

ESTTA Tracking number: **ESTTA171782**

Filing date: **10/30/2007**

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	ANHEUSER-BUSCH, INCORPORATED
Granted to Date of previous extension	11/04/2007
Address	ONE BUSCH PLACE ST. LOUIS, MO 63118 UNITED STATES
Attorney information	Mary E. Innis Loeb & Loeb LLP 321 N. Clark Street Suite 2300 Chicago, IL 60610 UNITED STATES chicagopto@loeb.com, minnis@loeb.com, srose@loeb.com

Applicant Information

Application No	78717666	Publication date	05/08/2007
Opposition Filing Date	10/30/2007	Opposition Period Ends	11/04/2007
Applicant	Gordo Enterprises, Inc. 427 E. Michigan Avenue Kalamazoo, MI 49007 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 030. All goods and services in the class are opposed, namely: candy; ice cream; coffee and tea beverages; cocoa-based beverages with milk; coffee flavored syrup used in making food beverages; flavor enhancers and flavorings used in food and beverage products; herbal food beverages</p>
<p>Class 032. All goods and services in the class are opposed, namely: Soft drinks and carbonated beverages; energy drinks and sports drinks; fruit and vegetable drinks and juices; ginger ale; lagers; lemonade; drinking waters, bottled waters, flavored waters, mineral and aerated waters; beer; ale; stout; frozen fruit beverages; smoothies</p>
<p>Class 033. All goods and services in the class are opposed, namely: Wines; whiskey; vodka; schnapps; alcoholic fruit beverages; alcoholic coffee-based beverage; rum; liquors; gin; brandy; cordials' champagne; malt beverages</p>

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.	64125	Application Date	07/03/1905
Registration Date	07/23/1907	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1876/01/00 First Use In Commerce: 1876/01/00 BEER		

U.S. Registration No.	922481	Application Date	10/28/1970
Registration Date	10/19/1971	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1876/01/00 First Use In Commerce: 1876/01/00 BEER		

U.S. Registration No.	952277	Application Date	11/01/1971
Registration Date	01/30/1973	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1876/01/00 First Use In Commerce: 1876/01/00 BEER [AND MALT LIQUOR]		

U.S. Registration No.	3011229	Application Date	08/30/2004
Registration Date	11/01/2005	Foreign Priority Date	NONE
Word Mark	BUDWEISER SELECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2004/10/26 First Use In Commerce: 2004/10/26 BEER		

U.S. Registration	666367	Application Date	11/18/1957
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No.			
Registration Date	08/26/1958	Foreign Priority Date	NONE
Word Mark	BUD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1939/06/00 First Use In Commerce: 1939/06/00 BEER		

U.S. Registration No.	999817	Application Date	03/06/1974
Registration Date	12/17/1974	Foreign Priority Date	NONE
Word Mark	BUD MAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1969/02/18 First Use In Commerce: 1969/03/18 BEER		

U.S. Registration No.	1261873	Application Date	09/20/1982
Registration Date	12/20/1983	Foreign Priority Date	NONE
Word Mark	BUD LIGHT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1982/04/01 First Use In Commerce: 1982/04/01 Beer		

U.S. Registration No.	1332479	Application Date	06/21/1982
Registration Date	04/23/1985	Foreign Priority Date	NONE
Word Mark	THIS BUD'S FOR YOU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1980/03/01 First Use In Commerce: 1980/03/01 Beer		

U.S. Registration No.	1567443	Application Date	02/06/1989
Registration Date	11/21/1989	Foreign Priority Date	NONE
Word Mark	BUD BOWL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 1988/12/26 First Use In Commerce: 1989/01/01 BEER

U.S. Registration No.	2501706	Application Date	05/03/2000
Registration Date	10/30/2001	Foreign Priority Date	NONE
Word Mark	BUD ICE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1995/02/27 First Use In Commerce: 1995/02/27 BEER		

U.S. Registration No.	720101	Application Date	10/20/1960
Registration Date	08/15/1961	Foreign Priority Date	NONE
Word Mark	WHERE THERE'S LIFE . . . THERE'S BUD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1957/00/00 First Use In Commerce: 1957/00/00 Beer		

U.S. Application No.	78705426	Application Date	09/01/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: SAUCES, MUSTARDS, MARINADES, AND BARBECUE DRY RUB MEAT SEASONING		

U.S. Application No.	77198037	Application Date	06/05/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use:		

	Chili seasoning
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Attachments	78475474#TMSN.jpeg (1 page)(bytes) 76040828#TMSN.gif (1 page)(bytes) 78705426#TMSN.jpeg (1 page)(bytes) 77198037#TMSN.jpeg (1 page)(bytes) Notice of Opposition -- DUB.pdf (4 pages)(145978 bytes)
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Signature	/Seth A. Rose/
Name	Seth A. Rose
Date	10/30/2007

