

ESTTA Tracking number: **ESTTA541129**

Filing date: **05/31/2013**

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

Proceeding	92048732
Party	Plaintiff Altvater Gessler - J.A. Baczewski International (USA) Inc. and Altvater Gessler - J.A. Baczewski GmbH
Correspondence Address	PETER S SLOANE LEASON ELLIS LLP ONE BARKER AVE, FIFTH FL WHITE PLAINS, NY 10601 UNITED STATES sloane@leasonellis.com, reuber@leasonellis.com, tmdocket@leasonellis.com
Submission	Other Motions/Papers
Filer's Name	Peter S. Sloane
Filer's e-mail	sloane@leasonellis.com
Signature	/s/Peter S. Sloane
Date	05/31/2013
Attachments	Declaration of Peter Sloane - NON-CONFIDENTIAL.pdf(2196409 bytes)

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

-----X	:	
ALTVATER GESSLER – J.A. BACZEWSKI	:	
INTERNATIONAL (USA) INC. and ALTVATER	:	
GESSLER – J.A. BACZEWSKI LIKÖRERZEUGUNG	:	
GESELLSCHAFT M.B.H. d/b/a	:	
ALTVATER GESSLER – J.A. BACZEWSKI GMBH,	:	
	:	
Petitioners,	:	Cancellation No. 92048732
	:	
v.	:	
	:	
RONALD BECKENFELD,	:	
	:	
Registrant.	:	
	:	
-----X	:	

**DECLARATION OF PETER S. SLOANE IN OPPOSITION
TO RESPONDENT’S MOTION FOR SUMMARY JUDGMENT**

I, PETER S. SLOANE, hereby declare and state as follows:

1. I am a Partner in Leason Ellis LLP, attorneys for Petitioners Altvater Gessler – J.A. Baczewski International (USA) Inc. and Altvater Gessler – J.A. Baczewski Likörerzeugung Gesellschaft m.b.H. d/b/a Altvater Gessler – J.A. Baczewski GmbH. I submit this Declaration in opposition to the Motion for Summary Judgment filed by Respondent, Ronald Beckenfeld. The facts stated herein are within my personal knowledge and are true to the best of my knowledge and belief.

2. Attached as **Exhibit A** are true and correct copies of excerpts from the transcript of the discovery deposition of Mickey Beckenfeld taken on May 8, 2008.

3. Attached as **Exhibit B** are true and correct copies of excerpts from the transcript of the discovery deposition of John F. Wilson taken on November 18, 2011.

4. Attached as **Exhibit C** are true and correct copies of excerpts from the transcript of the discovery deposition of Respondent taken on August 4, 2011.

5. Attached as **Exhibit D** are true and correct copies of excerpts from the CONFIDENTIAL portion of the transcript of the discovery deposition of Respondent taken on August 4, 2011.

6. Attached as **Exhibit E** is a copy of U.S. Reg. No. 3,486,879 of the mark J.A. BACZEWSKI in the name of Altvater Gessler – J.A. Baczewski (USA) Inc.

7. Attached as **Exhibit F** is a copy of U.S. Reg. No. 3,847,042 of the eagle design in the name of Altvater Gessler – J.A. Baczewski (USA) Inc.

8. Attached as **Exhibit G** is a copy of U.S. Reg. No. 3,845,281 of the mark JAB and Design in the name of Altvater Gessler – J.A. Baczewski (USA) Inc.

9. Attached as **Exhibit H** are Petitioners' Second Set of Interrogatories to Registrant and Petitioners' Third Set of Requests for the Production of Documents and Things, served upon Respondent on February 4, 2013, before the close of the discovery period. Respondent has not responded to these outstanding discovery requests.

I hereby declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

Date: May 31, 2013



Peter S. Sloane

Exhibit A

COPY

1

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

In re Registration Nos. 2,731,948

-----x

ALTVATER GESSLER - J.A. BACZEWSKI
INTERNATIONAL (USA) INC. AND ALTVATER
GESSLER - J.A. BACZEWSKI GMBH,

Petitioners,

CANCELLATION NO. 92048732

v.

RONALD BECKENFELD,

Registrant.

-----x

May 8, 2008

10:12 A.M.

Deposition of MICKEY BECKENFELD,
taken by Petitioner, at the offices of Mutual
Wholesale Liquor, 4510 South Boyle Avenue, Los
Angeles, California 90058, before Sara U. Misa, a
Certified Shorthand Reporter and Notary Public
within and for the State of California.

CLASSIC REPORTING, INC.
TOTAL LITIGATION SUPPORT

13 West 36th Street • New York, New York 10018
Tel: (212) 268-2590 • Fax: (212) 268-2596



ARTA PASCULLO, President

1 M. Beckenfeld

2 A. Was several labels, but was
3 included Monopolowa.

4 Q. Do you know who developed the
5 trademark Monopolowa?

6 A. What do you mean, who developed
7 it?

8 Q. Do you know who first thought of
9 the term Monopolowa for vodka?

10 A. I don't know.

11 Q. Has Mutual ever produced any
12 Monopolowa vodka?

13 A. Have I bottled any?

14 Q. Have you manufactured any?

15 A. No, we didn't.

16 Q. Have you ever -- have you,
17 Mutual, ever bottled any Monopolowa vodka?

18 A. No.

19 Q. Do you know the recipe for making
20 Monopolowa vodka?

21 A. What is that?

22 Q. Do you know the recipe for making
23 Monopolowa vodka?

24 A. There is no recipe. No need to
25 have any recipe to make vodka. Vodka we our

1 M. Beckenfeld

2 (Discussion off the record.)

3 MR. SLOANE: Back on the record.

4 Q. Mr. Beckenfeld, is Ronald
5 Beckenfeld your son?

6 A. What is that?

7 Q. Is Ronald Beckenfeld your son?

8 A. Yes..

9 Q. Why did Mutual assign the
10 trademark registration for Monopolowa for
11 vodka to Ronald?

12 A. I wanted him to own the label.

13 Q. Why?

14 A. It was his birthday on August
15 26th, my father was born on the same day, so I
16 wanted to represent to him.

17 Q. Did it have anything to do with
18 discussions regarding ownership of the brand
19 and claims made by Baczewski?

20 A. No. Just I wanted to give it to
21 him.

22 Q. What kind of birthday presents do
23 you normally give Ronald?

24 A. You should have it. He got a few
25 million dollars interest.

1 M. Beckenfeld

2 Q. He got a few million at the same
3 time that you transferred the brand?

4 A. Yes.

5 Q. Why did he get the money when the
6 brand was transferred?

7 A. He didn't give me any money, I
8 give it to him.

9 Q. Was there a connection between
10 the money and the transfer of the brand?

11 A. No, I just --

12 Q. You just gave him.

13 What did you give him the year
14 before for a birthday present?

15 A. Probably a million dollars,
16 whatever I can from the trust. We have quite
17 a few million in there.

18 Q. What did -- does Ron Beckenfeld
19 work for Mutual?

20 A. Was a time.

21 Q. At that time?

22 A. No.

23 Q. Has he ever worked for Mutual?

24 A. Yes. Many, many years ago.

25 Q. When was the last time he worked

1 M. Beckenfeld

2 for Mutual?

3 A. Maybe 20 years ago.

4 Q. What does he do now for a living?

5 A. He's manufacturing of vitamins.

6 Q. What's the name of the company
7 that he's working for?

8 A. CVC. He owns it.

9 Q. Does he own it in full?

10 A. He owns it.

11 Q. Does your office share a space
12 with CVC?

13 A. Yeah, and the building. But now
14 he got the building, too.

15 Q. He owns the entire building?

16 A. Yeah.

17 Q. Does he have any experience in
18 the liquor business?

19 A. Whatever takes place in liquor
20 business, he knows it.

21 Q. How does he know?

22 A. I'm talking to him. Whatever
23 happens in the vitamin business, I know it.
24 And I put millions in there for them to answer
25 to me.

1 M. Beckenfeld

2 A. I don't remember.

3 Q. This document says that good and
4 valuable consideration was paid for the
5 assignment. You said that you gave Ronald the
6 trademark registration as a birthday present,
7 did he give you anything in return or did he
8 give Mutual anything in return?

9 A. His love.

10 Q. His love.

11 Did you ever tell Ronald
12 Beckenfeld about Mutual's obligation to pay
13 monies to the Baczewski family as part of the
14 agreement between Mutual and Baczewski?

15 A. No.

16 Q. Does Mutual have any other
17 agreement with Ronald Beckenfeld regarding the
18 trademark Monopolowa?

19 A. A rental.

20 Q. A rental, what does that mean?

21 A. Rent property.

22 Q. Well, do you have any agreement
23 relating to the brand name Monopolowa for
24 vodka?

25 A. What do you mean agreement?

1 M. Beckenfeld
2 stopped in Vienna, met with Mr. Gessler and
3 his sister.

4 THE WITNESS: You have a sister
5 there?

6 MR. SLOANE: Well, again, he's
7 not here to testify.

8 THE WITNESS: I mean Gessler has
9 a sister and I met with them. We had
10 lunch.

11 Q. On one occasion, then, you say
12 you've been to Austria to the bottling plant?

13 A. I never been in the -- it was in
14 the old bottling plant. It was somebody done
15 his bottling.

16 Q. So who supervises the bottler in
17 applying the labels bearing the trademark
18 Monopolowa on the bottles of vodka? Who
19 supervises that activity?

