in Their Entireties as to Appearance, Sounds, Connotation and Commercial Impression.

It is worth reiterating, as set forth in the Appeal Brief, that the inclusion of “Motel” in the Applicant’s Mark immediately infers a property distinct from a Hotel (i.e., Mystic Lake Casino Hotel). While hotels and motels each provide lodging, consumers perceive the terms differently which shall mitigate any consumer confusion.

B. No Likelihood of Consumer Confusion Because the Conditions Under Which Consumers Encounter the Goods and the Marks.

Selecting a place to lodge is something undertaken with significant research. That is, consumers looking to visit or reside in hotels and motels are not impulse purchasers. Such consumers are going to spend time and effort determining which property to visit or reside in before doing so.

C. No Likelihood of Consumer Confusion Because of the Number of Similar Marks in Use.

See Appeal Brief.

D. No Likelihood of Consumer Confusion Because the Extent of the Potential for Confusion is Limited.

See Appeal Brief.

II. CONCLUSION

Based on the foregoing, Applicant respectfully submits that there is no likelihood of confusion between Applicant's Mark and the Cited Mark such that the pending application should be placed in condition for publication.

Date: November 15, 2018

Respectfully submitted,

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