

ESTTA Tracking number: **ESTTA423928**

Filing date: **08/08/2011**

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	08/07/2011
Address	ONE BUSCH PLACE ST. LOUIS, MO 63118 UNITED STATES
Attorney information	DOUGLAS N. MASTERS LOEB & LOEB LLP 321 N. CLARK ST., SUITE 2300 CHICAGO, IL 60654 UNITED STATES chdocket@loeb.com, dmasters@loeb.com, rasmith@loeb.com, aprovencio@loeb.com Phone:312-464-3100

Applicant Information

Application No	77692444	Publication date	02/08/2011
Opposition Filing Date	08/08/2011	Opposition Period Ends	08/07/2011
Applicant	Abcorp Pty. Ltd. 229-255 Old Melbourne Road Little River 3211 Victoria, AUSTRALIA		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Beer

Applicant Information

Application No	77692454	Publication date	02/08/2011
Opposition Filing Date	08/08/2011	Opposition Period Ends	
Applicant	Abcorp Pty. Ltd. 229-255 Old Melbourne Road Little River 3211 Victoria, AUSTRALIA		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Beer

Applicant Information

Application No	77692468	Publication date	02/08/2011
Opposition Filing Date	08/08/2011	Opposition Period Ends	
Applicant	Abcorp Pty. Ltd. 229-255 Old Melbourne Road Little River 3211 Victoria, AUSTRALIA		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Beer

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	847980	Application Date	03/20/1967
Registration Date	04/23/1968	Foreign Priority Date	NONE
Word Mark	KING OF BEERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1951/00/00 First Use In Commerce: 1951/00/00 BEER		

U.S. Registration No.	1319731	Application Date	01/23/1984
Registration Date	02/12/1985	Foreign Priority Date	NONE
Word Mark	KING COBRA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1983/12/05 First Use In Commerce: 1983/12/05 Malt Liquor		

Attachments	77692444-77692454-77692468 Not of Opposition.pdf (5 pages)(15089 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	/DOUGLAS N. MASTERS/
Name	DOUGLAS N. MASTERS
Date	08/08/2011

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

In the Matter of Application Serial Nos. 77/692,444: PREMIUM MEXICAN KING LAGER (and Design); 77/692,454: PREMIUM MEXICAN KING LAGER (and Design); and 77/692,468: PREMIUM MEXICAN KING LITE (and Design)

ANHEUSER-BUSCH, INCORPORATED,)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	
ABCORP PTY. LTD.,)	
)	
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 trademarks PREMIUM MEXICAN KING LAGER (and Design) in Class 32, Application Serial No. 77/692,444; PREMIUM MEXICAN KING LAGER (and Design) in Class 32, Application Serial No. 77/692,454; and PREMIUM MEXICAN KING LITE (and Design) in Class 32, Application Serial No. 77/692,468 (collectively, the “Applications”); each filed by Abcorp Pty. Ltd. (“Applicant”), and hereby opposes the same.

As grounds for its 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 prior to the March 17, 2009 priority date Applicant claims in the Applications and continuing to the present, Opposer has extensively marketed beer in interstate

commerce under or in connection with various inherently distinctive marks that all include “KING,” including, but not limited to, KING OF BEERS and KING COBRA (collectively “KING Marks”).

3. Opposer has registered its KING Marks for beer and other goods 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>
KING OF BEERS	Beer	847,980
KING COBRA	Malt liquor	1,319,731

These registrations are valid, subsisting, owned by Opposer, and 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 KING Marks and has spent hundreds of millions of dollars advertising and promoting its beer under or in connection with these marks.

5. Since prior to the March 17, 2009 priority date Applicant claims in the Applications, and as a result of Opposer’s aforesaid extensive use, advertising, and promotion of its KING Marks in connection with its sale of beer, including use of KING as a shorthand for KING OF BEERS, the term KING has become extremely well known and closely identified with Opposer by consumers.

6. By virtue of Opposer's extensive sales, advertising, and promotion, Opposer has built up and now owns a valuable goodwill which is symbolized by its KING Marks.

7. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of the opposed mark in connection with the covered goods prior to the March 17, 2009 priority date claimed in the Applications.

8. Opposer is not connected with the Applicant's beer or marketing activities in connection with Applicant's use of KING.

9. Upon information and belief, Applicant intends through its attempt to register the mark KING to trade on the association of KING with Opposer.

10. Applicant's registration of the marks PREMIUM MEXICAN KING LAGER (and Design), PREMIUM MEXICAN KING LAGER (and Design), and PREMIUM MEXICAN KING LITE (and Design) for use in connection with beer is without Opposer's consent or permission and would be damaging to Opposer.

COUNT I - LIKELIHOOD OF CONFUSION

11. Opposer realleges Paragraphs 1 through 10 as though fully set forth herein.

12. Applicant's use of PREMIUM MEXICAN KING LAGER (and Design), PREMIUM MEXICAN KING LAGER (and Design), and PREMIUM MEXICAN KING LITE (and Design) in connection with beer is likely to cause confusion, mistake, or deception in that consumers are likely to believe that Applicant's products are Opposer's products or the products of a company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

COUNT II – SUGGESTION OF FALSE CONNECTION UNDER 15. U.S.C. §1052(a)

13. Opposer repeats the allegations of Paragraph 1-10 of this Notice of Opposition.

14. The term KING is sufficiently well-known and closely identified with Opposer such that Applicant's use and registration of KING for "beer" in the Applications will falsely suggest to consumers a connection with Opposer.

WHEREFORE, Opposer respectfully prays that this opposition be sustained and that Application Serial Nos. 77/692,444; 77/692,454; and 77/692,468 be denied registration.

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

Please address all correspondence to Douglas N. Masters, Loeb & Loeb LLP, 321 North Clark St., Suite 2300, Chicago, Illinois 60654.

Date: August 8, 2011

LOEB & LOEB LLP

By: /s/ Douglas N. Masters
Douglas N. Masters
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Chicago, Illinois 60654
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Angela O. Provencio, hereby certify that a copy of the **NOTICE OF OPPOSITION** has been served upon:

CYNTHIA L. STEWART
FROST BROWN TODD LLC
400 W MARKET ST FL 32
LOUISVILLE, KY 40202-3363

via prepaid first-class mail, this 8th day of August, 2011.

/s/ Angela O. Provencio