20 A. At the plant.

21 Q. Who directs the plant to apply
22 the labels to the bottles?

23 A. I don't know.

24 Q. Is it Baczewski?

25 A. I think the Gessler.

1 M. Beckenfeld

2 THE WITNESS: Well, Wilson will
3 give you the answer on this.

4 Q. Keeping with this exhibit and
5 going back to the transfer of the brand name
6 Monopolowa for vodka to your company, did
7 Baczewski ever transfer any physical assets to
8 Mutual?

9 A. Baczewski?

10 Q. Baczewski, when it transferred
11 the brand name to your company, did it
12 transfer any physical assets to your company?

13 A. To U.S.?

14 Q. Yes, when it allegedly
15 transferred the brand name, did it also
16 transfer assets to your company?

17 A. He didn't have any asset.

18 Q. So the answer is no, that there
19 was no transfer of physical assets from
20 Baczewski to Mutual when Baczewski allegedly
21 sold you the trademark?

22 A. No assets from them.

23 (Interruption in proceedings.)

24 Q. Mr. Beckenfeld, is Mutual Import
25 Export Company another DBA for Mutual

Exhibit B

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ALTVATER GESSLER-J.A. BACZEWSKI,
GMBH, et al.,

Plaintiffs,

vs.

No. Cancellation
92048732 (TTAB)

