

ESTTA Tracking number: **ESTTA954744**

Filing date: **02/18/2019**

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	03/06/2019
Address	2400 Mystic Lake Blvd Prior Lake, MN 55372 UNITED STATES

Attorney information	Jodi A. DeSchane Faegre Baker Daniels LLP 90 South Seventh Street 2200 Wells Fargo Center Minneapolis, MN 55402 UNITED STATES trademark@faegrebd.com, jodi.deschane@faegrebd.com 612.766.7000
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Applicant Information

Application No	87955248	Publication date	11/06/2018
Opposition Filing Date	02/18/2019	Opposition Period Ends	03/06/2019
Applicant	ADRENALIN ATTRACTIONS, LLC 4760 WEST DEWEY DRIVE, SUITE 107 LAS VEGAS, NV 89118 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 2013/10/30 First Use In Commerce: 2013/10/30 All goods and services in the class are opposed, namely: Clothing, namely, shoes; t-shirts, shorts, sweat shirts, sweat pants, sweat shorts; headwear, namely, hats and caps; and rainwear, namely, hats, coats, jackets, capes and ponchos

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2658677	Application Date	08/21/2001
Registration Date	12/10/2002	Foreign Priority	NONE

		Date	
Word Mark	MYSTIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/10/00 First Use In Commerce: 2000/10/00 Clothing, namely, shirts		

U.S. Registration No.	1805367	Application Date	03/25/1992
Registration Date	11/16/1993	Foreign Priority Date	NONE
Word Mark	MYSTIC LAKE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1992/05/13 First Use In Commerce: 1992/05/13 clothing; namely, shirts, shorts, pants, sleepwear, jackets, headwear, belts, stockings, footwear, and gloves		

U.S. Registration No.	4878819	Application Date	06/17/2014
Registration Date	12/29/2015	Foreign Priority Date	NONE
Word Mark	MYSTIC LAKE		
Design Mark			
Description of Mark	The mark consists of the words "MYSTIC LAKE" with the letter "A" in "LAKE" as a formation of light beams resembling the conical framework of a teepee.		
Goods/Services	Class 016. First use: First Use: 2014/03/00 First Use In Commerce: 2014/03/00 Merchandise bags; pens; paper coasters; coin holders; and post cards Class 025. First use: First Use: 2014/03/00 First Use In Commerce: 2014/06/00 Clothing, namely, shirts, shorts, pants; head wear Class 035. First use: First Use: 2014/02/10 First Use In Commerce: 2014/02/10 Promoting the sale of the concert tickets of others; retail shops featuring souven-		

	<p>irs, crafts, clothing, and related merchandise</p> <p>Class 036. First use: First Use: 2014/02/10 First Use In Commerce: 2014/05/26 Financial services, namely, check cashing services, automated teller machine (ATM) services, and electronic fund transfer services; cash replacement rendered by credit card services</p> <p>Class 039. First use: First Use: 2014/02/10 First Use In Commerce: 2014/02/10 Valet parking services; shuttle bus services; ground transportation of passengers via bus</p> <p>Class 041. First use: First Use: 2014/02/10 First Use In Commerce: 2014/02/10 Casino services; entertainment services in the nature of providing casino gaming and providing facilities featuring gaming machines, namely, slot machines, video slot machines, video poker machines, video lottery terminals, video keno machines, video craps machines, video roulette machines, and pull tab machines; Entertainment services in the nature of providing and conducting blackjack games and tournaments, bingo game events and gaming contests, slot machine events and gaming contests, sporting-related promotions, namely, games of chance based upon organized sporting events; lottery services, namely, providing and conducting drawings for cash and prize giveaways; entertainment services in the nature of providing movie showings and video game arcades for use by guests; provision of non-downloadable films and movies via video on demand services; entertainment services, namely, providing on-line video games; providing live entertainment in the nature of magic shows, musical performances, theatrical performances, dancing performances, sporting events in the nature of golf tournaments, comedy performances, and celebrity performances and events in the nature of personal appearances by celebrities; arranging and conducting of concerts; entertainment, namely, live music concerts; rental of audio-visual multi-media equipment</p> <p>Class 043. First use: First Use: 2014/02/10 First Use In Commerce: 2014/02/10 Hotel services; arena services, namely, providing general purpose facilities for sports, concerts, conventions, trade shows, conferences, and exhibitions; providing online hotel reservation services for travelers; restaurant services; food preparation and catering services; providing general purpose facilities for meeting, reception, seminar, event, banquet, convention, conference, trade show, and exhibition facilities</p> <p>Class 044. First use: First Use: 2014/02/10 First Use In Commerce: 2014/02/10 Health spa services, namely, cosmetic body care services; health spa services, namely, massages, facials, body treatments in the nature of body wraps and body polish, manicures, pedicures, nail care, hair styling; health spa services for health and wellness of the body and spirit offered at a hotel</p>
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Related Proceedings	87742831, 5633245
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Attachments	76302288#TMSN.png(bytes) 86977822#TMSN.png(bytes) Notice of Opposition - 87955248.pdf(295360 bytes)
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Signature	/Jodi A. DeSchane/
Name	Jodi A. DeSchane
Date	02/18/2019

