

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

INBEV N.V./S.A.,

INBEV USA LLC,

and

ANHEUSER-BUSCH COMPANIES, INC.,

Defendants.

Case: 08-cv-_____

Filed:

Deck Type: Antitrust

Date Stamp:

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. DEFINITIONS

As used in this Hold Separate Stipulation and Order:

A. "Acquirer" means the entity or entities to whom Defendants divest the Divestiture Assets.

B. "Advertising" means all existing advertising and promotional materials owned or Licensed by LBCL, including without limitation all copyrights therein, bearing the Licensed Marks for use in the marketing, sale, and distribution of Labatt Brand Beer in the United States.

C. "Anheuser-Busch" means defendant Anheuser-Busch Companies, Inc., a Delaware corporation, with its headquarters in St. Louis, Missouri, its successors and assigns,

and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Beer" means any fermented alcoholic beverage that (1) is composed in part of water, a type of starch, yeast, and a flavoring and (2) has undergone the process of brewing.

E. "Defendants" means InBev N.V./S.A., InBev USA LLC d/b/a Labatt USA, and Anheuser-Busch Companies, Inc.

F. "Divestiture Assets" means:

(i) an exclusive, perpetual, assignable, transferable, and fully-paid-up license that grants the Acquirer the right:

(A) to brew Labatt Brand Beer in Canada and/or the United States for sale for consumption in the United States;

(B) to promote, market, distribute, and sell Labatt Brand Beer for sale for consumption in the United States; and

(C) to use all intellectual property rights associated with the brewing, marketing, sale, and distribution of Labatt Brand Beer for sale for consumption in the United States, including, without limitation, the Trade Dress, the Advertising, the Licensed Marks, the Recipes, and such molds and designs as are used in the manufacturing process of bottles for the Labatt Brand Beer;

(ii) all production know-how for Labatt Brand Beer, including, without limitation, all Recipes and packaging, marketing, and distribution know-how and documentation;
and

(iii) all of the tangible and intangible assets of IUSA, including, without limitation, (A) all real property (owned or leased), office equipment, office furniture, fixtures, materials, supplies, and other tangible property of IUSA; (B) all contracts and agreements of IUSA except the Existing Import Agreement, including, without limitation, wholesaler and distributor agreements into which InBev or IUSA have entered for the sale or distribution of Labatt Brand Beer within the United States, sponsorship agreements with sports teams and other entities, agreements relating to the placement of advertising, agreements with public relations firms, and agreements with co-packers; (C) all existing inventories of Labatt Brand Beer owned by IUSA; (D) all customer lists, customer accounts, and credit records; (E) all licenses, permits, and authorizations issued by any governmental organization relating to the marketing, sales, and distribution of Labatt Brand Beer in the United States, including, without limitation, brand registrations; and (F) copies of all business, financial and operational books, records and data, both current and historical, that relate to Labatt Brand Beer sold and distributed in the United States; provided, however, that, for books, records, or data that relate to Labatt Brand Beer, but not solely to Labatt Brand Beer sold in the United States, LBCL shall provide only the excerpts of those books, records, or data that relate to the Labatt Brand Beer sold and distributed in the United States;

(iv) provided, however, that the Acquirer shall have no right to use, and shall not use, the term "InBev" or any derivative of the term "InBev," and provided, further, that the Acquirer shall have no rights to market or sell any brands of Beer owned by InBev other than Labatt Brand Beer.

G. “Existing Import Agreement” means the Exclusive Distributor Agreement dated as of December 1, 1994, among LBCL, Labatt Importers Inc., Labatt’s USA Inc., and John Labatt Limited.

H. “InBev” means defendant InBev N.V./S.A., a public company organized under the laws of Belgium, with its headquarters in Leuven, Belgium, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, and their respective directors, officers, managers, agents, and employees.

I. “USA” means defendant InBev USA LLC d/b/a Labatt USA, a Delaware limited liability company and wholly-owned, indirect subsidiary of InBev, with its headquarters in Buffalo, New York.

J. “Labatt Brand Beer” means the following brands of Beer: Labatt Blue, Labatt Blue Light, Labatt’s 50, Labatt ICE, Labatt Double Blue, Labatt Nordic, Labatt Select, Labatt Non-Alcoholic, Labatt Holiday, and Max ICE, and any extensions of any one or more of such brands for use in connection with brewing, distributing, promoting, marketing, or selling Beer as may be developed from time to time by the Acquirer.

K. “LBCL” means Labatt Brewing Company Limited, a Canadian corporation and wholly-owned, indirect subsidiary of Companhia de Bebidas das Américas – AmBev, a Brazilian corporation and majority-owned subsidiary of InBev.

L. “Licensed Marks” means all trademarks, service marks, or trade names for the Labatt Brand Beer belonging or licensed to LBCL and/or its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures (whether registered or unregistered, or whether the

subject of a pending application) used to brew, distribute, market, and sell Labatt Brand Beer in the United States.

