

ESTTA Tracking number: **ESTTA475972**

Filing date: **06/04/2012**

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	06/13/2012
Address	ONE BUSCH PLACE ST. LOUIS, MO 63118 UNITED STATES
Attorney information	Alexander J.A. Garcia Holland & Hart LLP 1800 Broadway Suite 300 Boulder, CO 80302 UNITED STATES ajagarcia@hollandhart.com, aanderson@hollandhart.com, docket@hollandhart.com

**Applicant Information**

Application No	85416373	Publication date	02/14/2012
Opposition Filing Date	06/04/2012	Opposition Period Ends	06/13/2012
Applicant	Marshal, Tim 10301 East 116Th Street South Bixby, OK 74008 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 032. First Use: 2011/10/17 First Use In Commerce: 2011/10/18 All goods and services in the class are opposed, namely: Beer
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**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.	621424	Application Date	04/06/1955
Registration Date	02/14/1956	Foreign Priority Date	NONE
Word Mark	BUSCH		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U048 (International Class 032). First use: First Use: 1928/04/00 First Use In Commerce: 1928/04/00 BEER

U.S. Registration No.	909723	Application Date	03/23/1970
Registration Date	03/09/1971	Foreign Priority Date	NONE
Word Mark	ANHEUSER-BUSCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1876/00/00 First Use In Commerce: 1876/00/00 BEER		

Attachments	BIG BUSH Opp.pdf ( 4 pages )(135026 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	/Alexander Garcia/
Name	Alexander J.A. Garcia
Date	06/04/2012

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

ANHEUSER-BUSCH, LLC,	)	
	)	<b>Opposition No.</b>
Opposer,	)	
	)	
v.	)	<b>Mark: BIG BUSH BEER</b>
	)	
TIM MARSHAL,	)	
	)	<b>Serial No. 85/416,373</b>
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Anheuser-Busch, LLC (“Opposer”), a limited liability company of Missouri, 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 BIG BUSH BEER shown in U.S. Trademark Application Serial No. 85/416,373, covering “beer” in 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 has used its BUSCH and ANHEUSER-BUSCH marks in connection with the marketing and sale of beer.
3. Opposer has sold hundreds of millions of dollars worth of beer under the marks BUSCH and ANHEUSER-BUSCH (collectively the “BUSCH Marks”) and has spent hundreds of millions of dollars advertising and promoting its beer under these marks.

4. As a result of Opposer's extensive marketing and promotion, coupled with the overwhelming commercial success of its beer, Opposer's BUSCH Marks have become famous and well-known.

5. Opposer is the owner of, among others, the following United States trademark registrations:

<b>MARK</b>	<b>REG. NO.</b>	<b>REG. DATE</b>	<b>GOODS</b>
<b>BUSCH</b>	621,424	Feb. 14, 1956	Beer
<b>ANHEUSER-BUSCH</b>	909,723	Mar. 9, 1971	Beer

6. These registrations are valid, subsisting, and incontestable, and constitute conclusive 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. Applicant's mark BIG BUSH BEER incorporates Opposer's famous BUSCH mark (albeit with a slightly different spelling) in its entirety, adding only the descriptive terms "big" and "beer."

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

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

9. Applicant's mark BIG BUSH BEER so closely resembles Opposer's prior used and registered BUSCH Marks, 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).

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

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

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

12. Applicant's proposed registration and use of the mark BIG BUSH BEER in connection with the goods set forth in the Application is likely to cause dilution of Opposer's famous BUSCH 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. 85/416,373 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: June 4, 2012

Respectfully submitted,



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Andrea Anderson  
Alexander J.A. Garcia  
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Boulder, CO 80302  
Phone: (303) 473-2861  
Facsimile: (303) 975-5379

**Attorneys for Opposer**  
**ANHEUSER-BUSCH, LLC**

**CERTIFICATE OF SERVICE**

I certify that on June 4, 2012, I served a copy of the above **NOTICE OF OPPOSITION** to the following by U.S. Mail, postage prepaid:

Tim Marshal  
10301 E. 116th ST. S.  
Bixby, Oklahoma 74008

/s/ Lisa Root  
Lisa Root

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