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

In the Matter of Serial No.: 87/955,248
For the Mark: MYSTIC MOTEL
Filed: June 8, 2018
Published: November 6, 2018

SHAKOPEE MDEWAKANTON SIOUX
COMMUNITY,

Opposer,

v.

ADRENALIN ATTRACTIONS, LLC

Applicant.


Opposition No.: _____

NOTICE OF OPPOSITION

The Shakopee Mdewakanton Sioux Community ("SMSC") believes it will be damaged by the registration of the mark MYSTIC MOTEL as set forth in U.S. Application Serial No. 87/955,248 (hereinafter the "248 Application"), and hereby opposes the same. Opposer alleges the following grounds for opposition:

1. Opposer is a federally recognized Indian tribe with a principal place of business at 2400 Mystic Lake Blvd., Prior Lake, MN 55372.
2. Opposer, through the Shakopee Mdewakanton Sioux Community Gaming Enterprise, operates Mystic Lake, the Midwest's premier resort destination. Aside from numerous gambling opportunities such as slot machines and blackjack tables, it has a state of the art 800 seat electronic bingo facility, 2,300-seat and 700-seat entertainment venues, over 24,000 square feet of meeting/banquet space, five restaurants, 766 rooms and luxury suites, an 18-hole championship golf course, and a 230,000 square foot sports and fitness center.

3. In addition to common law rights, Opposer owns numerous United States trademark registrations, including but not limited to those noted below for the mark MYSTIC and MYSTIC-formative marks (collectively the “MYSTIC Marks”):

Trademark	Registration No.	Goods
MYSTIC	2,658,677	Clothing, namely, shirts
MYSTIC LAKE	1,805,367	Clothing; namely, shirts, shorts, pants, sleepwear, jackets, headwear, belts, stockings, footwear, and gloves
	4,878,819	Clothing, namely, shirts, shorts, pants; head wear

4. Upon information and belief, applicant Adrenalin Attractions, LLC is a Nevada limited liability company with an address at 4760 W. Dewey Dr., Suite 107, Las Vegas, Nevada 89118 (“Applicant”).

5. On June 8, 2018, Applicant filed the ‘248 Application for the MYSTIC MOTEL mark in connection with “Clothing, namely, shoes; t-shirts, shorts, sweat shirts, sweat pants, sweat shorts; headwear, namely, hats and caps; and rainwear, namely, hats, coats, jackets, capes and ponchos.”

6. Upon information and belief, SMSC’s use and registration of the MYSTIC Marks predate the filing date of Applicant’s ‘248 Application.

7. Upon information and belief, Opposer’s use and registration of the MYSTIC Marks predate any use of the MYSTIC MOTEL mark by Applicant for the services identified in the ‘248 Application.

8. Upon information and belief, Applicant’s MYSTIC MOTEL mark in the ‘248 Application so resembles Opposer’s MYSTIC Marks as to be likely, when used on or in

connection with the services identified in the '248 Application, to cause confusion, or to cause mistake, and/or to deceive.

9. The registration of the mark claimed in the '248 Application in connection with the applied-for goods would be inconsistent with Opposer's rights under the Lanahm Act and common law, and Opposer would be damaged by such registration. The mark in the '248 Application 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 MYSTIC MOTEL mark, and prays that application Serial No. 87/955,248 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 \$400. 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.

Dated: February 18, 2019

FAEGRE BAKER DANIELS LLP,



By _____
Jodi A. DeSchane
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402
Telephone: (612) 766-7000
Facsimile: (612) 766-1600
jodi.deschane@faegrebd.com