RONALD BECKENFELD,

Defendant.

~~~~~

DEPOSITION OF  
JOHN F. WILSON  
NONCONFIDENTIAL PORTION

November 18, 2011  
10:49 a.m.

1875 Century Park East  
Suite 500  
Los Angeles, California

Martin Spee, CSR 10303



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 the -- it was necessary for Ron to pass my office or  
2 go through Mutual along the hallway to get to his  
3 part of the building. So obviously, if I was in the  
4 hallway and he passed by or I passed him, we'd see  
5 one another.

6 Q. Were there any other companies located  
7 at 4510 South Boyle Avenue besides Mutual and CVC?

8 A. At one time there were several, yes,  
9 because -- especially any involvement of alcoholic  
10 beverages because they used to lease office space  
11 and sometimes warehouse space in the Mutual  
12 building.

13 Q. When you left Mutual on January of  
14 2011, were there any other companies at 4510 besides  
15 Mutual and CVC?

16 A. No, no.

17 Q. Do you know whether Ron Beckenfeld has  
18 any experience in the liquor industry?

19 A. Not to my knowledge. I mean, no.

20 Q. Was Ron Beckenfeld ever an employee of  
21 Mutual?

22 A. Not to my knowledge, no.

23 Q. Did Mutual ever hire Ron Beckenfeld as  
24 a consultant or adviser?

25 A. Again, not to my knowledge.



1 Q. How often would -- were you the person  
2 who participated in those telephone calls?

3 A. Since the late '80s to date, yes.

4 Q. How often would you telephone with  
5 either Rasiel Gessler or Elek Gessler?

6 A. Well, Elek Gessler, really I spoke to  
7 him a few times when he was active in the business.  
8 What precipitated that would be, perhaps, the  
9 question regarding the orders or question regarding  
10 the pricing.

11 And then in the early days Rasiel didn't have  
12 any involvement. It was only, I think, I can't -- I  
13 would have to say maybe the early '90s or mid-'90s  
14 that I understood Rasiel got involved with his  
15 father.

16 Q. And you were testifying about the  
17 telephone conversations. How often would you speak  
18 with Rasiel by telephone?

19 A. At least once or twice a month.  
20 Perhaps more depending on what the circumstances  
21 were.

22 Q. Did Mutual ever have anything to do  
23 with the manufacture of Monopolowa vodka?

24 A. When you say "have anything to do,"  
25 directly we were not involved in the manufacturing



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 of the product, but obviously we had some input into  
2 quality issues, labeling issues and whatever else  
3 was required.

4 Q. What input would Mutual have with  
5 respect to quality?

6 A. Well, if we got insects in the  
7 product, poor quality perforated caps, bad labeling,  
8 cloudiness in the product, a problem with the  
9 alcohol content. These are the things Mutual would  
10 get involved in.

11 Obviously, when it came to labeling, Mutual  
12 would also -- would obviously be involved in the  
13 input on the basis of whatever -- what mandatory was  
14 necessary in conformance with the federal government  
15 regulations.

16 Q. Do you know the recipe for  
17 manufacturing Monopolowa vodka?

18 A. Let me say this: That the recipe that  
19 was submitted to me in order that it could be  
20 forwarded to the federal government for -- with the  
21 product for analyses for the necessary registration,  
22 that was the recipe I was familiar with. Pretty  
23 basic recipe, as far as my knowledge of vodka  
24 manufacturing is concerned; nothing special, nothing  
25 unusual.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1           So in answer to the question, yes, from that  
2           standpoint I'm familiar with -- see, it's required  
3           by the American government that in order to register  
4           a product that the supplier has to -- the supplier,  
5           on his letterheading, has to submit information as  
6           to the ingredients and to the manufacturing process.

7           So obviously, that's a document that Mutual  
8           would require from the so-called supplier. And so,  
9           included with the information thereon, obviously  
10          would be the method of manufacture, which in fact,  
11          would disclose the recipe.

12          Q.       Did you have any independent knowledge  
13          of the recipe other than what was supplied by  
14          Altvater Gessler?

15          A.       No, because this is something that the  
16          supplier had to furnish, and obviously we, you know,  
17          we're not involved. We would guide them as to what  
18          form the information should be set forth on, but  
19          obviously we're not going to -- they know the  
20          recipe. We don't.

21          Q.       Do you know whether the composition of  
22          Monopolowa vodka changed from the time that Mutual  
23          began distributing the product as compared to when  
24          they were prior distributors?

25          A.       The only knowledge -- the only answer



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 I can give to that is that there was a change once  
2 which resulted in some adverse comments by the user,  
3 by our distributors, in the State of Oregon, and so  
4 on and so forth.

5 Q. When was that change made?

6 A. Well, I think it was, again, sometime  
7 in the '80s but -- or it could be the '90s. I don't  
8 know. But there was a change probably in the '90s,  
9 yeah.

10 Q. Who decided to make the change?

11 A. Well, I think it was by accident, or  
12 either that someone was trying to cut corners. And  
13 again, I'm not casting dispersions, but when you  
14 step back and think about how these things could  
15 happen, I think personally that knowing the supplier  
16 and his desire to produce a good product, I think it  
17 may have been by accident. But I don't know.

18 Q. Were the Horvaths the supplier at that  
19 time?

20 A. Yeah.

21 Q. Do you know what the change was?

22 A. Well again, the quality level dropped,  
23 and obviously, it must have been to such a degree  
24 that it was very noticeable as far as our customers  
25 were concerned, and it reflected in the sales. And



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 we -- at that time, I established the pattern of  
2 each year submitting a sample to the Beverage  
3 Testing Institute for their competition.

4 And on that particular year we decided not to  
5 do so because we were fearful that the quality level  
6 that we had previously enjoyed was not present in  
7 the existing inventory that we had. And so we  
8 brought this to Mr. Gessler's attention and he  
9 obviously took the Horvaths to task on it.

10 And whatever the problem was, it was  
11 rectified and we got back onto the quality level  
12 that we were used to on the product.

13 Q. Why did you bring that issue to  
14 Mr. Gessler's attention as opposed to anyone else?

15 A. Because Mr. Gessler was the -- I mean,  
16 Mr. Gessler is the supplier, even though he's not  
17 the manufacturer. And he is the one who had -- my  
18 understanding, a contract with the contract bottler.  
19 And so therefore, we went in both directions and we  
20 were bringing it to Mr. Horvath's attention but also  
21 to Gessler, because Gessler has the ultimate  
22 responsibility for the product.

23 Q. Was it Rasiel Gessler you dealt with  
24 in connection with that change?

25 A. Yes.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. Do you know whether anyone else  
2 besides yourself at Mutual would know the recipe for  
3 manufacturing Monopolowa vodka?

4 A. The only people that would be privy to  
5 that would be my administrative assistant, Sandy  
6 Alberguar, and I don't think she would have any  
7 reason to be interested in the recipe. In other  
8 words, she was handling a document that was being  
9 given to her by me to send to the federal government  
10 for registration.

11 Q. And was there someone else who might  
12 be privy to the recipe? I think you mentioned two  
13 people. It would just be Sandy?

14 A. No. It just would be Sandy, because  
15 -- unless Mr. Beckenfeld had any reason to be  
16 interested, but he didn't. So again, it would be  
17 only the people that would be handling any  
18 communications on the recipe would be aware of it.

19 Q. Why wouldn't Mr. Beckenfeld, and I  
20 assume you're referring to Mickey, be interested in  
21 the recipe?

22 A. Not necessarily that he wouldn't be  
23 interested, but he left these matters in my hand to  
24 deal with, and so he wouldn't need to get involved  
25 in these, necessarily, unless there was a problem.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. You mentioned an issue with respect to  
2 cloudiness of the product. Can you clarify that  
3 issue?

4 A. That's a good point. What happened  
5 was that the clarity of the product is very  
6 important, and obviously, from the visual  
7 standpoint. And on the occasion that we're  
8 referring to, we got a batch of -- it happened  
9 occasionally. It wasn't just once. It was a few  
10 times over the years.

11 The product would be cloudy. Now, again,  
12 that could be as a result of the composition of the  
13 product, the breaking down. It could be a matter of  
14 a bad filtration at the point of bottling. It could  
15 be several reasons.

16 Nevertheless, the fact that it was cloudy  
17 meant that the item was unmarketable, you know.

18 Q. And who dealt with that issue of  
19 cloudiness?

20 A. The Horvaths and Rasiel. You mean as  
21 far as the supply end is concerned or import end?

22 Q. In fixing the problem with cloudiness  
23 of the product.

24 A. It was the responsibility of the  
25 supplier to -- and his association with the contract



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 bottler to remedy that problem.

2 Q. When you say "supplier," you are  
3 referred to Altvater Gessler?

4 A. Right.

5 Q. Do you know who created the graphics  
6 used on bottles of Monopolowa vodka and gin?

7 A. Well, basically -- the basic concept  
8 came from the Horvaths, from input from the  
9 Gesslers. And of course, again, as I say, they  
10 would be sent to Mutual for Mutual's perusal and  
11 comments, especially with regard to they're required  
12 mandatory.

13 Q. You referring to regulatory?

14 A. Yes, exactly.

15 Q. Do you remember what some of those  
16 graphics used on Monopolowa vodka and gin consisted  
17 of? Do you remember the imagery that was used?

18 A. Just the format of the proposed label.

19 Q. Yes. Do you know what it looked like?  
20 What different kinds of labels were used on  
21 Monopolowa vodka?

22 A. Well, first of all we had -- in the  
23 way that we categorized them, we had what we now  
24 call the retro label, which was the original label  
25 which was very generic and looked like a pharmacy



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1 label, you know. Then because --

2 Q. Who created that retro label?

3 A. That was an original label that was --  
4 that the -- Gessler had been using. And then of  
5 course, because of the obstacles we were facing with  
6 regard to marketing the product, there were attempts  
7 to improve the labeling.

8 And an intermediary change was, we toyed  
9 with -- we had some product imported under it, and  
10 then -- but we weren't happy with it. And that's  
11 when we got on the preparation of what we now call  
12 the aperture or the clear label, which was a label  
