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

Proceeding	91186158
Party	Defendant JaniceM. Kruse
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on October 12, 2008

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

Mark: GODSWISER THAN BUD
Application Serial No. 77/337,273
Filed on November 26, 2007

ANHEUSER-BUSCH, INCORPORATED

Plaintiff,

V.

Opposition No. 91186158

JANICE M. KRUSE,
THE GODSWISER PRODJECT, LLC

Defendant,

RESPONSE TO OPPOSITION

The Godswiser Prodject LLC (Defendant) a Limited Liability Company organized and existing under the laws of the State of Missouri, having its place of business at 1200 Myrtle Ave Apt. #! Jefferson City, MO 65109, is being unfairly denied the right to register the service mark (GODSWISER THAN BUD) Serial No., 77/337,273, due to Plaintiff's well known "BUD Marks".

In response to opposition it is believed that:

1. The Defendant applied for registration of (GODSWISER THAN BUD) in connection with custom imprinting of shirts, hats, glass, bumper stickers, with decorative designs; imprinting messages on t-shirts; imprinting messages on

wearing apparel, accessories and mugs; printing of patterns on textiles; re-mastering of films from one format to another by an application filed November 26, 2007.

2. Defendant also agrees that Plaintiff that its predecessors have been marketing beer for more than a century and Plaintiff is the leading brewer and marketer of beer in the United States.

3. It is agreed that since long prior to Defendant's filing date and continuously to the present, Plaintiff has extensively marketed beer in interstate commerce under or in connection with various marks that all include "BUD", including, but not limited to, BUD LIGHT, BUD MAN, BUD ICE, BUD BOWL, BUDWEISER, BUDWEISER SELECT, AND THIS BUD'S FOR YOU (collectively "BUD Marks").

4. It is agreed upon by Defendant that Plaintiff continues to promote its BUD Marks in interstate commerce within the United States for identifying Plaintiff goods and services.

5. Defendant agrees after research that Plaintiff is the owner of numerous United States Trademark Registrations as stated in Paragraph 5 of opposition.

6. Defendant also agrees with all information that is stated in Paragraph 6 of Plaintiff's opposition.

7. The Defendant agrees that paragraph 7 of the opposition, is accurate, to the best of our knowledge.

8. The Trademark BUD, Reg. No. 1,401,344 CLASS 025; BUD LIGHT, Reg. No. 1,485,363 CLASS 025; BUD LIGHT & Design, Reg. No. 1,495,924 CLASS 025; BUD KING, Reg. No. 2,648,605 CLASS 025; BUD BOWL, Reg. No. 1,561,099 CLASS 025; BUD MAN, Reg. No. 3,165,347 CLASS 025; THIS BUD'S

FOR YOU, Reg. No. 1,632,431 class 025; BUDWEISER, Reg. No. 1,360,746 class 025; BUDWEISER, Reg. No. 1,506,060 class 025; BUDWEISER, Reg. No. 2,627,994 class 028; BUDWEISER, Reg. No. 2,506,291 class 028; BUDWEISER TRUE, Reg. No. 2,856,175 class 025; BUDWEISER, Reg. No. 1,443,856 class 006; BUD LIGHT, Reg. No. 1,733,107 class 021; BUD MAN, Reg. No. 2,531,846 class 021; BUD KING, Reg. No. 2,558,619 class 021 are valid and Paragraph 8 of Plaintiffs opposition is agreed upon by Defendant.

9. Defendant agrees with Paragraph 9 of Plaintiff's opposition.

10. Paragraph 10 of opposition is agreed upon by Defendant.

11. Plaintiff's BUD marks have been around for many years and Defendant agrees that BUD Products have constituted a family of marks.

12. Defendant has not made actual use of the mark "GODSWISER THAN BUD" and has filed an "Intent to use" application for registration. Paragraph 12 of Plaintiff's opposition is agreed upon.

13. According to paragraph 13 in the notice of opposition, it states Defendant's use of the mark (GODSWISER THAN BUD), (Application Serial No. 77/337,273) is without Plaintiffs consent or authorization. Since this mark is unrelated to the "BUD" marks in appearance, sound, connotation and commercial impression and the mark has not been used in the market as stated by Plaintiff, this paragraph is denied.

14. In paragraph 14 of the opposition, Defendant denies that (GODSWISER THAN BUD), if registered as a service mark, class 040, would be damaging to Plaintiff because it is not known to the public and if introduced, will be seen and experienced by a different target market than the consumers that purchase Anheuser-Busch products. The Defendant's mark will not, or ever be used as a

word mark, but only in the stylized design according to serial number 77/337,273. It will not be used to promote a product such as beer, a brand of shirt, brand of hat, glass, mug, T-shirt, or any brand of wearing apparel. It will be used according to class 040, to identify and promote a ministry unto the Lord and to raise awareness of the power of God. It will be used on shirts (purchased from other vendors) and other products such as mugs or hats as listed in class 040 and proceeds of sales of these items will be used to support the ministry and help others in need.

Defendant denies Count I—Likelihood of Confusion.

15. In paragraph 15, Defendant does agree with paragraph 1-12 and denies 13-14.

16. Defendant's use of (GODSWISER THAN BUD) should not cause confusion, mistake, or deception or cause the public to think Plaintiff is connected in any way to Defendant. Plaintiff is in ownership of hundreds of Trademark registrations. Many of them are word marks. The Godswiser Than Bud mark is classified as a service mark and the description consists of a black Bible with gold highlighted edging in places and white pages containing scripture in black lettering and gold edging on the sides of the pages on both sides of the Bible. The word Godswiser is in gold lettering in the center of the Bible with black bordering and white highlights around the letters. A black cross represents the dot above the letter I in the word Godswiser. There are six white beams with a gold border around it surrounding the Cross. The Bible sits in the center of a black background. The colors black, white and gold are claimed as the feature of the mark. Confusion as to the source of the mark is unlikely due to the differences in appearance. The words, than Bud, are very

small and located at the bottom of the Bible (in the stylized design) and they do not stand out like the first part of the mark, Godswiser.

