

ESTTA Tracking number: **ESTTA488263**

Filing date: **08/09/2012**

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, LLC
Granted to Date of previous extension	08/11/2012
Address	One Busch Place St. Louis, MO 63118 UNITED STATES

Attorney information	Andrea Anderson, Janet Shih Hajek Holland & Hart LLP P.O. Box 8749 Denver, CO 80201-8749 UNITED STATES aanderson@hollandhart.com, docket@hollandhart.com, jshajek@hollandhart.com, klkinnear@hollandhart.com Phone:(303) 473-2798
----------------------	---

Applicant Information

Application No	85514008	Publication date	06/12/2012
Opposition Filing Date	08/09/2012	Opposition Period Ends	08/11/2012
Applicant	Andrew Y Young P.O. Box 54 Florham Park, NJ 07932 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 032. All goods and services in the class are opposed, namely: Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; Concentrates and powders used in the preparation of energy drinks and fruit-flavored beverages; Energy drinks; Energy drinks enhanced with vitamins, minerals, nutrients; Non-alcoholic drinks, namely, energy shots; Sports drinks, namely, energy drinks</p>
<p>Class 033. All goods and services in the class are opposed, namely: Alcoholic beverage produced from a brewed malt base with natural flavors; Alcoholic beverages containing fruit; Alcoholic beverages of fruit; Alcoholic carbonated beverages, except beer; Alcoholic cocktail mixes; Alcoholic energy drinks; Alcoholic punch</p>

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.	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.	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.	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.	1401344	Application Date	11/29/1985
-----------------------	---------	------------------	------------

Registration Date	07/15/1986	Foreign Priority Date	NONE
Word Mark	BUD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1965/00/00 First Use In Commerce: 1965/00/00 CAPS, HATS, SWEATSHIRTS, SWEATPANTS, SHIRTS, AND SHORTS		

U.S. Registration No.	1485363	Application Date	08/14/1987
Registration Date	04/19/1988	Foreign Priority Date	NONE
Word Mark	BUD LIGHT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 CLOTHING, NAMELY CAPS, HATS, VISORS, T-SHIRTS, SHIRTS, SHORTS, JACKETS, [VESTS, BELTS,] SOCKS, SWEATSHIRTS, SUSPENDERS, SCARVES, WIND-RESISTANT JACKETS, SWEATERS, [APRONS] AND WARM-UP SUITS		

U.S. Registration No.	1632431	Application Date	03/05/1990
Registration Date	01/22/1991	Foreign Priority Date	NONE
Word Mark	THIS BUD'S FOR YOU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 clothing, namely, [aprons,] hats, shirts, sweatshirts [, and jackets]		

U.S. Registration No.	2648605	Application Date	04/23/2001
Registration Date	11/12/2002	Foreign Priority Date	NONE
Word Mark	BUD KING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00		

	clothing, namely shirts, hats [and jackets]		
U.S. Registration No.	3770049	Application Date	03/03/2009
Registration Date	04/06/2010	Foreign Priority Date	NONE
Word Mark	BUD LIGHT LIME		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2008/04/30 First Use In Commerce: 2008/04/30 Beer		

U.S. Application No.	85466756	Application Date	11/08/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BUD LIGHT LIME LIME-A-RITA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: Flavored beers		

U.S. Registration No.	3928715	Application Date	08/16/2010
Registration Date	03/08/2011	Foreign Priority Date	NONE
Word Mark	GRAB SOME BUDS		

Design Mark	GRAB SOME BUDS
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 2010/09/24 First Use In Commerce: 2010/09/24 Beer

Attachments	76245059#TMSN.gif (1 page)(bytes) 77682302#TMSN.jpeg (1 page)(bytes) 85466756#TMSN.jpeg (1 page)(bytes) 85108026#TMSN.jpeg (1 page)(bytes) Notice of Opposition - BUZ.pdf (6 pages)(20907 bytes)
-------------	---

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	/Janet Shih Hajek/
Name	Andrea Anderson, Janet Shih Hajek
Date	08/09/2012

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

ANHEUSER-BUSCH, LLC,)	
)	Opposition No.
Opposer,)	
)	
v.)	Mark: BUZ
)	
ANDREW Y. YOUNG,)	
)	Serial No. 85/514,008
Applicant.)	
)	
)	
)	
)	

NOTICE OF OPPOSITION

Anheuser-Busch, LLC (“Opposer”), a Missouri limited liability company, having a principal place of business at One Busch Place, St. Louis, Missouri, 63118, believes that it will be damaged by the registration of the alleged mark BUZ shown in U.S. Trademark Application Serial No. 85/514,008 in connection with “beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; concentrates and powders used in the preparation of energy drinks and fruit-flavored beverages; energy drinks; energy drinks enhanced with vitamins, minerals, nutrients; non-alcoholic drinks, namely, energy shots; sports drinks, namely, energy drinks” in Class 32; and “alcoholic beverage produced from a brewed malt base with natural flavors; alcoholic beverages containing fruit; alcoholic beverages of fruit; alcoholic carbonated beverages, except beer; alcoholic cocktail mixes; alcoholic energy drinks; alcoholic punch” in Class 33 (the “Application”) and hereby opposes it.