13 that was upgraded to the point that it could look  
14 like a national brand product on the shelf.

15 And it was -- aesthetically it was very  
16 attractive and appealing and had some background  
17 information through the aperture where you saw the  
18 alps, the Danube, the St. Stephen's Cathedral;  
19 landmarks of Austria.

20 Q. Who created that clear label?

21 A. The Horvaths, and the Gesslers helped.  
22 But Mutual did give their comments, but the basics  
23 were prepared by Gessler and Horvath.

24 Q. Including the imagery of the Alps and  
25 so forth that you just referred to?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1           A.       Exactly. Steve Lukacs had spent some  
2 time in helping develop that label, so there was  
3 some input from Mutual, you know.

4           Q.       Do you know what kind of input Steve  
5 Lukacs gave?

6           A.       I can't remember. I think the idea on  
7 the aperture, and I could be wrong with Steve's,  
8 because with Steve and I, in our discussions with  
9 regard to how best to try and develop a new label,  
10 we were obviously taking into consideration what we  
11 felt was an appealing design and the trend in the  
12 market -- take into consideration the trend in the  
13 marketplace.

14                   And of course, the most ideal thing would be  
15 to have one of these bottles where it was molded and  
16 everything was -- and I can't remember the  
17 terminology -- but it was not in label form, but  
18 rather it was manufactured by the bottle  
19 manufacturer, you know. And we liked some of that.

20                   And of course, we knew that from the point of  
21 view that economics were important to us, that there  
22 was no way that we could expect to have one of these  
23 molded bottles because it would just make the  
24 pricing out of reach and out of line.

25           Q.       So is Monopolowa sold in a nonmolded



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 bottle today?

2 A. Yes. The bottle is molded but I'm  
3 trying to think -- Ronnie can you --

4 Q. I'm sorry. Ronnie is not here to  
5 testify.

6 A. I only wanted him to, perhaps, create  
7 a knowledge of marketing and design, come up with  
8 the name of that type of bottle. Anyway, it doesn't  
9 matter. Monopolowa still comes with a paper label.

10 Q. Why did Mutual deal with the Horvaths  
11 and the Gesslers in terms of creating the labeling  
12 if, in fact, Mutual owned outright all right, title  
13 and interest to the trademark Monopolowa?

14 A. Well, it's the old story, never look a  
15 gift horse in the mouth. If somebody comes up --  
16 they knew we wanted to have this label and it was as  
17 important to them as it was to us to develop what  
18 was more desirable. And so if somebody comes along  
19 to you and says here, what do you think of this, and  
20 it's acceptable, why would Mutual turn it away?

21 Q. Was Mutual using the Gesslers and the  
22 Horvaths?

23 A. When you say "using"?

24 Q. Using the Gesslers and the Horvaths  
25 for its own advantage unfairly?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 A. No.

2 MR. LOVITZ: Objection as to form.

3 THE WITNESS: No. We were babes in  
4 the wood with a common problem that was important to  
5 all of us. And so no, we never did that.

6 MR. SLOANE:

7 Q. Could Mutual have used its own  
8 labeling without the consent of the Gesslers and the  
9 Horvaths?

10 A. I think that would be difficult.

11 Q. Why?

12 A. Because Mr. Gessler wanted to be  
13 involved in all aspects of the Monopolowa business.  
14 And so we couldn't go directly to Horvath because of  
15 the fact that he already -- Gessler had an  
16 association with him. Actually, Horvath worked for  
17 Gessler, not necessarily for Mutual.

18 Q. Why didn't Mutual use another  
19 manufacturer then?

20 A. That might have been something that we  
21 should have considered, but because of the fact  
22 that -- look, you got to think about the business  
23 aspects here. Here we are with a situation whereby  
24 we've already got a flow; we've already got a source  
25 of supply.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1           And we felt that the source of supply was  
2 adequate, shall we say, so why now have to start at  
3 the beginning, find another supplier and another  
4 source of supply, aggravate the situation with the  
5 Gesslers?

6           And so, you know, we were working on slim  
7 margins of profit and any deviation was -- could  
8 impact the situation. And again, as I say, why look  
9 a gift horse in the mouth?

10           Q.     Have you ever met the Horvaths?

11           A.     I met Mr. and Mrs. Horvath I think on  
12 two occasions.

13           Q.     What were those occasions?

14           A.     One, when they were visiting the U.S.,  
15 I think on a vacation. And the second time was when  
16 we had a meeting -- I think it was in January --  
17 gosh -- 2008 or maybe sometime in the late -- latter  
18 part of the between 2005 and 2008, somewhere. And  
19 they came with the Gesslers.

20           Q.     Were the Gesslers present when you met  
21 with the Horvath when the Horvaths were on vacation?

22           A.     Not the first time, I don't think so.  
23 The second time they were.

24           Q.     Did you speak business with the  
25 Horvaths when you met with them when they were on



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1 vacation?

2 A. Only to the extent that the -- we felt  
3 was proper, and as far as -- always keeping in mind,  
4 remember, that the Gesslers and the Horvaths have  
5 this whatever agreement they have. And so one of  
6 the requests from Mutual was that when it comes to  
7 pricing, we don't want to discuss this with Horvath.  
8 We want to discuss it with the Gesslers because we  
9 felt that Gessler was the supplier.

10 So therefore, why discuss pricing with  
11 intermediary when, in fact, the actual supplier is  
12 the one that we need to discuss these things with.  
13 Then obviously, Altvater Gessler would discuss it  
14 with Horvath because Horvath was the actual producer  
15 of the product.

16 Q. Was it the Gesslers who first  
17 introduced the Horvaths to Mutual?

18 A. Yes.

19 Q. Did Mutual ever have any agreement  
20 with the Horvaths?

21 A. No, other than placement of the  
22 orders, that was the only --

23 Q. Other than purchase orders?

24 A. Yeah, yeah.

25 Q. In the ordinary course of business?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1           A.     Yeah, right.

2           Q.     Did you ever correspond with the  
3 Horvaths about Monopolowa vodka?

4           A.     Yes, I did.

5           Q.     Was Altvater Gessler copied on most  
6 all your correspondence with the Horvaths?

7           A.     Yes.

8           Q.     Was Ron Beckenfeld ever copied on any  
9 of your correspondence with the Horvaths?

10          A.     I never made a practice of copying Ron  
11 on my communications. I did most of the  
12 communications.

13          Q.     Was that the case even during the time  
14 Ron Beckenfeld claimed to be the owner of the  
15 trademark Monopolowa? Did you ever copy him during  
16 that time period?

17          A.     After we got the petition, then Ron  
18 became involved and he would receive copies of  
19 certain of the communications after that, yes.

20          Q.     Communications regarding this  
21 cancellation proceeding or communications regarding  
22 the production and sale of Monopolowa vodka?

23          A.     No. It would be just the relative to  
24 the petition communications.

25          Q.     So in other words, following the --



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 strike that.

2 You may have testified about it or alluded to  
3 it earlier, but do you know whether the Horvaths  
4 dealt with Rasiel Gessler regarding the manufacture  
5 of Monopolowa vodka?

6 A. I'm sorry. Could you repeat the  
7 question.

8 Q. Do you know whether the Horvaths dealt  
9 directly with the Gesslers regarding producing  
10 Monopolowa vodka?

11 A. It was my understanding they did, yes.

12 Q. Do you know who distributed Monopolowa  
13 vodka in the U.S. before Mutual?

14 A. Yes. There were a couple that I was  
15 aware of. One was Stawski Distributing in Chicago,  
16 and the other was the Gulf Imports in Texas -- or  
17 George Estrada who became Gulf Imports.

18 Q. Does Mutual play the same role with  
19 respect to distributing Monopolowa vodka as those  
20 prior distributors did back in their time?

21 MR. LOVITZ: Objection to the extent  
22 that you would know what the business of the prior  
23 two companies were.

24 THE WITNESS: All I know is that they  
25 did, shall we say, dabble in Monopolowa. When I say



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1 dabble, maybe that's not the most appropriate  
2 expression. But dabbling is right in the sense that  
3 when there was a problem with the continuity of the  
4 supply.

5 So what would happen is that these companies  
6 that were Monopolowa, they would come to Mutual  
7 Wholesale and ask, do you have any Monopolowa? So  
8 that's how we knew about their involvement.

9 MR. SLOANE:

10 Q. Approximately -- to the best of your  
11 knowledge, are you aware of approximately how much  
12 inventory Altvater Gessler has in Vienna that is  
13 ready to go to Mutual?

14 A. Today?

15 Q. Yes.

16 A. I don't have any idea.

17 Q. At the time of you left the company,  
18 January 2011?

19 A. It was not something that it was  
20 necessary for me to know because --

21 Q. Did you ever -- because? Go ahead.

22 A. We knew that the -- there had been an  
23 experience of volume usage, and we understood that  
24 Mr. Horvath backed up with an inventory that he felt  
25 would be adequate for him to supply on demand. And



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 -- but to what level of inventory that was, I don't  
2 know.

3 Q. And do you know who owned those cases  
4 of ready inventory in Vienna?

5 A. It was -- it would have to be Horvath  
6 because he was the one who was involved in the  
7 initial bottling and, you know, whatever was  
8 involved in bottle inventory, product inventory, cap  
9 inventory, label inventory.

10 These are all things that any good supplier  
11 would, obviously, have to have on hand when they  
12 knew there was a continuity of flow of and demand  
13 for the product.

14 Q. Did Mutual ever make and commitment to  
15 Altvater Gessler to buy that inventory?

16 A. No. Because along the lines certain  
17 demands were made with regard to the financing of  
18 the orders in the sense that, one, that Mutual had  
19 to supply a letter of credit up to a certain level  
20 to protect them in the purchasing of the product.  
21 And after a while, Mutual had to advance payment on  
22 orders over a certain level.

23 So -- but we never actually, shall we say,  
24 owned the inventory, per se. But because Mutual was  
25 financing and, and you know, or an instrument being



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 used to fund the process, it wasn't the direct  
2 ownership of the inventory, per se.

3 Q. Who determined the price at which  
4 Mutual bought Monopolowa vodka from Altvater  
5 Gessler?

6 A. Well, that was determined by  
7 negotiations between the Gesslers and Mutual.

8 Q. At the end of the day, who made the  
9 final determination that the price at which Mutual  