In most “BUD Marks”, BUD is the first and identifying part of the mark. The sound of “Bud Light” and Godswiser than Bud do not sound the same except for the word Bud, but the connotation is different. Bud is beer and Godswiser than Bud stands for and is related to God. Bud is also the ticker symbol for Anheuser-Busch. There are also several registered Trademarks (by companies other than Anheuser-Busch) such as POWER BUD (77201548), UNCLE BUD’S (77057020), MY BOSOM BUD (77291472), BUDBUD (77562737), SPONSORBUD (77320450), RENTALBUD (77451342), BUD’S TOTAL BODY BOOT CAMP (78596375), EYEBUD (78720607), TASTBUD (78906073), BAHLI BUBBLE BUD (78685204), BUD BILLIKEN (74015475), BUD (74045216), MORE BUD FOR YOUR BUCK! (75362487), and EAR BUD (77046019). In Godswiser Than Bud, Bud is a metaphor for man and the word Bud is not a dominant part of the applicants mark nor is it used alone. Bud can mean many things, a sprout, blossom, shoot, flower, grow, bloom, open out, develop, vegetate, germinate, expand, enlarge, flourish, peak, produce, cultivate, the name of a person, or the name of an animal.

The goods and services provided by The Godswiser Project will not move through the same channel of trade as the “BUD Products” but, at first, will be marketed at church or other religious or civic events in conjunction with the service of evangelization and promoting God in every area. Beer or “BUD Products” are sometimes sold at some church picnics, or wedding dances but Godswiser than Bud products will be sold to promote a service and in combination with evangelization.

The commercial impression does not show likelihood of confusion due to the results of a Continuing Commercial Impression survey that was done among consumers of alcoholic beverages and non-consumers of alcohol. The objective of this survey was to determine that the participants exhibited no hesitation or doubt as to the identity of the mark and to show that Godswiser than Bud is not a periodic adaptation of the Bud Light or Bud marks. We compared the Godswiser than Bud mark with pictures of Bud Light, Budweiser, and Bud Ice marks and asked these questions. “Do these two logos impress you as being the same, being different or you don’t know?” and if the answer given by the respondent was the same or different, we asked them “Why do you say that?” Out of 26 respondents, 26 answered that they were different. Some of the differences were variation in colors, letters and themes (no Bible on Beer logo), the artistry, shape, background and meaning (one means beer, the other means God). According to this survey, the CCI was 1.00 and did not tip toward Continuing Commercial Impression. Because of this survey, the Defendant does not believe there is any confusion, mistake or deception in that consumers are likely to believe that Defendant’s products are the same as Plaintiff’s products, so paragraph 16 of the opposition is denied.

Defendant denies count II—Dilution.

17. In paragraph 17, Defendant agrees with paragraph 1-12 and denies paragraphs 13-14.

18. Long before Defendant’s filing date, each of Plaintiff’s “BUD Marks” and Plaintiff’s family of BUD Marks had become distinctive, famous and not generic, so Defendant agrees with paragraph 18.

19. Defendant denies paragraph 19 of opposition because (GODSWISER THAN BUD) Serial No. 77/337,273, used in accordance with class 040 should not cause dilution of the distinctive quality of each of Plaintiff's famous "BUD" trademarks and its famous family of "BUD Marks" because it will be used in good faith for fair use. It is very unlikely that anyone who looks at the Godswiser than Bud mark, within the stylized design, will think of the "BUD Marks". This is not a parody and is not intended to make fun of, compete or in any way draw the market from Plaintiff. The Godswiser Project is a ministry based on evangelization and God will be glorified because God is wiser than anything. This ministry will touch people who deal with obesity, anorexia, depression, drug addiction, pornography, and other problems. The Plaintiff's market for "BUD Products" is huge and covers the United States and some foreign countries. "BUD Products" are sold in this large geographic area and can be purchased spontaneously after sports events for a memory of being at that event, or for other reasons. These are two entirely different markets. The Defendant's geographical area of trade will begin in Missouri and people won't usually purchase goods on impulse (at evangelical events) unless they identify with the subject presented.

(GODSWISER THAN BUD) is an "Intent to use" application for registration so this mark has not been used in commerce yet. It was evaluated by an attorney before it was published for opposition by the United States Patent and Trademark Office. Defendant realizes the rights of a distinctive and famous Trademark and hopes to be able to use their stylized mark (GODSWISER THAN BUD) in good faith for its primary meaning "Godswiser". It is all about God. The secondary part of the mark "than Bud" is purely a

descriptive metaphor. God is wiser than anything man can do and through Jesus Christ brings deliverance. We will never trade on the Plaintiff's reputation, or cause dilution by promoting this mark in any way that would purposefully tarnish the "Bud Products". Defendant hopes to be allowed Fair use of the stylized mark "GODSWISER THAN BUD" and that the Plaintiff's opposition to the registration of Serial No. 77/337,273 be dismissed.

DATE: October 12, 2008

THE GODSWISER PROJECT

By: /Defendant, Janice M. Kruse

JaniceM. Kruse
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Jefferson City, MO 65109-2591

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Response to Opposition was served by Mail, postage prepaid on this day, October 12, 2008 upon the following:

Plaintiff

Anheuser-Busch Incorporated

Gary A. Pierson II
Ralph W. Kalish
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/JaniceM. Kruse