

S. C. A. J. J. D. E.
Anheuser-Busch Brewing Association vs. Edmonton Brewing & Malting Co. Ltd.

S.C.A. 01429

J.D.E.

is is Exhibit "A..." referred to in the affidavit of

Robert Holm

Sworn before me this 26th day of

September A. D. 1910

George B. Kewell

A Notary Public in and for Alberta.
A commissioner for taking affidavits without the Province of Alberta for use in the Province of Alberta.

a Notary Public, within and for the City of St. Louis, State of Missouri, U.S.A., Commissioned and qualified for a term expiring February 5th 1913.



Anheuser-Busch Brewing Association,

vs.

Edmonton Brewing & Malting Association.

STATEMENT OF CLAIM.

Supreme Court, Alberta
FILED
OCT 10 1910



SHORT, CROSS, BIGGAR & COWAN.

of the defendant's knowledge of t he celebrity of the plaintiff's said beer and of the demand for the same and of the large sales of the same which were and are being made in Edmonton and throughout the Province of Alberta and Canada generally, and that the consumers of beer are guided in the selection of the plaintiff's beer by the ear marks or characteristics of the body and neck labels of the same as in the statement of claim pointed out and of the intention and purpose of the defendant in causing to be placed upon beer bottles containing beer manufactured by and for the defendant body and neck labels in close simulation or differing only colorably from the body and neck labels used by the plaintiff are not within my personal knowledge; and the allegation that the defendant has sold and is now engaged in selling and threatens to continue to sell at Edmont on and elsewhere in the Province of Alberta and in the Dominion of Canada bottled beer marked with t he said labels and having the characteristics in the statement of claim described is information furnished to me by the plaintiff's solicitors and is not within my personal knowledge.

6. The allegation in paragraph 16 of the statement of claim of the purpose of the defendant in placing and causing to be placed upon bottles of beer manufactured and sold by it body labels having the characteristics described in the said paragraph is not within my personal knowledge; and the fact that the defendant has caused such labels to be so placed upon its

beer bottles I have ascertained from information furnished me by the plaintiff's solicitors,

7. The allegation of the defendant's purpose in placing upon its beer bottles a neck label with the characteristics described in the statement of claim set out in paragraph 18 thereof is not within my personal knowledge.

8. The plaintiff is a corporation duly created and existing under and by virtue of the laws of the state of Missouri and is engaged at the City of St. Louis in the said state in the manufacture and sale of beer, which beer it has sold and is now engaged in selling throughout the United States of America and the territories thereof, in various foreign countries, and in the Dominion of Canada.

9. Between the years 1881 and 1883 the plaintiff was engaged in manufacturing for Carl Conrad mentioned in the statement of claim a certain special brew of beer which was packed and shipped in bottles, every bottle of which was provided with a body and neck label such as is described in the statement of claim, which body and neck labels had been adopted by the said Conrad to identify the said beer, and the said Conrad was the first to adopt and continuously use, as applied to beer, body and neck labels as so described.

10. The said beer so labelled was sold exclusively by the said Conrad until the right to sell the same became vested in the plaintiff as set out in the statement of claim; and the said beer has achieved a wide popularity and sale both in the Province of Alberta and elsewhere and is identified wherever it is sold by the body and neck labels described in the statement of



claim and by the general get-up and appearance of the bottles.

11. In or about the year 1883 the plaintiff acquired from the said Conrad, as set out in the statement of claim, all his rights and interests in his said business and in the good-will thereof, including the right of putting up and selling the said beer in bottles marked with the body and neck labels described in the statement of claim.

12. The business of manufacturing and selling the said special brew of beer so labelled has steadily increased since the year 1883, and the said beer so labelled has obtained great celebrity and enjoys great favor with the trade and public in the Province of Alberta and elsewhere, so that at present millions of the bottles so labelled are being sold annually throughout the United States of America and in the Dominion of Canada with great profit and advantage to the plaintiff, and the plaintiff's said beer so labelled is sold extensively in the City of Edmonton and in other places in the Province of Alberta.

13. The selling by the defendants of their beer, packed in bottles and labelled in close simulation to or differing only colorably from the bottles labelled and used by the plaintiff, as set out in the statement of claim, and having the same general characteristics of the plaintiff's said bottles, is calculated to do and does great and irreparable injury and damage to the plaintiff and unless the defendant is restrained by this Honorable Court from ^{or from putting it in the power of its subvenders to palm off its beer} continuing to palm off its beer as the beer

C.P.



of the plaintiff the injury and damage to the plaintiff will be vastly increased.