10 bought from Altvater Gessler?

11 A. It would have to be agreed. It would  
12 have to be agreed to by Mutual and Altvater Gessler.  
13 In other words, a negotiation would get to the point  
14 that we -- once the agreement was made, then we  
15 would produce the purchase agreement that I'm sure  
16 you're familiar with.

17 Q. I'd like to show you a letter that  
18 Rasiel Gessler wrote to you on August 11, 2001, and  
19 we'll mark it as Wilson 3.

20 (Whereupon, Exhibit 3 was marked for  
21 identification.)

22 MR. SLOANE:

23 Q. Are you familiar with this letter,  
24 Mr. Wilson?

25 A. Let me read it, please.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 (Pause in the proceedings.)

2 THE WITNESS: Okay. Again, I can't  
3 remember this specific letter, but this is -- you  
4 know, this was general in the sense -- in our  
5 association that occasionally there would be a  
6 necessity to communicate back and forth regarding  
7 pressures, regarding the manufacture and pricing,  
8 et cetera.

9 Q. Do you have any reason to believe you  
10 did not receive this letter on or about August 11,  
11 2001?

12 A. No, I do not.

13 Q. And the subject of the letter is  
14 "price increases"; is that correct?

15 A. Yes.

16 Q. I'd like to direct your attention to a  
17 couple of places on the letter where Mr. Gessler  
18 refers to "our product." Rasiel Gessler wrote to  
19 you that he considered Monopolowa as belonging to  
20 Altvater Gessler; is that correct?

21 MR. LOVITZ: Objection. You're asking  
22 him to comment on what Rasiel believed?

23 MR. SLOANE: I'm asking the witness to  
24 testify as to his understanding as to whether or not  
25 he believes Rasiel Gessler believed that Monopolowa



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1 was Rasiel's product.

2 THE WITNESS: Well, I knew that's what  
3 Rasiel's thoughts were, but they weren't acceptable  
4 to me on the basis I knew otherwise.

5 MR. SLOANE:

6 Q. Did Rasiel express a sentiment to you  
7 that Altvater Gessler owned the brand name  
8 Monopolowa on many occasions?

9 A. On several he did, yes.

10 Q. Did you ever have arguments with him  
11 over that topic?

12 A. Absolutely, yes.

13 Q. The next letter is a letter dated  
14 September 13, 2001 from Rasiel Gessler to John F.  
15 Wilson, and we'll mark it as Wilson 4.

16 (Whereupon, Exhibit 4 was marked for  
17 identification.)

18 MR. SLOANE:

19 Q. Are you familiar with this letter,  
20 Mr. Wilson?

21 A. It rings a bell, yeah.

22 Q. Do you have any reason to believe you  
23 did not receive this letter about the time it was  
24 sent?

25 A. No.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. We'll mark now as Wilson 5 a fax  
2 transmittal sheet from Rasiel Gessler to your  
3 attention dated the following day, September 14,  
4 2001.

5 (Whereupon, Exhibit 5 was marked for  
6 identification.)

7 MR. SLOANE:

8 Q. Do you remember receiving this  
9 response, Mr. Wilson -- I'm sorry. Do you remember  
10 sending this fax?

11 A. Yes. I don't remember it  
12 specifically, but I signed it so obviously I sent  
13 it, yes.

14 Q. Turning back to this September 13th  
15 letter, Mr. Gessler wrote that new prices will be in  
16 effect on January 1, 2001; is that correct?

17 A. Yes.

18 MR. LOVITZ: That's not what it states  
19 -- 2002.

20 MR. SLOANE: 2002. Thank you,  
21 Michael.

22 Q. Rasiel Gessler stated in Subparagraph  
23 E that there will be no changes in promotional  
24 allowances; is that correct?

25 A. There will be no change -- okay.



1 Q. On the following page, Mr. Gessler  
2 stated the Horvaths and Altvater Gessler would be  
3 investing \$150,000 in product development; is that  
4 correct?

5 A. Yes.

6 Q. How much money did Mutual ever invest  
7 in Monopolowa in Austria?

8 A. We never invested anything in Austria,  
9 but our investment was in the purchase of the  
10 inventory.

11 Q. Apart from any investment in the  
12 purchase in inventory, did Mutual ever invest  
13 anything in the manufacture of the product itself?

14 A. No.

15 Q. What about the bottling for the  
16 product?

17 A. No. That was all based on the -- I  
18 mean, we never paid for that in advance, other than  
19 when I mentioned to you that up to a certain level  
20 we had to pay an advance for subsequent orders.

21 Q. Right. Apart from purchasing or  
22 financing any inventory, did Mutual ever invest in  
23 the manufacture or quality of the product itself?

24 A. No. Apart from putting up the  
25 stand-by letter of credit.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. I'm sorry. Mr. Beckenfeld, please  
2 refrain from whispering or speaking.

3 MR. BECKENFELD: Can you hear what I  
4 say?

5 MR. SLOANE: I hear what you say and  
6 I'm asking you to stop.

7 MR. SLOANE:

8 Q. Did Mutual ever pay for the production  
9 of Monopolowa labels or cartons?

10 A. I don't think so, no. We did pay for  
11 it by -- it was included in the price of the  
12 product.

13 Q. I'm talking about separately.

14 A. No. We didn't pay specifically for  
15 these elements, no.

16 Q. Did Altvater Gessler contribute to the  
17 cost of advertising and promoting Monopolowa vodka  
18 in the U.S.?

19 A. There was no direct investment by  
20 Altvater Gessler on advertising and promotion.

21 Q. The September 13 letter in  
22 Subparagraph E refers to promotional allowances.  
23 What does promotional allowances mean?

24 A. Well, I don't know whether this is a  
25 misnomer in the terminology used, and I'd have to



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Gesslers.

2 Q. Is the 2 percent early payment  
3 discount really a way for Altvater Gessler to have  
4 contributed to the advertising and promotion of  
5 Monopolowa?

6 A. No. Any allowances that we got,  
7 Mutual got, was merely a form of reducing the price  
8 to a level that we agreed upon that was necessary  
9 for Mutual to be able to market the item.

10 Q. Did Mutual ever pay for the cost of  
11 any machine parts or tooling associated with  
12 production of Monopolowa vodka in Austria?

13 A. No.

14 Q. Have you ever visited the production  
15 plant for Monopolowa vodka in Austria?

16 A. Personally I didn't, no.

17 Q. Where are the labels for Monopolowa  
18 vodka affixed to the bottles?

19 A. Where are they?

20 Q. Yes. In what country?

21 A. I'd have to assume Austria.

22 Q. So when Monopolowa Vodka comes into  
23 the U.S. to Mutual, it already has the labels on the  
24 bottle?

25 A. Exactly.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 that change?

2 A. It was suggested and -- we considered  
3 it and we felt that it, in a way, enhanced the  
4 packaging, so we had no objection to it apart from  
5 some of the wording we changed -- we requested  
6 should be changed.

7 Q. Who made the suggestion?

8 A. I did.

9 Q. Who made the suggestion to use the  
10 changed neck label?

11 A. It was Rasiel.

12 Q. Rasiel Gessler?

13 A. Yes.

14 Q. Was Ron Beckenfeld ever consulted  
15 about those changes?

16 A. No.

17 Q. As far as the bottle in which  
18 Monopolowa is contained, were there any changes to  
19 the bottle over the past five years?

20 A. No. As far as I know, we have the  
21 same bottle as we've had from the beginning, and as  
22 far as the design is concerned on the liter and the  
23 750 and the 375. The 1.75 is different shape.

24 Q. Is there anything special about the  
25 bottle?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1           A.       It's special in the sense that it's  
2 not the normal round bottle. It's what we referred  
3 to as the square type Johnny Walker bottle. I'm  
4 sure you're familiar with the Johnny Walker bottle  
5 that's square. And it gives it some distinction and  
6 difference, you know, and as far as its presentation  
7 is concerned.

8           Q.       Who initially chose the bottle for  
9 Monopolowa Vodka?

10          A.       The bottle was -- again, it was a  
11 matter of what existed way back when we first got  
12 involved. And I would have to say the bottle was  
13 either chosen by Gessler or the actual contract  
14 bottler at the time that it was originated. There  
15 was a change -- I mean, that was one of the problems  
16 we had with the consistency of supply because  
17 invariably we'd order something and they would have  
18 to take what was available.

19                 It might be liters. It might be 750s. And  
20 the 750 had that flask-type look. So -- but when we  
21 placed the product with Trader Joe's, which became  
22 very important in the sale of Monopolowa, the  
23 original bottle was the square Johnny Walker type.

24          Q.       Did Mutual have anything to do with  
25 the selection of that bottle?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1           A.     No.

2           Q.     Have there been any changes in the  
3 past five years to the bottle cap for Monopolowa  
4 Vodka?

5           A.     Yes.  There must have been changes  
6 because we kept harping on about the fact that we  
7 were getting complaints about the perforation, the  
8 screw cap, and the -- I think Mr. Horvath went to  
9 some extent in remedying that.

10          Q.     Do you know what -- whether or not  
11 there's any design or wording on the top of the  
12 label -- on top of the bottle cap for Monopolowa  
13 Vodka?

14          A.     You know, I think today there may be,  
15 but I'm not quite sure.

16          Q.     Was Ron Beckenfeld ever consulted  
17 about those issues with the perforation on the  
18 bottle caps for Monopolowa Vodka?

19          A.     Not through my office.  I'm sure he  
20 may have learned of them through his father,  
21 perhaps, but I don't know.  I never involved Ron  
22 Beckenfeld in these things.

23          Q.     Why not?

24          A.     Because he was not part of the Mutual  
25 situation, you know.  Ronnie took care of his



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 business and we took care of Mutual Wholesale.

2 Q. I'm introducing the next exhibit  
3 Wilson 6, a letter to you from Rasiel Gessler dated  
4 September 25, 2001.

5 (Whereupon, Exhibit 6 was marked for  
6 identification.)

7 (Pause in the proceedings.)

8 MR. SLOANE:

9 Q. Are you familiar with this letter,  
10 Mr. Wilson?

11 A. I think I must be, yeah, if it was  
12 sent to me, yes.

13 Q. The letter sets forth new prices,  
14 including promotional allowances; is that correct?

15 A. Yes, it does.

16 Q. Were these new prices acceptable to  
17 Mutual?

18 A. I can't remember. The governing  
19 factor here would be the production of purchase  
20 agreement once we had decided on the pricing. There  
21 was a lot of back and forth every time there was any  
22 question of a price increase. It was something that  
23 we went back and forth on all the time because of  
24 the importance of it.

25 Q. The next document I'll introduce as



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1           Is this your letter, Mr. Wilson?

2           A.     Yes.

3           Q.     You wrote at the end that you, quote,  
4 feel confident there's no risk whatsoever in making  
5 the move, unquote; is that correct?

6           A.     Correct, yeah.

7           Q.     What risk in investment was undertaken  
8 by Altvater Gessler?

9           A.     Well, again, I'm not quite sure, but I  
10 have to imagine that there was a cost in the design  
11 of the label. There was a cost in the production of  
12 the labels.

