

ESTTA Tracking number: **ESTTA78176**

Filing date: **04/27/2006**

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	Miller Products Company
Granted to Date of previous extension	04/30/2006
Address	3939 West Highland Boulevard Milwaukee, WI 53208 UNITED STATES

Attorney information	Marta S. Levine Quarles & Brady LLP 411 East Wisconsin Avenue Milwaukee, WI 53202 UNITED STATES msl@quarles.com, drc@quarles.com Phone:414 277 5000
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Applicant Information

Application No	78434819	Publication date	11/01/2005
Opposition Filing Date	04/27/2006	Opposition Period Ends	04/30/2006
Applicant	ANHEUSER-BUSCH, INCORPORATED 202-6 ONE BUSCH PLACE ST. LOUIS, MO 63118 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2004/05/02 First Use In Commerce: 2004/05/02
All goods and services in the class are opposed, namely: BEER

Attachments	NoticeOppositionMillerABAmBornAmBrewSince1876.pdf (3 pages)(87062 bytes)
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Signature	/MartaLevine/
Name	Marta S. Levine
Date	04/27/2006

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

In the Matter of Application Serial No. 78/434,819
Mark: AMERICAN BORN. AMERICAN BREWED. SINCE 1876
Published in the *Official Gazette* on November 1, 2005

MILLER PRODUCTS COMPANY,

Opposer,

v.

Opposition No. _____

ANHEUSER-BUSCH, INCORPORATED,

Applicant.

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer Miller Products Company ("Miller") believes that it would be damaged by registration of the mark shown in Application Serial No. 78/434,819, and hereby opposes same. Opposer has been granted extensions of time to oppose, to April 30, 2006.

As grounds of opposition, Miller alleges that:

1. Opposer Miller Products Company is a Wisconsin corporation with its principal place of business at 3939 West Highland Boulevard, Milwaukee, Wisconsin 53208. Miller is the owner of trademarks used in connection with the distribution and sale of beer and ancillary products, and licenses these trademarks to an affiliated company, Miller Brewing Company, for use in connection with the distribution and sale of beer and ancillary products.

2. Application Serial No. 78/434,819 is a trademark application filed by Applicant on June 14, 2004 under Section 1(a) of the Trademark Act of 1946, as amended (15 U.S.C. 1051(a)), for registration of the mark AMERICAN BORN. AMERICAN BREWED. SINCE 1876 for "beer" in International Class 032, with an alleged date of first use of the mark anywhere and in commerce of May 2, 2004, and a disclaimer of the date "1876".

3. Opposer and Applicant are competitors in the business of brewing and marketing beer.

4. The term "AMERICAN" is geographically descriptive of beer brewed in the United States; the terms "BREWED" and "SINCE 1876" are merely descriptive of beer; and, upon information and belief, all of these terms are without acquired distinctiveness.

5. If Applicant were granted registration of the mark AMERICAN BORN. AMERICAN BREWED. SINCE 1876 -- without disclaimers of the words "AMERICAN", "BREWED", and "SINCE 1867" -- Applicant would obtain certain statutory rights, including *prima facie* rights to the exclusive use of the terms, to the damage of Opposer.

6. Registration by Applicant of the mark AMERICAN BORN. AMERICAN BREWED. SINCE 1876 for beer, without the appropriate disclaimers, would be inconsistent with Opposer's and others' rights to use those terms descriptively for alcoholic beverages.

7. By reason of the foregoing, registration of Applicant's mark without the appropriate disclaimers of "AMERICAN", "BREWED", and "SINCE 1876" will result in irreparable injury to Miller.

WHEREFORE, Miller prays that this opposition be sustained and that registration of Applicant's mark be refused.

Dated: April 27, 2006

Respectfully submitted,

MILLER PRODUCTS COMPANY

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Certificate of Transmittal: I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below:

Date: April 27, 2006

Marta Levine
Marta S. Levine