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

In the Matter of Application Serial No. 78/717,666: DUB
Published in the *Official Gazette* of May 8, 2007

ANHEUSER-BUSCH, INCORPORATED,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	
GORDO ENTERPRISES, INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Anheuser-Busch, Incorporated (“Opposer”), a Missouri corporation located and doing business at One Busch Place, St. Louis, Missouri 63118, believes it will be damaged by the registration of the trademark **DUB** in Classes 30, 32 and 33, Application Serial No. 78/717,666, filed by Gordo Enterprises, Inc.(“Applicant”), 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 September 21, 2005 filing date of Applicant’s Application Serial No. 78/717,666, Opposer has extensively marketed beer in interstate commerce under or in connection with various inherently distinctive marks that all include “BUD,” including, but not limited to, **BUDWEISER, BUDWEISER SELECT, BUD, BUD LIGHT, BUD MAN, BUD ICE, BUD BOWL, THIS BUD’S FOR YOU, IT’S A BUD THING, PROUD TO BE YOUR BUD, WHERE THERE’S LIFE ... THERE’S BUD, and NOTHING BEATS A BUD** (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:

<u>TRADEMARK</u>	<u>GOODS</u>	<u>REG. NO.</u>
BUDWEISER	Beer	64,125
BUDWEISER	Beer	922,481
BUDWEISER	Beer	952,277
BUDWEISER SELECT	Beer	3,011,229
BUD	Beer	666,367
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
BUD ICE	Beer	2,501,706
WHERE THERE'S LIFE ... THERE'S BUD	Beer	720,101

These registrations are valid, subsisting, and owned by Opposer. Except for Registration Nos. 2,501,706 and 3,011,229, all of the above registrations are incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

4. Opposer has applied to register its BUD Marks in connection with food products in the United States Patent and Trademark Office (“PTO”). Opposer’s applications include, but are not limited to, BUDWEISER, Application Serial No. 78/705,426, covering sauces, mustards, marinades, and barbecue dry rub meat seasoning, and BUDWEISER, Application Serial No. 77/198,037, covering chili seasoning.

5. 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.

6. Since long prior to the September 21, 2005 filing date of Applicant's Application Serial No. 78/717,666, and as result of Opposer's aforesaid marketing and sale of its beer, Opposer's BUD Marks had become extremely well known and had acquired a secondary meaning identifying Opposer and its beer.

7. Since long prior to the September 21, 2005 filing date of Applicant's Application Serial No. 78/717,666, Opposer's BUD Marks have constituted a family of marks.

8. In addition to the above activities and since prior to the September 21, 2005 filing date of Applicant's Application Serial No. 78/717,666, Opposer has marketed and sold various additional alcohol and non-alcohol beverages, including, but not limited to, water and energy drinks.

9. Moreover, and also since prior to the September 21, 2005 filing date of Applicant's Application Serial No. 78/717,666, Opposer has marketed and sold various food products, including but not limited to, food marinades and sauces.

10. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of the mark DUB prior to the filing date of Application Serial No. 78/717,666.

11. Applicant's use of the mark DUB for "Soft drinks and carbonated beverages; energy drinks and sports drinks; fruit and vegetable drinks and juices; ginger ale; lagers; lemonade; drinking waters, bottled waters, flavored waters, mineral and aerated waters; beer; ale; stout; frozen fruit beverages; smoothies" in International Class 32, "Wines; whiskey; vodka; schnapps; alcoholic fruit beverages; alcoholic coffee-based beverage; rum; liquors; gin; brandy;

cordials; champagne; malt beverages,” in International Class 33, and “candy; ice cream; coffee and tea beverages; cocoa-based beverages with milk; coffee flavored syrup used in making food beverages; flavor enhancers and flavorings used in food and beverage products; herbal food beverages,” in International Class 30, (“Applicant’s Products”) would be without Opposer’s consent or permission.

12. Applicant’s proposed use of DUB for Applicant’s Products is likely to cause confusion, mistake, or deception in that consumers are likely to believe Applicant’s Products are Opposer’s products or the products of a person or company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

13. Applicant’s registration of DUB (Application Serial No. 78/717,666) for use in connection with Applicant’s Products would be damaging to Opposer.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 78/717,666 be denied registration.

Please debit our Deposit Account No. 502876 for the \$900 filing fee and for any additional necessary fees.

Please address all correspondence to Mary E. Innis, Esq., Loeb & Loeb LLP, 321 N. Clark Street, Suite 2300, Chicago, Illinois 60610.

Date: October 30, 2007

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