13          Q.     Isn't true that Altvater Gessler  
14 solely undertook to arrange for the production of  
15 the clear labels in Austria?

16          A.     I would have to say yes to that, yes.

17          Q.     The next exhibit I'll introduce is a  
18 letter dated January 2, 2002 from Mr. Gessler to  
19 yourself.

20                   (Whereupon, Exhibit 10 was marked for  
21 identification.)

22           MR. SLOANE: The court reporter has  
23 marked this as Exhibit 10.

24                   (Pause in the proceedings.)

25           MR. SLOANE:



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. Do you know whether Ron ever tried to  
2 turn down the it ever?

3 A. I got the impression he was surprised  
4 that his father wanted to do this. But on the other  
5 hand, that's what his father's wishes were, so he  
6 went along with it.

7 Q. Are you aware of any consideration  
8 that Ron may have supplied to Mutual in return for  
9 the assignment?

10 A. None whatsoever, no.

11 Q. Are you familiar with any steps that  
12 Ron Beckenfeld may have taken to control the quality  
13 of Monopolowa Vodka?

14 A. No.

15 Q. Do you recall Ron ever being at  
16 Mutual's offices to inspect any Monopolowa Vodka?

17 A. I never saw him there.

18 Q. Were you involved in drafting the  
19 assignment from -- I guess the answer is no, if you  
20 weren't aware of it, but I'll ask anyway. Were you  
21 involved in drafting the assignment of Mutual to  
22 Ron?

23 A. No, I was not.

24 Q. Do you know who did draft that  
25 assignment?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1           A.     I think that's her name. I'm not  
2 quite sure.

3           Q.     I believe you testified earlier that  
4 you're not familiar with a person named Stephanie  
5 Sauer, S-A-U-E-R; is that correct?

6           A.     Doesn't ring a bell.

7           Q.     How about someone named Rudolpho  
8 Garcia?

9           A.     No, I don't recognize that name  
10 either.

11          Q.     Is he an employee of Mutual?

12          A.     Rudolpho?

13          Q.     Garcia.

14          A.     Again, as I say, I don't connect with  
15 the name.

16          Q.     Are you aware of any regulatory issues  
17 involving alcoholic content of Monopolowa?

18          A.     Yes, very much so. I was the one who  
19 handled it with the BATF and, of course, with  
20 Mr. Gessler and Mr. Harvey.

21          Q.     Was Ron Beckenfeld ever involved in  
22 those dealings?

23          A.     No.

24          Q.     Did you ever inform Ron Beckenfeld of  
25 those issues with the TTB?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. The next Exhibit is a similar document  
2 and we'll label it as Exhibit 23.

3 (Whereupon, Exhibit 23 was marked for  
4 identification.)

5 MR. SLOANE:

6 Q. Mr. Wilson, does this look like a  
7 document of the kind you would have sent to  
8 Altvater Gessler in or about October 26, 1992?

9 A. This one here, Exhibit 23?

10 Q. Right. It's labeled ALT 465.

11 A. Yeah.

12 Q. It actually refers to Richter. Who is  
13 Richter?

14 A. I don't know who Richter is, but it  
15 could have been their -- you know, in the forwarding  
16 of product you've got several people involved. You  
17 have the supplier, the forwarding company, and the  
18 shipping company, and the transportation company.  
19 Now, I don't know who Richter is, but --

20 Q. Were the Gesslers involved in that  
21 forwarding and shipping of product?

22 A. Anything relative to Monopolowa  
23 involves the Gesslers.

24 Q. The next document we'll label Exhibit  
25 24.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1           A.       The one who should have fixed it and  
2 shouldn't have had it happen in the beginning, and  
3 that is the supplier.

4           Q.       Does that mean the Gesslers fixed the  
5 problem?

6           A.       The Gesslers through Horvath fixed the  
7 problem, but the problem should not have been there.  
8 Because we had prior warnings about the alcoholic  
9 content and the fact that it was noncompliant. And  
10 the issue was confused when Mr. Gessler communicated  
11 with the Bureau of Alcohol, Tobacco and Firearms and  
12 he was given some wrong information regarding what  
13 was the tolerance, et cetera.

14                   And unbeknown to them, they also made some  
15 further inquiries about the process that they were  
16 using to come into line with the U.S. requirement.  
17 And they found out it was a temperature factor that  
18 they weren't considering so it was throwing the  
19 alcohol content analysis off. They corrected that.

20           Q.       Did Ron Beckenfeld have anything to do  
21 with the correction of the problem?

22           A.       No, no.

23           Q.       And is it fair to say that the problem  
24 directly affected the quality of Monopolowa Vodka?

25           A.       It didn't affect the quality so much



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

# Exhibit C

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

In the Matter of Registration No. 2.731.948

-----  
ALTVATER GESSLER - J.A. BACZEWSKI  
INTERNATIONAL (USA) INC. and  
ALTVATER GESSLER - J.A. BACZEWSKI  
GMBH,

Petitioner's,

vs.

Cancellation No.  
92048732

RONALD BECKENFELD,

Registrant.

-----

DEPOSITION OF  
RONALD BECKENFELD  
NONCONFIDENTIAL PORTIONS

August 4, 2011  
9:57 a.m.

1875 Century Park East, Suite 500  
Los Angeles, California

Stephanie Guice, CSR 13285



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. What do you do for a living?

2 A. I'm in the vitamin business -- manufacture and  
3 distribute.

4 Q. With what company?

5 A. My own company, Continental Vitamin.

6 Q. Is Continental Vitamin also referred to as  
7 CVC?

8 A. That -- right.

9 Q. Is it also referred to as CVC Specialties?

10 A. Yes.

11 Q. Are you are the 100 percent owner of CVC?

12 A. Yes.

13 Q. Do you also have an executive title with the  
14 company?

15 A. Yes.

16 Q. And what is that title?

17 A. President.

18 Q. Where is CVC located?

19 A. 4510 South Boyle, Los Angeles.

20 Q. You said that CVC is a vitamin company. Can  
21 you be more specific about what kinds of vitamins or  
22 other products the company sells?

23 A. Dietary food supplements. That covers  
24 everything.

25 Q. Can you give me some examples of dietary



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 A. Pretty much, yeah, pretty much.

2 Q. Besides your real estate ventures has it been  
3 your only job?

4 A. Yes.

5 Q. How did you get involved in the vitamin  
6 business?

7 A. I just told you.

8 Q. Well you started selling out the trunk of your  
9 car, but what lead you to --

10 A. I've always been into health even at a very  
11 young age. Just went well for me.

12 Q. Getting back to Mutual what is the business of  
13 Mutual? What business are you involved in?

14 A. In the business to make money.

15 Q. How do they make money?

16 A. Selling liquor.

17 Q. What kind?

18 A. Spirits -- beer, wine, liquor.

19 Q. Any particular brands?

20 A. They have a few.

21 Q. Can you name at a few please?

22 A. Besides the Monopolowa Vodka?

23 Q. I'm sorry?

24 A. Am I saying it right, Monopolowa?

25 Q. Don't look to your attorney.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1 the transcript for you to fill it in.

2 A. \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_

5 Q. Why are you on the board of Mutual?

6 A. My dad loves me and that's probably the reason  
7 to be real honest.

8 Q. Do you do anything for Mutual in your capacity  
9 as a member of the board?

10 A. What I do is I have many, many, many, many  
11 conversations with my father about this business. This  
12 is what he hangs on to at his age.

13 Q. And what kind of things do you talk about in  
14 these discussions?

15 A. Just about everything in business. I'm in  
16 business. Business is business.

17 Q. Do you get compensated for your role as a  
18 board member of Mutual?

19 A. No.

20 Q. Have you ever been compensated as a board  
21 member of Mutual?

22 A. No.

23 Q. Have you ever worked for Mutual in any other  
24 capacity?

25 A. Probably about 40 years ago.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. 40?

2 A. 40 years ago for a short period.

3 Q. And what were you doing at that time?

4 A. Sales.

5 Q. Sales?

6 A. More than 40 years.

7 Q. Were you out in the field selling?

8 A. Yes.

9 Q. And about how long did that stint last for?

10 A. Probably six months.

11 Q. Is this before you began selling vitamins out  
12 of your car?

13 A. Yes.

14 Q. And why did the stint come to an end?

15 A. Because as I mentioned before I'm in the  
16 health business. It kind of goes against -- the booze;  
17 and I want to be my own boss. I wanted my own  
18 business. That was the major driving point.

19 Q. Do you ever intend to be an employee or  
20 officer of Mutual in the future?

21 A. I don't know.

22 Q. Do you own any interest in Mutual?

23 A. No.

24 Q. Do you own any -- any stocks in the company?

25 A. No.



1 Q. Any options?

2 A. No.

3 Q. Have you ever owned any equity interest in  
4 Mutual?

5 MR. LOVITZ: What do you mean by --

6 THE WITNESS: Yeah, I need you to clarify the  
7 question.

8 BY MR. SLOANE:

9 Q. Have you ever had an economic interest in  
10 Mutual?

11 MR. LOVITZ: Is there --

12 BY MR. SLOANE:

13 Q. To clarify --

14 A. Other than stock or option or --

15 Q. Have you ever owned any stocks or options in  
16 Mutual?

17 A. No.

18 Q. Have you ever owned any other financial  
19 instruments which would give you any kind of ownership  
20 in Mutual?

21 A. No.

22 Q. Have you ever received any checks from Mutual?

23 A. Yes.

24 Q. How often have you received checks from  
25 Mutual?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Q. Have you ever taken any courses in the alcohol  
2 or spirits industry?

3 A. That's a hard question to answer because  
4 through manufacturing, I manufacture liquids. Very  
5 similar. I have a laboratory. I have people that do  
6 all this work. I have a fairly good understanding and  
7 it's a pretty similar business.

8 Q. Have you ever taken any courses or had any  
9 training specifically in the -- in the spirits or  
10 liquor business?

11 A. No.

12 Q. Have you ever drank or consumed Monopolowa  
13 Vodka?

14 A. Yes.

15 Q. On what occasions?

16 A. I can't remember but I'm not much of a  
17 drinker.

18 Q. Approximately how many times have you drank  
19 Monopolowa?

20 A. Probably once or twice.

21 Q. Once or twice in the course of your life?

22 A. Correct.

23 Q. And was it five years ago? Ten year ago?

24 A. Probably somewhere in that range.

25 Q. So was it once or twice that drank Monopolowa?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1 A. Once or twice.

2 Q. But in about the same time frame?

3 A. Probably.

4 Q. And do you remember on what occasion you drank  
5 the beverage?

6 A. No.

7 Q. Do you have any recollection of what  
8 Monopolowa tastes like?

9 A. Like I say I'm not much of a drinker and all  
10 vodka pretty much, the little that I've had, taste all  
11 the same.

12 Q. Do you claim to be the owner of the US  
13 Trademark Registration for the mark Monopolowa for  
14 vodka?

15 A. Yes.

16 Q. How did you come to own the Trademark  
17 Registration?

18 A. My dad basically gave it to me.

19 Q. When did he give it to you?

20 A. In 2007.

21 Q. Why did he give it to you?

22 A. Because he loves me. I'm his son.

