

TAB

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April 14, 2004

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Re: Anheuser-Busch, Inc. v. Scott F. Sedlazeck
BUDDY COLA (Serial No. 76/424,545)

Dear Sir/Madam:

Enclosed please find the following:

1. An original and two copies of a notice of opposition;
2. A postage-paid, self-addressed postcard, which we request be stamped with the date of receipt and returned to us.

Please debit our Deposit Account No. 502876 for the \$300 filing fee and any additional necessary fees. A copy of this letter is enclosed as authorization.

Sincerely,

Sandra Scavo Pedersen
Loeb & Loeb LLP

SSP:ms
44220010015
CH23217.1

Enclosures



04-19-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #72

LOS ANGELES
NEW YORK
CHICAGO
NASHVILLE

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/424,545: BUDDY COLA

ANHEUSER-BUSCH, INCORPORATED,)
)
Opposer,) Opposition No.
)
v.)
)
SCOTT F. SEDLAZEK,)
)
Applicant.)

NOTICE OF OPPOSITION

Anheuser-Busch, Incorporated, a Missouri corporation located and doing business at One Busch Place, St. Louis, Missouri 63118, believes it will be damaged by the registration in Class 32 of the mark shown in Application Serial No. 76/424,545 and hereby opposes the same.

As grounds for this opposition, opposer alleges:

1. Opposer and its predecessors have been marketing beer for more than a century, and opposer is the leading brewer and marketer of beer in the United States.
2. Since long prior to the June 25, 2002 filing date of App. Ser. No. 76/424,545, opposer extensively has marketed beer in interstate commerce under or in connection with its various inherently distinctive marks that include "BUD," including, but not limited to, BUD, BUDWEISER, BUD LIGHT, BUD MAN, BUD ICE, BUD BOWL, and THIS BUD'S FOR YOU (collectively "BUD Marks").
3. Opposer has registered its BUD Marks for beer in the United States Patent and Trademark Office ("PTO"). Opposer's registrations include, but are not limited to:

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington Virginia 22202-3514 on April 14, 2004.



<u>TRADEMARK</u>	<u>GOODS</u>	<u>REG. NO.</u>
BUDWEISER	Lager Beer	13,064
BUD	Beer	666,367
BUDWEISER and Design	Beer	895,176
BUDWEISER	Beer	922,481
BUDWEISER	Beer	952,277
BUD MAN	Beer	999,817
BUD LIGHT	Beer	1,261,873
THIS BUD'S FOR YOU	Beer	1,332,479
BUD BOWL	Beer	1,567,443

These registrations are valid, subsisting, and owned by opposer. Registration Nos. 895,176; 922,481; 952,277; 999,817; 1,261,873; 1,332,479; and 1,567,443 are incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

4. Opposer has sold billions of dollars worth of its beer under or in connection with its BUD Marks and has spent hundreds of millions of dollars advertising and promoting its beer under or in connection with these marks.

5. Since long prior to the June 25, 2002 filing date of App. Ser. No. 76/424,545, opposer extensively has marketed a wide assortment of other beverage related consumer products under or in connection with its BUD marks ("BUD Beverage Products").

6. Opposer's BUD Beverage Products include, but are not limited to, coasters, bottle openers, heat insulated containers for beverages, portable coolers and thermal insulated containers for beverages.

7. Opposer has registered its BUD Marks for many of its BUD Beverage Products in the PTO. Opposer's registrations include, but are not limited to:

<u>TRADEMARK</u>	<u>GOODS</u>	<u>REG. NO.</u>
BUDWEISER	Coasters, bottle openers, heat insulated containers for beverages, and beer carriers and coolers	1,443,856
BUD LIGHT	Portable coolers, bottle openers, and thermal insulated containers for beverages	1,733,107

These registrations are valid, subsisting and owned by opposer; they are also incontestable pursuant to 15 USC §§ 1064 and 1115(b),

8. Prior to the June 25, 2002 filing date of App. Ser. No. 76/424,545, and as a result of opposer's aforesaid marketing and sale of its beer and other BUD Beverage Products, opposer's BUD Marks had become well known and had acquired a secondary meaning identifying opposer and its beer and other BUD Beverage Products.

9. Since prior to the June 25, 2002 filing date of App. Ser. No. 76/424,545, opposer's BUD Marks for its beer and BUD Beverage Products have constituted a family of marks.

10. Since prior to the June 25, 2002 filing date of App. Ser. No. 76/424,545, opposer has also marketed energy drinks.

11. Upon information and belief, neither applicant nor any predecessor or related company of applicant made actual use of the opposed mark prior to the June 25, 2002 filing date of App. Ser. No. 76/412,032.

12. Use by applicant of BUDDY COLA for "mineral and aerated waters; soft drink colas, fruit flavored soft drinks, pop soft drinks, energy drinks, namely sports drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages."

13. Applicant's use of BUDDY COLA for Applicant's Products is likely to cause confusion, mistake, or deception in that consumers are likely to believe applicant's products and services are opposer's products and services or the products or services of a person or company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, opposer.

14. Registration by applicant of BUDDY COLA for Applicant's Products would therefore be damaging to opposer.

WHEREFORE, opposer respectfully requests that this opposition be sustained and that App. Ser. No. 76/424,545 be denied registration.

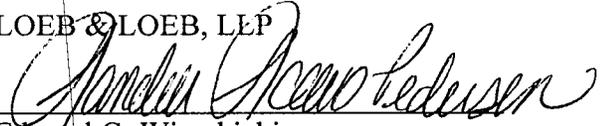
Opposer submits the requisite filing fee in the amount of \$300.00.

Please address all correspondence to Daniel D. Frohling, Esq., Loeb & Loeb, LLP, 200 South Wacker Drive, Suite 3100, Chicago, Illinois 60606.

Date: April 14, 2004

By:

LOEB & LOEB, LLP


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