

ESTTA Tracking number: **ESTTA506827**

Filing date: **11/20/2012**

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	11/25/2012
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, jshajek@hollandhart.com, klkinnear@hollandhart.com, docket@hollandhart.com Phone:(303) 473-2798
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Applicant Information

Application No	85324700	Publication date	05/29/2012
Opposition Filing Date	11/20/2012	Opposition Period Ends	11/25/2012
Applicant	Keegan Ales, LLC 20 Saint James Street Kingston, NY 12401 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2003/10/01 First Use In Commerce: 2003/10/01
All goods and services in the class are opposed, namely: Beer, ale and lager

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2155943	Application Date	06/09/1995
Registration Date	05/12/1998	Foreign Priority Date	NONE
Word Mark	HURRICANE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 1995/11/27 First Use In Commerce: 1995/11/27 malt liquor

Attachments	Notice of Opposition - HURRICANE KITTY.pdf (6 pages)(48482 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	/Janet Shih Hajek/
Name	Janet Shih Hajek
Date	11/20/2012

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

ANHEUSER-BUSCH, LLC, Opposer, v. KEEGAN ALES, LLC, Applicant.	Opposition No.: Mark: HURRICANE KITTY Serial No.: 85/324,700
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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 mark HURRICANE KITTY shown in U.S. Trademark Application Serial No. 85/324,700 for “beer, ale and lager” in International Class 32 (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 and its predecessors have used the mark HURRICANE for malt liquor and promotional merchandise.

3. Opposer owns a federal registration for HURRICANE, Reg. No. 2,155,943 in connection with “malt liquor” in International Class 32 (the “HURRICANE Registration”).

4. The HURRICANE Registration is valid and subsisting and therefore constitutes prima facie evidence of the validity of the HURRICANE mark and of Opposer’s exclusive rights to use the HURRICANE mark in connection with the goods set forth in the registration.

5. The HURRICANE Registration is incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b). Therefore, this registration constitutes conclusive evidence of the validity of the mark and of Opposer’s exclusive right to use this mark in connection with the goods set forth in the HURRICANE Registration.

6. The HURRICANE Registration provides constructive notice of Opposer’s ownership of its HURRICANE mark.

7. Opposer has sold millions of dollars worth of its malt liquor beverages under the HURRICANE mark, and hundreds of thousands of dollars have been spent advertising and promoting malt liquor beverages under this mark.

8. As a result of Opposer’s extensive marketing and promotion of malt liquor beverages under the HURRICANE mark coupled with the overwhelming commercial success of these products, Opposer’s HURRICANE mark has become famous and well known.

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

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

10. Since well prior to the filing date of the Application, Opposer and its predecessors have used the HURRICANE mark in connection with malt liquor beverages and promotional merchandise.

11. Applicant's HURRICANE KITTY mark listed in the Application so resembles Opposer's prior used and registered HURRICANE mark as to be likely, when used in connection with the goods set forth in 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).

12. Opposer believes and therefore alleges that the use and registration of the HURRICANE KITTY mark identified in the Application will damage Opposer because purchasers of the goods offered under Applicant's HURRICANE KITTY mark will be confused, mistaken or deceived as to the source of origin of Applicant's goods with Opposer and the goods offered by Opposer under the registered HURRICANE mark.

13. Opposer believes and therefore alleges that the use and registration of the HURRICANE KITTY mark identified in the Application will damage Opposer because purchasers of the goods offered under Applicant's HURRICANE KITTY mark will incorrectly assume that Applicant's goods are associated with, sponsored by, approved by or otherwise related to or affiliated with Opposer, when such is not the case.

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

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

15. Opposer's HURRICANE mark has become well known and famous as a designator of Opposer's goods.

16. Opposer's HURRICANE mark became famous under 15 U.S.C. § 1125(c) well prior to the filing date of the Application.

17. Applicant's HURRICANE KITTY mark so resembles Opposer's prior used and registered HURRICANE mark as to dilute or cause a likelihood of dilution of the distinctive quality of Opposer's mark by blurring 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. 85/324,700 and respectfully requests that the opposition be sustained, and that registration to Applicant be refused.

The filing fee in the amount of \$300 is being transmitted electronically with this submission. Any deficiency in the fee should be charged to Deposit Account No. 08-2623.

Dated this 20th day of November, 2012.

Respectfully submitted,

/s/ Janet Shih Hajek

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**Attorneys for Opposer
Anheuser-Busch, LLC**

CERTIFICATE OF SERVICE

I certify that on November 20, 2012, I served a copy of the above NOTICE OF OPPOSITION to the following by:

- | | |
|-------------------------------------|----------------------------|
| <input checked="" type="checkbox"/> | U.S. Mail, postage prepaid |
| <input type="checkbox"/> | Hand Delivery |
| <input type="checkbox"/> | Fax |

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/s/Janet Shih Hajek
Janet Shih Hajek