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ATTORNEYS FOR PLAINTIFF
SHAKOPEE MDEWANKANTON SIOUX COMMUNITY

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SHAKOPEE MDEWAKANTON SIOUX
COMMUNITY,
a Federally Recognized Indian Tribe,

Plaintiff,

vs.

TEMPLETON GAMING CORPORATION,
a Nevada Corporation; and
HUGH TEMPLETON, a Nevada citizen,

Defendants.

Case No. _____

**COMPLAINT
(JURY DEMAND)**

For its Complaint against Templeton Gaming Corporation and Hugh Templeton,
plaintiff Shakopee Mdewakanton Sioux Community states and alleges as follows:

SUMMARY OF THE COMPLAINT

1 This is an action for mark infringement and unfair competition under the Lanham
2 Act (15 U.S.C. § 1051 *et seq*), arising from Defendants’ unauthorized use of the mark
3 MYSTIC for casino-related services.
4

THE PARTIES

5
6 1. Plaintiff Shakopee Mdewakanton Sioux Community (“SMSC”) is a
7 federally recognized Indian tribe with its land located in the County of Scott, Minnesota
8 and its tribal government offices located in Prior Lake, Minnesota.
9

10 2. On information and belief, defendant Templeton Gaming Corporation
11 (“Templeton”) is a corporation with its principal place of business located at 3235 South
12 Rainbow, Suite 101 Las Vegas, Nevada 89146.

13 3 On information and belief, defendant Hugh Templeton is an individual
14 resident of the District of Nevada. On information and belief, Mr. Templeton owns
15 and operates Templeton.
16

JURISDICTION AND VENUE

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18 4. This is an action for service mark infringement and false designation of
19 origin under the provisions of the Lanham Act, 15 U.S.C. §§ 1051, *et seq*.

20 5. This Court has subject matter jurisdiction over the Lanham Act claims
21 asserted in this complaint under 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a).
22

23 6. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(1) in that both
24 defendants reside in the District of Nevada. Venue is also proper in this district under 28
25 U.S.C. §§ 1391(b)(2) in that a substantial part of the events giving rise to the claims
26 occurred in this district.
27
28

ALLEGATIONS RELEVANT TO ALL COUNTS

SMSC's Registered MYSTIC Marks

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2
3 7. Plaintiff SMSC began operating the Mystic Lake Casino Hotel (“Mystic
4 Lake”) near Minneapolis, Minnesota in approximately 1992. Since that time Mystic
5 Lake has expanded into one of the largest tribal government-owned gaming venues in the
6 nation.

7 8. Mystic Lake features a casino, 600 room luxury hotel, and a 2400 seat
8 Mystic Showroom entertainment venue which regularly draws national performing acts.
9 During 2009, for example, performers at Mystic Lake have included John Legend,
10 Emmylou Harris, Tony Bennett and Chris Isaak. In 2009, Mystic Showroom received the
11 Midwest Gaming & Travel “Readers Choice Award” in the “best concert venue” and
12 “best live entertainment” categories.
13

14 9. SMSC also operates a Mystic Lake retail store located in the Mall of
15 America, and provides shuttle service between the Mall of America and Mystic Lake
16 Casino. Due in part to its strategic location near the Mall of America, Mystic Lake draws
17 patrons from each of the 50 United States. SMSC's records show that Club Mystic—
18 Mystic Lake's rewards/promotion card—has approximately 800,000 members including
19 residents of all 50 states. There are approximately 1,900 Club Mystic members with
20 Nevada addresses.
21

22 10. Because of its notoriety as one of the largest tribal government-owned
23 casinos in the nation, Mystic Lake has received substantial national publicity. Over the
24 years, Mystic Lake casino has been featured in articles in national newspapers and
25 periodicals including the New York Times, USA Today and Sports Illustrated.
26
27
28

1 11. SMSC spends substantial sums advertising and promoting Mystic Lake.
2 Over the last five years, SMSC's records show expenditures of more than \$17 million for
3 newspaper, radio, television, billboards, magazines and direct mail advertising, including
4 direct mail promotions to Club Mystic members in Nevada.

5 12. SMSC owns, among other marks, United States Trademark Registrations
6 for the mark MYSTIC, Reg. Nos. 2,799,696, 2,126,487; MYSTIC LAKE, Reg. Nos.
7 2,998,124; MYSTIC LAKE CASINO HOTEL, 2,760,867; MYSTIC GAMING,
8 2,620,739, 2,677,172; MYSTIC BINGO, 2,645,630; MYSTIC PROMOTIONS,
9 2,639,270; MYSTIC ENTERTAINMENT 2,892,303; MYSTIC SLOTS, 2,649,129;
10 MYSTIC MONEY 2,645,498; MYSTIC FAVORITES 2,718,710; MYSTIC GRAND
11 BALLROOM, 2,733,169; MYSTIC DINING, 2,621,116; and MYSTIC DELI, 3,582,793
12 ("collectively "SMSC's Marks").
13

