

Anheuser-Busch Accused of Trademarks Infringement Under 15 U.S.C. § 1125.

On Tuesday, June 14, 2016, the Lumbee Tribe of North Carolina filed a complaint in Federal Court accusing Anheuser-Busch, LLC and one of its distributors of using the tribe's trademarks without permission in promoting and selling alcoholic beverages. Noting that the advertisements offended some of its members, the complaint alleges: "(i) trademark infringement and unfair competition in violation of § 43(a) of the Federal Trademark Act of 1946, also known as the Lanham Act, codified at 15 U.S.C. § 1125(a), *et seq.*; (ii) trademark infringement in violation of North Carolina common law; (iii) unfair competition in violation of North Carolina common law; and (iv) unfair and deceptive trade practices and unfair methods of competition in violation of the North Carolina Unfair and Deceptive Trade Practices Act, codified at N.C. Gen. Stat. § 75-1.1, *et seq.*" 15 U.S.C. § 1125 forbids false designations of origin, false descriptions and dilution.

The Lumbee Tribe claims Anheuser-Busch and distributor R.A. Jeffreys Distributing Co. LLC created a series of in-store advertisements that prominently display the Lumbee Tribe's LUMBEE TRIBE OF NORTH CAROLINA & Design mark and the Lumbee Tribe's "HERITAGE, PRIDE & STRENGTH" slogan mark to promote the sale of Budweiser and Bud Light-branded products. The complaint describes one of the damaging effects on the mark as follows.

"Defendants' infringing uses of the Lumbee Tribe marks has created a significant amount of actual confusion in the community, including in the minds of some members of the Lumbee Tribe, and in the minds of consumers who mistakenly believe that the Lumbee Tribe has given defendants permission to use the Lumbee Tribe marks in a way that many members of the tribe find offensive because alcohol abuse is often associated with Native American culture," the complaint stated.

A trademark may be a substantial source of value for the owner. Contrary to popular belief, a trademark may be the most valuable asset in any IP portfolio compared to patents. For example, in 2015 Bloomberg Business reported that the RadioShack name was auctioned for \$26.2 million. Therefore, brand owners should protect the value of their marks by taking reasonable steps to prevent unauthorized third-party uses of their mark. Such infringing and unauthorized uses may weaken a mark to the point where the mark may be entitled to only a narrow scope of enforcement or even abandonment.