

ESTTA Tracking number: **ESTTA254220**

Filing date: **12/10/2008**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Anheuser-Busch Companies, Inc.
Granted to Date of previous extension	12/10/2008
Address	One Busch Place - 202-6 St. Louis, MO 63118 UNITED STATES

Name	Anheuser-Busch, Incorporated		
Entity	Corporation	Citizenship	Missouri
Address	One Busch Place - 202-6 St. Louis, MO 63118 UNITED STATES		

Attorney information	Daniel D. Frohling Loeb & Loeb LLP 321 N. Clark Street Suite 2300 Chicago, IL 63118 UNITED STATES dfrohling@loeb.com, srose@loeb.com, aocasio@loeb.com, chicagopto@loeb.com
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Applicant Information

Application No	77320450	Publication date	08/12/2008
Opposition Filing Date	12/10/2008	Opposition Period Ends	12/10/2008
Applicant	Fundbud, Inc. P.O. Box 5226 Austin, TX 78763 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2007/09/10 First Use In Commerce: 2007/09/10
All goods and services in the class are opposed, namely: Operating on-line marketplaces featuring on-line sponsorship services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	666367	Application Date	11/18/1957
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.	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.	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.	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.	64125	Application Date	07/03/1905
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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 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.	3321871	Application Date	08/31/2006
Registration Date	10/23/2007	Foreign Priority Date	NONE
Word Mark	BUD.TV		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2007/02/05 First Use In Commerce: 2007/02/05 PROVIDING TELEVISION PROGRAMS OVER THE INTERNET IN THE FIELDS OF NEWS, EDUCATION, ENTERTAINMENT, COMEDY, MUSIC, SPORTS AND CULTURAL ACTIVITIES		

U.S. Registration No.	3307319	Application Date	08/15/2006
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	BUD.TV		

Design Mark	<h1>BUD.TV</h1>		
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2007/02/05 First Use In Commerce: 2007/02/05 Broadcasting programs via a global computer network		

U.S. Registration No.	3307320	Application Date	08/15/2006
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	BUD.TV		
Design Mark	<h1>BUD.TV</h1>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2007/02/05 First Use In Commerce: 2007/02/05 Providing commercial information in the field of advertising via the Internet		

U.S. Registration No.	2550400	Application Date	01/12/1999
Registration Date	03/19/2002	Foreign Priority Date	NONE
Word Mark	BUDLIGHT.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2001/10/15 First Use In Commerce: 2001/10/15 on-line entertainment services in the nature of providing information in the nature of coverage of public events about beer, entertainment, history and sports, news, trivia, facts, commentaries and humor by means of a global computer information network		

U.S. Registration No.	2263561	Application Date	06/25/1997
Registration Date	07/20/1999	Foreign Priority Date	NONE
Word Mark	BUDWEISER.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1998/01/00 First Use In Commerce: 1998/01/00 interactive, on-line entertainment services in the nature of providing information, namely, news, trivia, facts, commentaries, humor and coverage of public events about beer, entertainment, merchandise, history, travel and sports by means of a global computer information network		

U.S. Registration No.	2719244	Application Date	08/02/2002
Registration Date	05/27/2003	Foreign Priority Date	NONE
Word Mark	BUDSHOP.COM		
Design Mark	BUDSHOP.COM		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00 Online retail store services featuring clothing, gifts, collectibles and accessories		

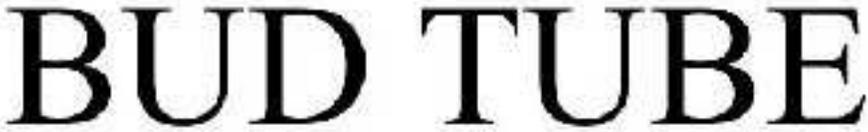
U.S. Registration No.	2065743	Application Date	08/10/1995
Registration Date	05/27/1997	Foreign Priority Date	NONE
Word Mark	BUDNET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1996/06/00 First Use In Commerce: 1996/06/00 communications services, namely electronic transmission of data and messages via computers		

U.S. Registration No.	2065744	Application Date	08/10/1995
Registration Date	05/27/1997	Foreign Priority Date	NONE

Word Mark	BUDNET
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1996/06/00 First Use In Commerce: 1996/06/00 computer services, namely, providing access to a computer database containing information concerning the brewing industry for use by breweries and wholesalers

