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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
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Date	05/31/2013
Attachments	Declaration of Harvey Monastirsky.pdf(215259 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 GMBH,	:	
	:	
Petitioners,	:	Cancellation No. 92048732
	:	
v.	:	
	:	
RONALD BECKENFELD,	:	
	:	
Registrant.	:	
-----X		

DECLARATION OF HARVEY MONASTIRSKY

I, HARVEY MONASTIRSKY, declare:

1. I am President of Mutual Wholesale Liquor Inc. (“Mutual”) in Los Angeles, California.
2. I make this Declaration based on my personal knowledge and understanding of the facts cited here and can competently testify as to the same if called upon to do so.
3. Incorporated in 1959, Mutual has been one of Southern California’s leading importers and distributors of beer, wine, and spirits for more than 50 years. Mutual also distributes its wide range of products throughout the United States.
4. Until his death in May of 2012, Mutual was owned by my father-in-law, Mickey Beckenfeld, and his deceased wife, Lillian.
5. I joined Mutual in June of 1974. I served as Vice-President of Mutual from the mid 1990s until August 2012, when I became President. My responsibilities at Mutual have included the overall supervision of the company’s operations.
6. One of the products imported and distributed by Mutual is MONOPOLOWA brand vodka. MONOPOLOWA is a distinctive potato vodka made using a traditional recipe and

formula which has won numerous awards in competitions and taste tests for its outstanding quality. It is produced in Austria by Petitioners Altvater Gessler – J.A. Baczewski International (USA) Inc. and Altvater Gessler – J.A. Baczewski GmbH (collectively “Altvater Gessler”).

7. Altvater Gessler has manufactured MONOPOLOWA brand vodka and sold it in the United States since the 1960s.

8. Mutual began importing MONOPOLOWA vodka into the U.S. in the 1980s. Mutual has always imported MONOPOLOWA from Altvater Gessler and no one else.

9. On or about August 27, 1992, after a telephone conversation between Elek Gessler (in Fort Lee, New Jersey) and Mickey Beckenfeld (in Los Angeles, California), Mickey Beckenfeld instructed John Wilson, then General Manager of Mutual, to draft the two page letter attached hereto as Exhibit A (the “August 27, 1992 Letter”) and fax it to Elek Gessler.

10. In the years immediately following the exchange of the August 27, 1992 Letter between Altvater Gessler and Mutual, the business relationship has not changed concerning the production, importation, marketing, and sale of MONOPOLOWA vodka. That is, Altvater Gessler continues to manufacture MONOPOLOWA brand vodka for sale in the United States and Mutual continues to import MONOPOLOWA vodka for sale in the United States. Indeed, since its outset in or about 1985, the general business relationship between Mutual and Altvater Gessler has not changed significantly. Altvater Gessler continues to oversee the manufacture and delivery of MONOPOLOWA brand vodka and Mutual continues to import and distribute it within the United States. Today, Mutual sells about 120,000 cases of Altvater Gessler-manufactured MONOPOLOWA brand vodka per year.

11. In 2002, ten years after the August 27, 1992 Letter, Rasiel Gessler and John Wilson had a series of intense arguments over ownership of the trademark MONOPOLOWA.

Nevertheless, John Wilson subsequently arranged to apply for registration of the mark on behalf of Mutual.

12. I understand that Ronald Beckenfeld, the son of Mickey Beckenfeld, now claims ownership of the mark MONOPOLOWA for vodka. Ronald Beckenfeld has had no meaningful involvement in the business of Mutual and has had nothing meaningful to do with the manufacture, importation, sale, advertisement or promotion of MONOPOLOWA brand vodka.

13. My daughter, Nicole Monastirsky Kiley, is now the General Manager of Mutual. Rasiel Gessler is now the CEO of Altvater Gessler in place of the late Elek Gessler, who passed away in 2008. Both work hand-in-hand bringing MONOPOLOWA brand vodka to the U.S. for sales and distribution.

14. Altvater Gessler is the only source of genuine MONOPOLOWA brand vodka known and available to Mutual. Absent agreement, Mutual cannot compel Altvater Gessler to produce MONOPOLOWA brand vodka for distribution by Mutual and, moreover, Mutual cannot distribute genuine MONOPOLOWA brand vodka without the consent and cooperation of Altvater Gessler.

15. Based upon the foregoing, Altvater Gessler is the true owner of the trademark MONOPOLOWA for vodka and Mutual is Altvater Gessler's U.S. importer and distributor. Indeed, Mutual has no control over the recipe, manufacture, or bottling of the product such that it could produce genuine MONOPOLOWA vodka without the cooperation of Altvater Gessler.

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

Date: 5/30/13



Harvey Monastirsky

Exhibit A

HUG-27-'92 THU 17:16 10:MUTUAL WHOLESAL LIQ TEL NO:213 587 0820

H083 P21

#2

MUTUAL WHOLESAL LIQUOR INC.

DEA International Import Export
P.O. Box 58829 Los Angeles, CA 90058
(213) 587-7641
Telex: 510 100 3836 MUTUALIMPORT
FAX: 213-587-0820

August 27, 1992

Mr. Gessler
ALTWATER GESSLER/J. A. BACZEWSKI

Dear Mr. Gessler;

This confirms and outlines the arrangement reached between us, to-day, by telephone, on VODKA MONOPOLOWA/J. A. BACZEWSKI.

It was agreed that you would immediately fax your letter declaring the transfer of brand ownership, in the United States of America and ~~and~~ on VODKA MONOPOLOWA/J. A. BACZEWSKI to this company MUTUAL WHOLESAL LIQUOR INC. (MUTUAL) for the sum of One-U.S. Dollar (\$1.00).

It was further agreed that the method of payment on all purchases of the said Brand, by MUTUAL, be as follows:

- 1. Agreed Price: case of 12/lt's. - \$24.00
- Less Discount 2% - .48
- Net Price - 23.52*

* Any inflation or deflation affecting price by more than 10% will be adjusted to the satisfaction of both parties.

- 2. Agreed Disbursement: (A) Directly to Bottler \$18.50--Paid by Letter of Credit.
- (B) Balance of \$5.02 (\$24.00-2% - 18.50) less cost of European Inland Freight ex bottlers plant in Austria/to Northern European Port, to be paid directly to you, at the time of receipt, by MUTUAL, of shipments of said Brand ordered by MUTUAL.

Please acknowledge your acceptance of this agreement by signing in the place provided below and returning to this office.

Very truly yours,

MUTUAL WHOLESAL LIQUOR, INC.

Mickey Beckenfeld
MICKEY BECKENFELD
President

Accepted & Agreed to: ALTWATER GESSLER G.a.b.

Elek Gessler
ELEK GESSLER, President

Date: 8/27/92



ALTVATER GESSLER

GEGRÜNDET
1777-1782

LIKÖRERZEUGUNG
GESELLSCHAFT M. B. H.



J. A. BACZEWSKI

ALTMANNSDORFERSTRASSE 75 • 1120 WIEN • TELEFON 84 68 42

MUTUAL WHOLESALE LIQUOR INC.
4510 South Boyle Avenue
Los Angeles, CA 90058

Re: VODKA MONOPOLOWA/J. A. BACZEWSKI

This confirms my agreement to transfer brand ownership of VODKA
MONOPOLOWA/J. A. BACZEWSKI (Brand & Label Form), in the USA ~~and~~
~~to~~ to MUTUAL WHOLESALE LIQUOR INC. (MUTUAL) for the sum of One-dollar
(\$1.00).

Signature