23 Q. Do you know what products the registration  
24 covers?

25 A. Yes.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 Mutual or Mickey?

2 A. Again Mutual is part of the living trust which  
3 is my father.

4 Q. Did the assignment of the Trademark  
5 Registration include any other assets as part of the  
6 transaction?

7 A. Not to my knowledge, no.

8 Q. At the time the Trademark was assigned to you  
9 did you consult with anyone besides your father about  
10 the transfer?

11 A. No.

12 MR. SLOANE: The next document I'll mark as RB3.  
13 It's a two-page document labeled Assignment U.S. and  
14 Foreign Trademarks.

15 (Exhibit RB3 was marked for identification. A  
16 copy of which is attached hereto.)

17 BY MR. SLOANE:

18 Q. Mr. Beckenfeld, is this the document that you  
19 were referring to in connection with the assignment?

20 A. I'm really not sure.

21 Q. Have you seen this document before?

22 A. I'm not sure. It looks familiar. I look at  
23 so much paperwork on a constant basis it's  
24 unbelievable.

25 Q. How do you recall that the assignment called



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

1           A.    Because that's the way my father wanted it.

2           Q.    Does your father control everything in  
3 connection with this litigation?

4           A.    At the time John Wilson was handling -- was  
5 privy to all the paperwork, he had everything in the  
6 files and everything. I didn't have anything. So he  
7 was the one, and he was really the person working with  
8 the vodka, him and my father.

9           Q.    Is John Wilson still serving in that role  
10 today in connection with this case?

11          A.    John Wilson is -- I don't know about the case  
12 but he's no longer with the company. He's retired in.

13          Q.    When did Mr. Wilson retire?

14          A.    I think about three, four months ago.

15          Q.    What was his title with Mutual?

16          A.    The GM.

17          Q.    The general manager?

18          A.    Uh-huh.

19          Q.    Yes.

20          A.    Yes.

21          Q.    Do you know whether the license agreement  
22 between you and Mutual has any provision for the  
23 control of quality of vodka manufactured under the  
24 Trademark of Monopolowa?

25          A.    If I'm not wrong, because they had quality



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 control problems, Mutual Wholesale kind of handled it  
2 and I think the plant had a handle on it.

3 Q. Do you know whether or not the agreement, the  
4 license agreement incorporated any provisions for  
5 quality control or is that an issue that had already  
6 passed?

7 A. I think it's an issue that had already passed.

8 Q. Has the quality of the product licensed under  
9 the Trademark Monopolowa always been to your  
10 satisfaction since the license agreement?

11 A. I haven't heard any complaints and I know  
12 Mutual is testing.

13 Q. Would you agree that any dispute involving the  
14 quality of Monopolowa product would affect the value of  
15 the Monopolowa Trademark?

16 A. Would it, absolutely.

17 Q. Are you aware of a company called Horwatz?

18 A. Yes.

19 Q. Who are they?

20 A. If I'm not wrong they're the manufacturer of  
21 the product.

22 Q. Are you aware of any dispute between Mutual,  
23 Altvater and Horwatz at any point in time?

24 A. Between Horwatz and Mutual?

25 Q. And Altvater, the three companies.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1 A. Altvater.

2 Q. And Altvater. Do you know who  
3 Altvater Gessler is?

4 A. Oh, Gessler, yes.

5 Q. Have you heard the term Altvater before?

6 A. No.

7 Q. Have you heard the term J.A. Baczewski before?

8 A. Yes.

9 Q. What or who is J.A. Baczewski?

10 A. I'm not sure.

11 Q. But you've heard of it?

12 A. It's on the label.

13 Q. On what label?

14 A. On the Monopolowa. You say it. I have a hard  
15 time pronouncing that name. I never can. I just call  
16 it potato vodka.

17 Q. Is all potato vodka the same?

18 A. Pretty close to it, to my knowledge of the  
19 business. Pretty close to it.

20 Q. What makes you say that?

21 A. It's a distilling of a potato. A vodka is cut  
22 with alcohol. It's pretty straightforward. There's no  
23 special recipes or anything like that. Very easily  
24 duplicated.

25 Q. Have you ever tried?



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

1           A.    I speak through -- not with them but I speak  
2 with my father.  I don't speak to them.

3           Q.    When was the last time you had substantive  
4 discussion with either Harvey or Nicole about  
5 Monopolowa?

6           A.    Never.

7           Q.    Have you ever seen any purchase or payment  
8 agreements between Mutual and Altvater Gessler.

9           A.    I've seen a statement how much he gets a  
10 month.

11          Q.    He meaning Gessler?

12          A.    Yes.  I've seen a few statements.

13          Q.    Do you speak with Linda?

14          A.    No.

15          Q.    When was the last time you spoke with Linda  
16 about anything to do with Monopolowa Vodka?

17          A.    Never.

18          MR. SLOANE:  All right.  These are a series of  
19 documents we'll mark as RB15.  It's a series of  
20 documents labeled BEC 175 to 186.  They're marked as  
21 confidential but unless Mr. Lovitz disagrees we --  
22 let's stipulate that we can discuss these documents in  
23 the nonconfidential portion of the transcript but to  
24 the extent that they're labeled confidential we will  
25 submit them under seal although I note that this is



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

**EXHIBIT D**  
**REDACTED**

# Exhibit E

Int. Cl.: 33

Prior U.S. Cls.: 47 and 49

**United States Patent and Trademark Office**

**Reg. No. 3,486,879**

Registered Aug. 19, 2008

**TRADEMARK  
PRINCIPAL REGISTER**

**J.A. BACZEWSKI**

ALTVATER GESSLER - J.A. BACZEWSKI INTERNATIONAL (USA) INC. (NEW JERSEY CORPORATION)  
2179 SOUTH STREET  
FORT LEE, NJ 07024

FOR: VODKA AND GIN, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 0-0-1782; IN COMMERCE 0-0-1969.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 1,952,832.

THE MARK "J.A. BACZEWSKI" DOES NOT IDENTIFY A LIVING INDIVIDUAL.

SEC. 2(F).

SER. NO. 76-686,036, FILED 1-23-2008.

DORITT L. CARROLL, EXAMINING ATTORNEY

# Exhibit F

# United States of America

United States Patent and Trademark Office



**Reg. No. 3,847,042**

**Registered Sep. 14, 2010**

**Int. Cl.: 33**

ALTVATER GESSLER - J. A. BACZEWSKI INTERNATIONAL (USA) INC. (NEW JERSEY CORPORATION)  
2179 SOUTH STREET  
FORT LEE, NJ 07024

FOR: VODKA AND GIN, IN CLASS 33 (U.S. CLS. 47 AND 49).

**TRADEMARK**

FIRST USE 12-31-1919; IN COMMERCE 5-31-1983.

**PRINCIPAL REGISTER**

THE MARK CONSISTS OF THE DESIGN OF A TWO HEADED EAGLE WITH THE SIDES OF THEIR RESPECTIVE HEADS FACED IN OPPOSITE DIRECTIONS. THE TONGUE OF EACH EAGLE HEAD IS EXTENDED AND EACH HEAD WEARS A CROWN. A LARGE CROWN APPEARS ATOP A SHAWL ABOVE THE TWO EAGLE HEADS. THE CHEST OF THE EAGLE BEARS A COAT OF ARMS WHICH FEATURES THE DESIGN OF A STANDING LION AND THREE EAGLES IN FLIGHT. THE WINGS OF THE TWO HEADED EAGLE ARE SPREAD. THE LEFT CLAW OF THE EAGLE HOLDS A SWORD AND SCEPTER. THE RIGHT CLAW OF THE EAGLE HOLDS AN ORB.

SER. NO. 77-744,172, FILED 5-26-2009.

JOHN SCHUYLER YARD, EXAMINING ATTORNEY



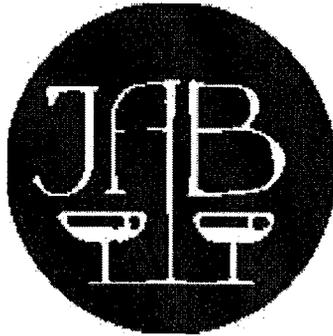
*David J. Kappas*

Director of the United States Patent and Trademark Office

# Exhibit G

# United States of America

United States Patent and Trademark Office



**Reg. No. 3,845,281**

**Registered Sep. 7, 2010**

**Int. Cl.: 33**

**TRADEMARK**

**PRINCIPAL REGISTER**

ALTVATER GESSLER - J. A. BACZEWSKI INTERNATIONAL (USA) INC. (NEW JERSEY CORPORATION)  
2179 SOUTH STREET  
FORT LEE, NJ 07024

FOR: VODKA AND GIN, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 0-0-1960; IN COMMERCE 0-0-1969.

THE MARK CONSISTS OF THE STYLIZED LETTERS "JAB" WITH THE RIGHT SIDE OF THE LETTER "A" EXTENDING DOWNWARD TO FORM THE BASE OF A TRAY HOLDING A MARTINI GLASS ON EACH SIDE.

SER. NO. 77-960,304, FILED 3-16-2010.

NAKWAMA ANKRAH, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

# Exhibit H

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

|                                       |   |                           |
|---------------------------------------|---|---------------------------|
| -----X                                |   |                           |
| ALTVATER GESSLER – J.A. BACZEWSKI     | : |                           |
| INTERNATIONAL (USA) INC. and ALTVATER | : |                           |
| GESSLER – J.A. BACZEWSKI GMBH,        | : |                           |
|                                       | : | Cancellation No. 92048732 |
| Petitioners,                          | : |                           |
|                                       | : |                           |
| v.                                    | : |                           |
|                                       | : |                           |
| RONALD BECKENFELD,                    | : |                           |
|                                       | : |                           |
| Registrant.                           | : |                           |
| -----X                                |   |                           |

**PETITIONERS' SECOND SET OF INTERROGATORIES TO REGISTRANT**

Petitioners, by their attorneys, pursuant to Rule 2.120(a) of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, request that Registrant answer the following interrogatories separately and fully in writing under oath within thirty (30) days after service hereof.

These interrogatories shall be deemed continuing and it is requested that Registrant serve upon Petitioners supplemental answers as required by Rule 26(e) of the Federal Rules of Civil Procedure.

For the convenience of the Board and counsel, it is requested that each interrogatory be set forth immediately preceding the answer thereto.

**DEFINITIONS AND INSTRUCTIONS**

The Definitions and Instructions set forth in Petitioners' First Set of Requests for the Production of Documents and Things and in Petitioners' Second Set of Requests for the Production of Documents and Things shall apply.

## INTERROGATORIES

### INTERROGATORY NO. 1:

Identify whether a third-party has been paying any portion of Registrant's legal bills for this proceeding as well as (i) the identity of all such third-parties; (ii) the amounts paid by such third-parties; (iii) the time period during which each such third-party has been paying legal fees; and (iv) the interest in the outcome of the proceeding (if any) held by each third-party identified.

### INTERROGATORY NO. 2:

Identify each and every trust mentioned in the discovery deposition of Registrant taken on August 4, 2011 and Registrant's interest therein.

### INTERROGATORY NO. 3:

Identify with specificity each and every product sold or distributed in the United States under the mark MONOPOLOWA pursuant to the License.

### INTERROGATORY NO. 4:

For each product identified in response to Interrogatory No. 3, identify the date when the mark MONOPOLOWA was first used by Mutual pursuant to the License.

### INTERROGATORY NO. 5:

For each product identified in response to Interrogatory No. 3, describe with particularity how each such product is manufactured.

### INTERROGATORY NO. 6:

For each product identified in response to Interrogatory No. 3, describe with particularity each and every effort made by Registrant to control the quality of the product manufactured pursuant to the terms of the License.