U.S. Application No.	78965757	Application Date	09/01/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	BUD TUBE
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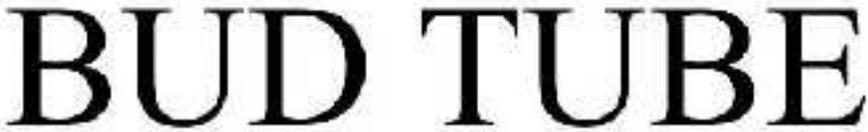
Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 041. First use: ENTERTAINMENT IN THE NATURE OF PROVIDING INFORMATION IN THE FIELDS OF NEWS ABOUT PERSONALITIES AND CELEBRITIES, EDUCATION, COMEDY, MUSIC, SPORTS AND CULTURAL ACTIVITIES VIA THE INTERNET
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U.S. Application No.	78965760	Application Date	09/01/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	BUD TUBE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 038. First use:
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	AUDIO AND VIDEO BROADCASTING SERVICES PROVIDED OVER THE INTERNET
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Attachments	78475474#TMSN.jpeg (1 page)(bytes) 78965006#TMSN.jpeg (1 page)(bytes) 78952712#TMSN.jpeg (1 page)(bytes) 78952716#TMSN.jpeg (1 page)(bytes) 76437082#TMSN.gif (1 page)(bytes) 78965757#TMSN.jpeg (1 page)(bytes) 78965760#TMSN.jpeg (1 page)(bytes) Notice of Opposition -- SPONSORBUD.pdf (7 pages)(225726 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Seth A. Rose/
Name	Seth A. Rose
Date	12/10/2008

BUD LIGHT, BUD MAN, BUD BOWL, BUDWEISER, BUDWEISER SELECT, and THIS BUD’S FOR YOU (collectively “BUD Marks”).

4. Opposer Anheuser-Busch, Incorporated, has registered its BUD Marks for beer in the United States Patent and Trademark Office (“PTO”). Opposer Anheuser-Busch, Incorporated’s registrations include, but are not limited to:

<u>TRADEMARK</u>	<u>GOODS</u>	<u>REG. NO.</u>
BUD	Beer	666,367
BUD LIGHT	Beer	1,261,873
BUD MAN	Beer	999,817
BUD BOWL	Beer	1,567,443
BUDWEISER	Beer	64,125
BUDWEISER	Beer	922,481
BUDWEISER	Beer	952,277
BUDWEISER SELECT	Beer	3,011,229
THIS BUD’S FOR YOU	Beer	1,332,479

These registrations are valid, subsisting, and owned by Opposer Anheuser-Busch, Incorporated.

Except for Registration No. 3,011,229, all of the above registrations are incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

5. Opposer Anheuser-Busch, Incorporated 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 prior to June 1, 2007, the earliest date of first use Applicant claims in any of its IdeaBud Applications, and continuing to the present, Opposer Anheuser-Busch,

Incorporated has extensively marketed and provided a variety of services on the Internet and in interstate commerce in connection with various additional marks incorporating “BUD” (“Additional BUD Marks”), including, but not limited to, entertainment services, broadcasting services, promotion and advertising services, and online retail store services (collectively “BUD Services”).

7. Since prior to June 1, 2007, the earliest date of first use Applicant claims in any of its IdeaBud Applications, Opposer Anheuser-Busch, Incorporated has registered or applied to register its Additional BUD Marks in the PTO in connection with many of these BUD Services. Opposer Anheuser-Busch, Incorporated’s registrations and applications include, but are not limited to:

<u>TRADEMARK</u>	<u>SERVICES</u>	<u>APP NO./REG. NO.</u>
BUD.TV	Providing television programs over the Internet in the fields of news, education, entertainment, comedy, music, sports and cultural activities	3,321,871
BUD.TV	Broadcasting programs via a global computer network	3,307,319
BUD.TV	Providing commercial information in the field of advertising via the Internet	3,307,320
BUDLIGHT.COM	On-line entertainment services in the nature of providing information in the nature of coverage of public events about beer, entertainment, history and sports, news, trivia, facts, commentaries and humor by means of a global computer information network	2,550,400
BUDWEISER.COM	Interactive, on-line entertainment services in the nature of providing information, namely, news, trivia, facts, commentaries, humor and coverage of public events about beer, entertainment, merchandise, history, travel and sports by means of a global computer information network	2,263,561