14. Now shown to me and marked exhibit "B" to this my affidavit it is a facsimile of the plaintiff's said body label; and now shown to me and marked exhibit "C" to this my affidavit is a facsimile of the plaintiff's said neck label.

es.B.
15. Now shown to me and marked exhibit "D" to this my affidavit it is a facsimile of the ^{body} label being applied by the defendant to its beer bottles, as described in the statement of claim; and now shown to me and marked exhibit "E" to this my affidavit is a facsimile of the neck label being applied by the defendant to the necks of its bottles, as described in the statement of claim.

es.B.
16. Now shown to me and marked exhibit "F" to this my affidavit it is a ^{sample} ~~man~~ pint bottle of the plaintiff's said beer so labelled as described in the statement of claim; and all the pint bottles of the plaintiff's said beer are put up and labelled like and are identical in appearance with said exhibit "F".

es.B.
17. Now shown to me and marked exhibit "G" to this my affidavit it is a ^{sample} ~~man~~ quart bottle of the plaintiff's said beer labelled as described in the statement of claim; and all the quart bottles of the plaintiff's said beer are put up and labelled like and are identical in appearance with said exhibit "G".

18. The use by the defendant of the labels (both body and neck labels) being attached by it to the beer put up by it in bottles which bottles are similar in appearance to the plaintiff's bottles, is calculated to deceive the public and the trade

STATE OF MISSOURI, }
CITY OF ST. LOUIS. } SS.

I, CHAS. R. GRAVES, CLERK OF THE CIRCUIT COURT, CITY OF ST. LOUIS, the same

being a court of Record, in and for said City and State, do hereby certify that

George Baberwell

who subscribed the foregoing Certificate of

Richard S. Swat

a Notary Public

was at the time of taking such

residing in said City and duly authorized to take and certify the same by the laws

of said State, and to take and certify the acknowledgment and proof of deeds, to be

recorded in the State, and that the same is taken and certified in all respects as

required by the laws of said State. That I am well acquainted with the handwriting of

said *George Baberwell*

and verily believe that the signature attached to the foregoing Certificate

is the genuine signature

of said *George Baberwell*

WITNESS my hand and seal of the Circuit Court, City of St. Louis, at my office

in said City, this *24*

Schlemmer

Chas R Graves

notary public

Sept 24

nineteen hundred and *1907*

day of *Sept*

1907

Sept

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(both in the Province of Alberta and elsewhere) by enabling sub-vendors from the defendant to sell the defendant's beer so bottled and labelled as and for the plaintiff's beer, and may thus be made the instrument of fraud by such vendors upon their customers.

19. The plaintiff's have spent large sume of money in advertising throughout the United States and in Canada their said beer so bottled and labelled as described in the statement of claim.

20. The plaintiff is a very wealthy corporation and is quite able to implement ^{any undertaking} as to damages this Honorable Court may think fit to impose upon it as a condition to the granting of an interim injunction in the premises.

Robert Holm

SWORN before me at the City of)
St. Louis, in the State of)
Missouri, one of the United)
States of America, this 26th)
day of September, 1910.)

George Bakewell

~~A Commissioner for taking affidavits
without the Province of Alberta for use
in the Province of Alberta.~~

*a Notary Public within and for the City of
St. Louis, State of Missouri, U.S.A., commissioned
and qualified for a term expiring February*

1913..
*Thomas Eskine, His Britannic Majesty's Consul at St
Louis, do hereby certify that the foregoing document is
authenticated according to the laws of the State of Missouri
and that the seal and signature affixed to said certificate
of authentication are those of George Bakewell, Notary Public
in and for the City of St. Louis, State of Missouri, at the time of the
date hereof, and as such faith credence and due
obedience shall be given to the same as if they were the seal of office of the
Notary Public in and for the City of St. Louis, State of Missouri, on the 26th day of September, 1910.*
Thomas Eskine

G.B.



S. C. A.

J. D. E.

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vs.

Edmonton Brewing & Malting Co.

This is Exhibit "B" referred to in the affidavit
of Robert Holm.

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George Bakerwell

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U.S.A., commissioned and qualified for a
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S. C. A.

J. D. E.

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George Bakerwell

A Notary Public within and for the
City of St. Louis, State of Missouri, U.S.A.,
commissioned and qualified for a term expiring
Feb. 5, 1913.



Adopted 1876.

Registered 1878.



BUDWEISER
REG. U.S. PAT. OFF.



TRADE MARK.

TRADE MARK.

S. C. A.

J. D. E.

Anheuser-Busch Brewing Association

vs.

Edmonton Brewing & Malting Co.

This is Exhibit "D" referred to in the affidavit
of Robert Holm.

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