M. “Recipes” means all LBCL’s formulae, recipes, processes, and specifications specified by LBCL for use in connection with the production and packaging of Labatt Brand Beer in the United States, including, without limitation, LBCL’s yeast, brewing processes, equipment and material specifications, trade and manufacturing secrets, know-how, and scientific and technical information for the Labatt Brand Beer.

N. “Trade Dress” means the print, style, color, labels, and other elements of trade dress currently used by LBCL and/or its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures in connection with the marketing, sale, and distribution of Labatt Brand Beer in the United States.

II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure Defendants’ prompt divestiture of the Divestiture Assets that are required to be divested under the proposed Final Judgment for the purpose of maintaining competition in the market for the production and sale of Beer in and around the metropolitan areas of Buffalo, Rochester, and Syracuse, New York, in order to remedy the anticompetitive effects that the United States alleges would otherwise result from the Defendants’ merger. This Hold Separate Stipulation and Order ensures that until the divestitures required by the proposed Final Judgment have been accomplished, the Divestiture Assets remain as economically viable, competitive, and ongoing business concerns.

III. JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter of this action, and Defendants waive all objections to the Court's exercise of personal jurisdiction over Defendants in this action and to the propriety of venue in the United States District Court for the District of Columbia.

IV. COMPLIANCE WITH AND ENTRY OF PROPOSED FINAL JUDGMENT

A. The parties stipulate that a proposed Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the proposed Final Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event:

(1) the United States has withdrawn its consent, as provided in Section IV(A) above, or

(2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment,

then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that Defendants will later raise no claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. HOLD SEPARATE PROVISIONS

Until the divestitures required by the proposed Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate IUSA as an independent, ongoing, and economically viable competitor, with management, sales, and operations of IUSA held entirely separate, distinct, and apart from those of Defendants' other operations. Defendants shall not coordinate their marketing, promotion, or terms of sale of any products with those sold by IUSA. Defendants shall take all steps necessary to continue to manufacture, distribute, market and sell Labatt Brand Beer for consumption in the United States in the normal course of business. Within twenty (20) days after the entry of the Hold Separate

Stipulation and Order, Defendants will inform the United States of the steps Defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) IUSA will be maintained and operated as an independent, economically viable and ongoing competitor engaged in the marketing, promotion, and sale of Beer; (2) management of IUSA will not be influenced by Defendants; and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning marketing, promotion, or sales of products by IUSA will be kept separate and apart from Defendants' other operations.

C. Defendants shall take all steps necessary to ensure that assets of IUSA are fully maintained in the normal course of business.

D. Defendants shall use their best efforts to maintain and increase the sales and revenues of Labatt Brand Beer sold for consumption in the United States, and shall maintain at 2007 or previously approved levels for 2008, whichever are higher, all promotional, advertising, sales, technical assistance, marketing, and merchandising support related to the sale and consumption of Labatt Brand Beer in the United States.

E. Defendants shall provide sufficient working capital and lines and sources of credit to continue (1) to maintain the Divestiture Assets as economically viable, competitive, and ongoing business assets and (2) to continue to manufacture, distribute, market and sell Labatt Brand Beer for consumption in the United States, at 2007 or previously approved levels for 2008, whichever are higher, consistent with the requirements of Section V(A).

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge, or otherwise dispose of any of the Divestiture Assets.

G. Defendants shall use their best efforts to preserve the existing relationships with each of the distributors, wholesalers, and customers and other business entities related to the manufacture, distribution, marketing, and sale of Labatt Brand Beer for consumption in the United States, in the ordinary course of business and in accordance with past practice.

H. Defendants' employees with responsibilities related to the manufacture, distribution, marketing, or sale of Labatt Brand Beer for consumption in the United States shall not be transferred or reassigned to other areas within the company except for transfer bids initiated by employees pursuant to Defendants' regular, established job posting policy. Defendants shall provide the United States with ten (10) calendar days notice of any such transfer.

I. Defendants shall appoint a person or persons to oversee the Divestiture Assets, and who will be responsible for Defendants' compliance with this section. This person shall have complete managerial responsibility for the Divestiture Assets, subject to the provisions of the proposed Final Judgment. In the event such person is unable to perform his duties, Defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within this time period, the United States shall appoint a replacement.

J. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets.

K. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records for the Divestiture Assets that report on a periodic basis, such as the last business day of every month, consistent with past practices.

L. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the proposed Final Judgment to complete the divestitures pursuant to the proposed Final Judgment to an Acquirer acceptable to the United States.

M. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures required by the proposed Final Judgment or until further order of the Court.


Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA

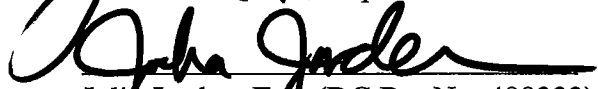


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Dated: November 14, 2008

ORDER

IT IS SO ORDERED by the Court, this ____ day of _____, 2008.

United States District Judge