### INTERROGATORY NO. 7:

For each product identified in response to Interrogatory No. 3, identify each manufacturer that creates the product.

### INTERROGATORY NO. 8:

For each product identified in response to Interrogatory No. 3, describe with particularity how each such product is distributed in the United States and identify each distributor, sub-distributor, wholesaler and retailer.

**INTERROGATORY NO. 9:**

For each product identified in response to Interrogatory No. 3, describe with particularity how each such product is advertised, marketed and promoted in the United States.

**INTERROGATORY NO. 10:**

For each product identified in response to Interrogatory No. 3, identify each and every step taken by Registrant to advertise, market and promote such product since 2007.

**INTERROGATORY NO. 11:**

Identify each and every time Registrant approved the location, style and manner in which the mark MONOPOLOWA was displayed upon spirits as per paragraph number 4 of the License.

**INTERROGATORY NO. 12:**

Identify each and every time Registrant or its duly authored representative entered the premises of Mutual and inspected the product covered by the License as per paragraph number 10 of the License.

**INTERROGATORY NO. 13:**

Identify every agreement (e.g., manufacturing, distribution and license agreements) pursuant to which goods or services are manufactured, distributed, advertised or sold in connection with the mark MONOPOLOWA.

**INTERROGATORY NO. 14:**

For each of Petitioners' First Set of Requests for Admission to Registrant, served simultaneously herewith, which Registrant does not unconditionally admit, identify all facts that support Registrant's response to such Request, including all witnesses having knowledge of said facts.

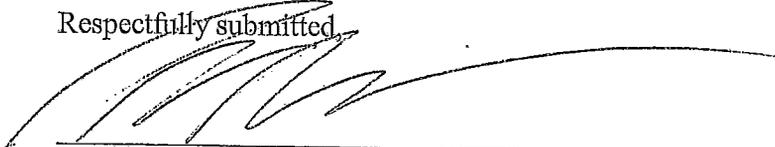
**INTERROGATORY NO. 15:**

For each of Petitioners' First Set of Requests for Admission to Registrant, served simultaneously herewith, which Registrant does not unconditionally admit, identify all documents that support Registrant's response to such Request by Bates number (or, if such documents were not produced in this proceeding, identify with particularity the custodian(s) of such documents).

**INTERROGATORY NO. 16:**

Identify each person who answered or provided information used in answering the preceding Interrogatories, specifying the particular Interrogatories for which each such person provided an answer or information.

Respectfully submitted,



Dated: February 4, 2013  
New York, New York

Peter S. Sloane  
Cameron S. Reuber

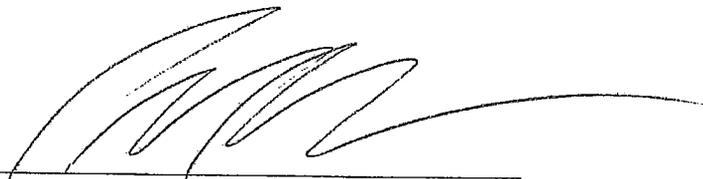
LEASON ELLIS LLP  
One Barker Avenue, Fifth Floor  
White Plains, New York 10601  
Phone: (914) 288-0022  
Fax: (914) 288-0023  
[sloane@leasonellis.com](mailto:sloane@leasonellis.com)  
[reuber@leasonellis.com](mailto:reuber@leasonellis.com)

Attorneys for Petitioners

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing **PETITIONERS'**  
**SECOND SET OF INTERROGATORIES TO REGISTRANT** was served by First-Class  
mail, postage prepaid, upon counsel for Registrant, this 4th day of February, 2013, addressed as  
follows:

Michael Lovitz, Esq.  
Lovitz IP Law PC  
9701 Wilshire Blvd., Ste 1000  
Beverly Hills, California 90212



\_\_\_\_\_

Peter S. Sloane

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

|                                       |   |                           |
|---------------------------------------|---|---------------------------|
| -----X                                |   |                           |
| ALTVATER GESSLER – J.A. BACZEWSKI     | : |                           |
| INTERNATIONAL (USA) INC. and ALTVATER | : |                           |
| GESSLER – J.A. BACZEWSKI GMBH,        | : |                           |
|                                       | : | Cancellation No. 92048732 |
| Petitioners,                          | : |                           |
|                                       | : |                           |
| v.                                    | : |                           |
|                                       | : |                           |
| RONALD BECKENFELD,                    | : |                           |
|                                       | : |                           |
| Registrant.                           | : |                           |
| -----X                                |   |                           |

**PETITIONERS’ THIRD SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO REGISTRANT**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules and Practice, Petitioners Altvater Gessler – J.A. Baczewski International (USA) Inc. and Altvater Gessler – J.A. Baczewski GmbH (“Petitioners”) hereby request that the Registrant, Ronald Beckenfeld (“Registrant”), produce the documents and things requested below for inspection and copying at the offices of counsel for Petitioners, Leason Ellis LLP, at One Barker Avenue, Fifth Floor, White Plains, New York 10601, attn: Peter S. Sloane, Esq., or at such other place as agreed to by the parties, within thirty (30) days from the date of service of these requests.

**DEFINITIONS AND INSTRUCTIONS**

The Definitions and Instructions set forth in Petitioners’ First Set of Requests for the Production of Documents and Things and in Petitioners’ Second Set of Requests for the Production of Documents and Things shall apply.

**DOCUMENTS AND THINGS REQUESTED**

**REQUEST NO. 1**

All trust documents referenced in the discovery deposition of Registrant taken on August 4, 2011.

**REQUEST NO. 2**

All amendments to the trust documents mentioned in the discovery deposition of Registrant taken on August 4, 2011.

**REQUEST NO. 3**

Documents sufficient to identify each and every past and present trustee of the trusts mentioned in the discovery deposition of Registrant taken on August 4, 2011.

**REQUEST NO. 4**

All documents referring or relating to the trust documents mentioned in the discovery deposition of Registrant taken on August 4, 2011.

**REQUEST NO. 5**

All documents of the trusts mentioned in the discovery deposition of Registrant taken on August 4, 2011 referring or relating to the mark MONOPOLOWA.

**REQUEST NO. 6**

All documents evidencing that the trusts mentioned in the discovery deposition of Registrant taken on August 4, 2011 had the legal authority to transfer the mark MONOPOLOWA from Mutual to Registrant.

**REQUEST NO. 7**

All legal bills paid by the trusts mentioned in the discovery deposition of Registrant taken on August 4, 2011.

REQUEST NO. 8

All legal bills for this proceeding paid by the trusts mentioned in the discovery deposition of Registrant taken on August 4, 2011.

REQUEST NO. 9

All federal and state tax returns of Registrant filed since 2009.

REQUEST NO. 10

All correspondence between Registrant and Lillian Beckenfeld.

REQUEST NO. 11

All correspondence between Registrant and Lillian Beckenfeld referring or relating to Mutual.

REQUEST NO. 12

All correspondence between Registrant and Lillian Beckenfeld referring or relating to the mark MONOPOLOWA or product sold under the mark MONOPOLOWA.

REQUEST NO. 13

All correspondence between Registrant and Mickey Beckenfeld.

REQUEST NO. 14

All correspondence between Registrant and Mickey Beckenfeld referring or relating to Mutual.

REQUEST NO. 15

All correspondence between Registrant and Mickey Beckenfeld referring or relating to the mark MONOPOLOWA or product sold under the mark MONOPOLOWA.

REQUEST NO. 16

All correspondence between Registrant and Harvey Monastirsky.

REQUEST NO. 17

All correspondence between Registrant and Harvey Monastirsky relating to Mutual.

REQUEST NO. 18

All correspondence between Registrant and Harvey Monastirsky referring or relating to the mark MONOPOLOWA or product sold under the mark MONOPOLOWA.

REQUEST NO. 19

All correspondence between Registrant and Linda Monastirsky.

REQUEST NO. 20

All correspondence between Registrant and Linda Monastirsky referring or relating to Mutual.

REQUEST NO. 21

All correspondence between Registrant and Linda Monastirsky referring or relating to the mark MONOPOLOWA or product sold under the mark MONOPOLOWA.

REQUEST NO. 22

All correspondence between Registrant and Nicole Monastirsky Kiley.

REQUEST NO. 23

All correspondence between Registrant and Nicole Monastirsky Kiley referring or relating to Mutual.

REQUEST NO. 24

All correspondence between Registrant and Nicole Monastirsky Kiley referring or relating to the mark MONOPOLOWA or product sold under the mark MONOPOLOWA.

REQUEST NO. 25

All correspondence between Registrant and John Wilson.

REQUEST NO. 26

All correspondence between Registrant and John Wilson referring or relating to Mutual.

REQUEST NO. 27

All correspondence between Registrant and John Wilson referring or relating to the mark MONOPOLOWA or product sold under the mark MONOPOLOWA.

REQUEST NO. 28

All correspondence between Registrant and Steve Lukacs.

REQUEST NO. 29

All correspondence between Registrant and Steve Lukacs referring or relating to Mutual.

REQUEST NO. 30

All correspondence between Registrant and Steve Lukacs referring or relating to the mark MONOPOLOWA or product sold under the mark MONOPOLOWA.

REQUEST NO. 31

All correspondence referring or relating to the License.

REQUEST NO. 32

All correspondence referring to any compliance with License terms by Mutual.

REQUEST NO. 33

All correspondence referring to any non-compliance with License terms by Mutual.

REQUEST NO. 34

All correspondence referring or relating to any alleged breach of the License.

REQUEST NO. 35

All documents evidencing that Registrant approved the location, style and manner in which the mark MONOPOLOWA was displayed upon spirits including vodka and upon packaging and advertising for such product.

REQUEST NO. 36

All documents evidencing that Registrant or his duly authored representative entered the premises of Mutual and inspected the product covered by the License.

REQUEST NO. 37

All documents passing between Registrant and any person (including, without limitation, any expert witness) from whom Registrant expects to offer testimony at trial.

REQUEST NO. 38

All other documents on which Registrant intends to rely at trial.

REQUEST NO. 39

All documents relating to, referring to and/or constituting the documents, and/or categories thereof, identified in Registrant's Initial Disclosures pursuant to Fed. R. Civ. P. 26(a).

REQUEST NO. 40

All documents relating to, referring to and/or constituting the documents, and/or categories thereof, identified by Registrant in response to Petitioners' Second Set of Interrogatories to Registrant served simultaneously herewith.

Respectfully submitted,



Dated: February 4, 2013  
New York, New York

---

Peter S. Sloane  
Cameron S. Reuber

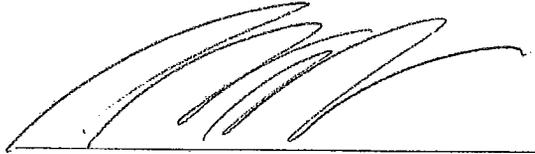
LEASON ELLIS LLP  
One Barker Avenue, Fifth Floor  
White Plains, New York 10601  
Phone: (914) 288-0022

Attorneys for Petitioners

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing **PETITIONERS' THIRD SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO REGISTRANT** was served by First-Class mail, postage prepaid, upon counsel for Registrant, this 4th day of February, 2013, addressed as follows:

Michael Lovitz, Esq.  
Lovitz IP Law PC  
9701 Wilshire Blvd., Ste 1000  
Beverly Hills, California 90212

A handwritten signature in black ink, consisting of several sweeping, overlapping strokes, positioned above a horizontal line.

Peter S. Sloane