<u>TRADEMARK</u>	<u>SERVICES</u>	<u>APP NO./REG. NO.</u>
BUDSHOP.COM	Online retail store services featuring clothing, gifts, collectibles and accessories	2,719,244
BUDNET	Communications services, namely electronic transmission of data and messages via computers	2,065,743
BUDNET	Computer services, namely, providing access to a computer database containing information concerning the brewing industry for use by breweries and wholesalers	2,065,744
BUD TUBE	Entertainment in the nature of providing information in the fields of news about personalities and celebrities, education, comedy, music, sports and cultural activities via the Internet	78/965,757
BUD TUBE	Audio and video broadcasting services provided over the Internet	78/965,760

The aforementioned registrations are valid, subsisting, and owned by Opposer Anheuser-Busch, Incorporated. Registration Nos. 2,263,561; 2,065,743; and 2,065,744 are incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

8. Opposer Anheuser-Busch, Incorporated has generated many millions of dollars in revenue in connection its BUD Services, and has spent millions of dollars promoting its BUD Services under or in connection with its Additional BUD Marks.

9. Since prior to June 1, 2007, the earliest date of first use Applicant claims in any of its IdeaBud Applications, and as result of Opposer Anheuser-Busch, Incorporated's aforesaid marketing and sale of its beer and BUD Services, Opposer Anheuser-Busch, Incorporated's various BUD Marks and Additional BUD Marks had become extremely well known and had acquired a secondary meaning identifying Opposer Anheuser-Busch, Incorporated and its beer and BUD Services.

10. Since prior to June 1, 2007, the earliest date of first use Applicant claims in any of its IdeaBud Applications, Opposer Anheuser-Busch, Incorporated's BUD Marks for its beer and its Additional BUD Marks for its BUD Services have constituted a family of marks.

11. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of the opposed marks in connection with the various applied-for services, all of which are related to the Internet ("IdeaBud Services"), prior to the earliest date of first use Applicant claims in any of its IdeaBud Applications, namely, June 1, 2007.

12. Applicant's use of the IdeaBud Marks in connection with the IdeaBud Services is without Opposers' consent or authorization.

13. Applicant's registration of its IdeaBud Marks for use in connection with the IdeaBud Services would be damaging to Opposers.

COUNT I - LIKELIHOOD OF CONFUSION

14. Opposers reallege Paragraphs 1 through 12 as though fully set forth herein.

15. Applicant's use of its IdeaBud Marks in connection with the IdeaBud Services is likely to cause confusion, mistake, or deception in that consumers are likely to believe that the IdeaBud Services are Opposers' services or the services of a company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposers.

COUNT II - DILUTION

16. Opposers reallege Paragraphs 1 through 12 as though fully set forth herein.

17. Since prior to June 1, 2007, the earliest date of first use Applicant claims in its IdeaBud Applications, each of Opposer Anheuser-Busch, Incorporated's BUD Marks and Opposer Anheuser-Busch, Incorporated's family of BUD Marks had become distinctive and famous in accordance with 15 U.S.C. § 1125(c).

18. Applicant's proposed use of its IdeaBud Marks in connection with the IdeaBud Services is likely to cause dilution of the distinctive quality of each of Opposer Anheuser-Busch, Incorporated's famous BUD Marks and its famous family of BUD Marks.

WHEREFORE, Opposers respectfully pray that this opposition be sustained and that Application Serial No. 77/320,450 be denied registration.

Please debit our Deposit Account No. 502876 for the \$600.00 filing fee and any additional necessary fees.

Please address all correspondence to Daniel D. Frohling, Loeb & Loeb LLP, 321 North Clark St., Suite 2300, Chicago, Illinois 60654.

Date: December 10, 2008

LOEB & LOEB LLP

By: 

Edward G. Wierzbicki
Daniel D. Frohling
Seth A. Rose
321 North Clark St., Suite 2300
Chicago, Illinois 60610
Telephone: (312) 464-3100
Facsimile: (312) 464-3111

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Seth A. Rose, hereby certify that a copy of the **NOTICE OF OPPOSITION** has been served upon:

Duncan Williams
2555 Pennsylvania Ave, NW
Apt 817
Washington DC 20037

via first class mail, postage prepaid, this 10th day of December, 2008.