

Trademark Dispute Hovers Over Anheuser, InBev Deal

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Wednesday, Jul 23, 2008 --- The acquisition of Anheuser-Busch Cos. Inc. by InBev NV could make a settlement more likely in the century-long trademark war over the Budweiser brand, according to lawyers following the matter.

St. Louis-based Anheuser-Busch and state-owned Czech brewer Budejovicky Budvar NP are currently involved in dozens of lawsuits over the use of the Budweiser name. The dispute goes all the way back to 1906, when Budvar first exported beer to the United States.

Joe Dreitler, a trademark attorney with Bricker & Eckler LLP who worked in Anheuser-Busch's legal department from 1993 to 1996, said so many personal issues had become intertwined with the legal issues over the last 100 years that it had become hard to negotiate.

"It just never got anywhere, simply because it was very emotional and there was a lack of trust," Dreitler said.

He said that somebody who came in with a fresh approach and didn't have a lot of baggage could absolutely resolve the dispute.

"I think it can be done in a way that protects the rights of both parties and allows them to compete," Dreitler said.

He pointed out that Anheuser-Busch and Budvar produce two very different beers.

"The bottles look different, the cans look different and they taste different," Dreitler said. "They are very different products, and the people who drink them are looking for a very different experience.

"Both of them are well known, both of them have good reputations and both of them have a following."

Dreitler said the key to a resolution would be for both sides to agree they can co-exist.

"We're not going to try and acquire you, you're not going to try and acquire us, we're not going to try to keep you out of the U.S., you're not going to try to keep us out of Europe," he said.

They could then agree on labeling to make sure the two beers are not easily

confused, he added.

“I think it would be an interesting ending to a long lawsuit,” Dreitler said. “It would be sort of a casebook study of how you can resolve things even if they’ve gone on for 100 years.”

Tamera H. Bennett, founder of the Bennett Law Office PC, a boutique copyright, trademark and entertainment law firm, was less optimistic.

“Obviously, I don’t know what their internal strategies are going to be, but in the end I would say it’s not going to change a lot,” Bennett said.

She added that each company will continue to expand into new territories and that each new territory will bring a new conflict.

“We won’t be here in 100 years, but our grandchildren will be having the same conversation because those brands will still be here,” Bennett said.

She said it was not really viable for the companies to agree to co-exist, and that the dispute would likely end only if InBev acquired Budvar from the Czech government.

“Maybe the Czech government would be more willing to sell the brand to a non-U.S.-owned entity,” Bennett said.

Anheuser-Busch previously entered into discussions to buy the Budvar brand, but the Czech government refused to sell, partly out of fear the brewery would be shut down.

Birgit Clark, a trademark attorney with U.K.-based Boulton & Gerde, said Budvar may have missed its chance to make a lot of money by selling its trademarks.

She said Anheuser-Busch was interested in the marks mainly to gain a market share in the competitive European beer market. She added, however, that because InBev already owns various European brands, including those in the Czech Republic, it will not be as interested in Budvar.

“Overall, I believe the whole thing will calm down considerably, and the Czech stakeholders in Budejovický Budvar seem to have missed some big opportunity to sell their share to Anheuser-Busch when there was still time to do so,” Clark said.

Last year the Czech government announced it would look to privatize Budvar. But this Tuesday, it said it would not have time to complete the privatization of the brewery before its term in office expires in 2010.

Petr Samec, a spokesman for Budvar, said Anheuser-Busch will exist in the future and that only its owner has changed.

“We do not expect any changes in trademark disputes,” he said.

“It is something that Anheuser-Busch InBev would like to settle,” said Gwendoline Ornigg, a spokeswoman for InBev. “We have great respect for their brand, as well, and would like to reach a mutually beneficial agreement.”

Budejovicky Budvar was founded in 1895 in Ceske Budejovice — called Budweis by the German-speaking people that populated the area at the time. Beer has been brewed there since 1265.

Anheuser-Busch, established in the United States in 1852, used the name Budweiser for its product because it was well-known in the German homeland of its founders. The first bottles of Budweiser were brewed in 1876.

Earlier this month, Anheuser-Busch and Belgium-based InBev, which makes Stella Artois and Beck's, announced that Anheuser's board of directors had unanimously approved InBev's \$70-per-share, all-cash offer.

The \$52 billion deal would create a new company called Anheuser-Busch InBev whose chief executive would be current InBev CEO Carlos Brito and of which Anheuser would be a wholly owned subsidiary.

--Additional reporting by Marc Tracy