As grounds for its opposition, Opposer alleges that, upon actual knowledge with respect to itself and its own actions, and upon information and belief as to other matters:

1. Opposer is the leading brewer and marketer of beer in the United States and Opposer and its predecessors have been marketing beer for more than a century.

2. Since well prior to the filing date of the Application, Opposer has used its BUD mark in connection with the marketing and sale of its beer and a variety of promotional and collateral merchandise.

3. Opposer has sold billions of dollars worth of its beer and other goods under the BUD mark, and numerous other BUD-formative marks, and has spent hundreds of millions of dollars advertising and promoting its beer and other goods under these marks.

4. As a result of Opposer's extensive marketing and promotion, coupled with the overwhelming commercial success of its beer and other goods offered under the BUD mark, Opposer's BUD mark has become famous and well known.

5. Opposer's BUD-formative marks (collectively the "BUD Marks") are the subject of the following United States trademark registrations, among others:

<u>MARK</u>	<u>REG./APP. No.</u>	<u>REG./FILING DATE</u>	<u>GOODS</u>
BUDWEISER	64,125	July 23, 1907	Beer
BUD	666,367	August 26, 1958	Beer
BUD LIGHT	1,261,873	December 20, 1983	Beer
THIS BUD'S FOR YOU	1,332,479	April 23, 1985	Beer
BUD	1,401,344	July 15, 1986	Caps, hats, sweatshirts, sweatpants, shirts, and shorts
BUD LIGHT	1,485,363	April 19, 1988	Clothing, namely caps, hats, visors, t-shirts, shirts, shorts, jackets, socks, sweatshirts, suspenders, scarves, wind-resistant jackets, sweaters, and warm-up suits
THIS BUD'S FOR YOU	1,632,431	January 22, 1991	Clothing, namely, hats, shirts, sweatshirts
BUD KING	2,648,605	November 12, 2002	Clothing, namely shirts, hats
BUD LIGHT LIME	3,770,049	April 6, 2010	Beer
BUD LIGHT	85/466,756	Filed on Nov. 11,	Flavored Beers

<u>MARK</u>	<u>REG./APP. No.</u>	<u>REG./FILING DATE</u>	<u>GOODS</u>
LIME LIME-A-RITA		2011	
GRAB SOME BUDS	3,928,715	March 8, 2011	Beer

6. These registrations listed in Paragraph 5 are valid and subsisting and constitute *prima facie* evidence of the validity of the marks and registrations, and of Opposer's ownership of and exclusive right to use these marks in connection with the goods set forth in these registrations.

7. Opposer's Application Serial No. 85/466,756 was filed prior to Applicant's filing date for its Application Serial No. 85/514,008.

8. With the exception of Reg. Nos. 3,928,715 (GRAB SOME BUDS) and 3,770,049 (BUD LIGHT LIME), the registrations listed in Paragraph 5 are incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b). Therefore, these registrations constitute conclusive evidence of the validity of the marks and registrations, and of Opposer's exclusive right to use the marks in connection with the goods set forth in the registrations.

9. Since well prior to the filing date of the Applications, Opposer has established a family of BUD-formative marks.

10. Applicant's alleged mark BUZ is confusingly similar to Opposer's famous BUD Mark when used in connection with the goods set forth in Classes 32 and 33 of the Application.

COUNT I
Likelihood of Confusion
(15 U.S.C. § 1052(d))

11. Opposer realleges and incorporates by reference the preceding allegations of its Notice of Opposition.

12. Applicant's mark BUZ so closely resembles Opposer's prior used and registered BUD Marks, as to be likely, when used in connection with the goods set forth in Classes 32 and 33 of the Application, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

COUNT II
Likelihood of Dilution
(15 U.S.C. § 1125(c))

13. Opposer realleges and incorporates by reference the preceding allegations of its Notice of Opposition.

14. Well prior to the filing date of the Application, Opposer's distinctive BUD Marks became famous under 15 U.S.C. § 1125(c).

15. Applicant's proposed registration and use of the mark BUZ, in connection with the goods set forth in Classes 32 and 33 of the Application, is likely to cause dilution of Opposer's famous BUD Marks under section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposer believes that it will be damaged by registration of the mark shown in Application Serial No. 85/514,008 and respectfully requests that the opposition be sustained, and that registration to Applicant be refused in Classes 32 and 33 of the Application.

The filing fee in the amount of \$600 is being transmitted electronically with this submission. Any deficiency in the fee should be charged to Deposit Account No. 08-2623.

Dated: August 9, 2012

Respectfully submitted,

/s/ Janet Shih Hajek

Andrea Anderson

Janet Shih Hajek

HOLLAND & HART LLP

1800 Broadway, Suite 300

Boulder, Colorado 80302

Phone: (303) 473-2798

Facsimile: (303) 957-5583

AAnderson@hollandhart.com

JSHajek@hollandhart.com

Attorneys for Opposer,

Anheuser-Busch, LLC

CERTIFICATE OF SERVICE

I certify that on August 9, 2012, I served a copy of the above **NOTICE OF OPPOSITION** to the following by U.S. Mail, postage prepaid:

Andrew Y. Young
P.O. Box 54
Florham Park, NJ
07932-0054

/s/ Janet Shih Hajek
Janet Shih Hajek

5705942_2