14 Templeton, Hugh Templeton And Their Wrongful Conduct

15 13. Templeton and/or Hugh Templeton (collectively, "Defendants") operate
16 the Mystic Lodge Casino located at 920 South Boulder Highway, Henderson, Nevada
17 (the "Nevada Casino").
18

19 14. In or around March, 2009, SMSC learned that the Nevada Casino was,
20 without authorization from SMSC, being operated under the MYSTIC mark. Attached as
21 Exhibit A are photographs of the Nevada Casino, located on the Internet website
22 *www.mysticlodgecasino.com* illustrating the infringing use of the MYSTIC mark.
23

24 15. On March 17, 2009, SMSC notified Defendants by letter of SMSC's
25 Marks and demanded that Defendants cease and desist from all use of the MYSTIC mark.

26 16. On May 22, 2009, Defendants responded through counsel, refusing to
27 cease use of the MYSTIC mark in connection with the Nevada Casino.
28

1 likely to cause confusion, or to cause mistake, or to deceive vis-a-vis SMSC's MYSTIC
2 mark. Defendants are therefore liable to SMSC pursuant to 15 U.S.C. § 1114(1).

3 23. Unless restrained and enjoined by this Court, Defendants will, on
4 information and belief, including without limitation the Defendants' failure to address
5 SMSC's multiple attempts to stop the infringing use, continue to infringe SMSC's rights
6 in at least SMSC's MYSTIC mark, and will continue thereby to cause irreparable injury
7 and damage to SMSC.

8 24. No adequate remedy exists at law for the irreparable harm Defendants'
9 infringement has caused and is causing SMSC. SMSC is entitled to preliminary and
10 permanent injunctive relief.

11 25. Defendants' infringement of rights of SMSC in SMSC's Marks has caused
12 and continues to cause damage and harm to SMSC and to lower the value of the goodwill
13 represented by the marks Defendants have infringed. SMSC is entitled to a monetary
14 recovery consistent with 15 U.S.C. § 1117(a) in an amount to be proven at trial.

15 26. Defendants' infringement of the rights of SMSC has been knowing,
16 willful and in deliberate disregard of the rights of SMSC and of Defendants' obligations
17 under federal law. SMSC is entitled to enhanced damages under 15 U.S.C. § 1117(a).

18 27. This is an exceptional case within the meaning of 15 U.S.C. § 1117(a).
19 SMSC should be awarded reasonable attorneys' fees herein.

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21
22 **COUNT II**

23 **False Designation of Origin**
24 **(15 U.S.C. § 1125(a))**

25 28. SMSC realleges, as if fully set forth at this place, the allegations contained
26 in paragraphs 1-27 above.

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29. Defendants have used and continue to use in commerce marks and designations in connection with services Defendants advertise, offer for sale and/or sell in a manner that is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Defendants with SMSC and/or as to the origin, sponsorship or approval of Defendants' services or commercial activities by SMSC.

30. SMSC believes that it is and is likely to be damaged by these acts of false designation of origin by Defendants.

31. Defendants are, pursuant to 15 U.S.C. § 1125(a), liable to SMSC for Defendants' acts of false designation of origin.

32. No adequate remedy exists at law for the irreparable harm Defendants' acts of false designation of origin have caused and are causing SMSC. SMSC is entitled to preliminary and permanent injunctive relief.

33. Defendants' acts of false designation of origin have caused and continue to cause damage and harm to SMSC. SMSC is therefore entitled to a monetary recovery consistent with 15 U.S.C. § 1117(a) in an amount to be proven at trial.

34. Defendants' acts of false designation of origin have been knowing, willful and in deliberate disregard of SMSC's rights and of Defendants' obligations under federal law. SMSC is entitled to enhanced damages under 15 U.S.C. § 1117(a).

35. This is an exceptional case within the meaning of 15 U.S.C. § 1117(a). SMSC should be awarded reasonable attorneys' fees herein.

PRAYER FOR RELIEF

WHEREFORE, SMSC prays that this Court:

1. Preliminarily and permanently enjoin and restrain Defendants, each of the officers, agents, servants, employees and attorneys of Templeton Gaming Corporation,

1 and any other person in active concert or participation with them who receive actual
2 notice of the Court's order, from using SMSC's MYSTIC mark and any other mark or
3 designation confusingly similar to SMSC's Marks.

4 2. Award SMSC a monetary recovery consistent with 15 U.S.C. § 1117(a) in
5 an amount to be proven at trial.

6 3. Find that this is an exceptional case within the meaning of 15 U.S.C.
7 § 1117(a) and award SMSC its reasonable attorneys' fees herein.

8 4. Grant SMSC such other and further relief as the Court may find to be just
9 and proper.
10

11 **DEMAND FOR JURY TRIAL**

12 SMSC demands, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, a
13 trial by jury on all claims to which a right to jury trial exists under law.
14

15 Dated: January _____, 2010

/s/

16 By _____
17

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