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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *Ob*

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED BRANDS COMPANY, INC.,

Plaintiff,

vs.

ANHEUSER-BUSCH, INC.,

Defendant.

CASE NO. 10cv2281-AJB(KSC)

**ORDER GRANTING JOINT
MOTION TO CONTINUE PRE-
TRIAL DATES;**

**SECOND AMENDED
SCHEDULING ORDER**

[Doc. No. 62]

In an Amended Scheduling Order filed April 19, 2012, the Court extended certain deadlines in the original Scheduling Order filed February 14, 2012, so the parties could attend mediation on April 25, 2012. Although the mediation was unsuccessful, the parties have represented they remain engaged in settlement discussions.

Before the Court is a second Joint Motion to Continue Pretrial Dates. In their most recent Joint Motion, the parties are requesting a 30-day extension of the discovery deadlines set forth in the Amended Scheduling Order filed April 19, 2012. The parties are requesting an extension of discovery deadlines, because their time for completion of responses to written discovery is approaching. There is no request to continue the final Pre-Trial Conference and related dates. The reason for the request to extend the current discovery deadlines is that the parties want to continue their settlement negotiations without the time and expense of responding to outstanding written discovery requests. They believe the

1 case is less likely to settle if considerable time and resources are spent responding to written discovery
2 requests rather than settlement negotiations.

3 Good cause appear, IT IS HEREBY ORDERED THAT:

4 The parties shall designate their respective experts in writing by September 14, 2012. The parties
5 must identify any person who may be used at trial to present evidence pursuant to Rules 702, 703 or 705
6 of the Fed. R. Evid. This requirement is not limited to retained experts. The date for exchange of
7 rebuttal experts shall be on or before September 28, 2012. The written designations shall include the
8 name, address and telephone number of the expert and a reasonable summary of the testimony the expert
9 is expected to provide. The list shall also include the normal rates the expert charges for deposition and
10 trial testimony.

11 1. On or before October 25, 2012, each party shall comply with the disclosure provisions
12 in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure. This disclosure requirement applies
13 to all persons retained or specially employed to provide expert testimony, or whose duties as an
14 employee of the party regularly involve the giving of expert testimony.

15 2. Any party shall supplement its disclosure regarding contradictory or rebuttal evidence
16 under Rule 26(a)(2)(c) on or before November 12, 2012.

17 3. All discovery, including experts, shall be completed by all parties on or before
18 December 12, 2012. "Completed" means that all discovery under Rules 30-36 of the Federal Rules of
19 Civil Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period of time
20 in advance of the cut-off date, **so that it may be completed** by the cut-off date, taking into account the
21 times for service, notice and response as set forth in the Federal Rules of Civil Procedure. **Counsel shall**
22 **promptly and in good faith meet and confer with regard to all discovery disputes in compliance**
23 **with Local Rule 26.1(a)**. The Court expects counsel to make every effort to resolve all disputes without
24 court intervention through the meet and confer process. All discovery motions must be filed within 30
25 days of the service of an objection, answer, or response which become the subject of dispute, or the
26 passage of a discovery due date without response or production, and only after counsel have met and
27 conferred and have reached an impasse with regard to the particular issue. For oral discovery, the event
28 giving rise to the dispute is the completion of the transcript of the affected portion of the deposition. In

1 any case, the event giving rise to a discovery dispute is not the date on which counsel reach an impasse
2 in meet and confer efforts. If the discovery dispute concerns written discovery requests, the parties shall
3 submit a joint statement entitled, "Joint Motion for Determination of Discovery Dispute" with the Court.
4 (For further information on resolving discovery disputes, see Judge Crawford's "Chambers' Rules" which
5 are accessible via the court's website at www.casd.uscourts.gov.)

6 4. Please be advised that failure to comply with expert discovery deadlines or any other
7 discovery order of the court may result in the sanctions provided for in Federal Rule of Civil
8 Procedure 37, including a prohibition on the introduction of experts or other designated matters in
9 evidence.

10 5. A Mandatory Settlement Conference shall be conducted on **December 19, 2012** at **9:30**
11 **a.m.** in the chambers of Magistrate Judge Karen S. Crawford. Counsel or any party representing himself
12 or herself shall submit confidential settlement briefs directly to chambers no later than **December 12,**
13 **2012**. **All parties are ordered to read and to fully comply with the settlement conference**
14 **procedures set forth in Judge Crawford's Chambers Rules** which are accessible via the Court's
15 website at www.casd.uscourts.gov.

16 6. All other pretrial motions, including those addressing *Daubert* issues, must be filed on
17 or before **January 11, 2012**. Counsel for the moving party must obtain a motion hearing date from the
18 law clerk of the District Judge who will hear the motion. The period of time between the date you
19 request a motion date and the hearing date may vary from one District Judge to another. Please plan
20 accordingly. Failure to make a timely request for a motion date may result in the motion not being heard.
21 Motions in limine are to be filed as directed in the Local Rules, or as otherwise set by Judge Battaglia.

22 7. On or before **March 29, 2013**, the parties shall meet and confer to comply with Local
23 Civil Rule 16.1(f)(4). However, no Memoranda of Law or Contentions of Fact are to be filed. This
24 Order replaces the requirements of Local Civil Rule 16.1(f)(6)(c), and counsel shall prepare a proposed
25 pretrial order containing the following:

26 a. A joint neutral statement to be read to the jury, not in excess of one page, of the
27 nature of the case and the claims and defenses.

28 b. A list of the causes of action to be tried, referenced to the Complaint [and

1 Counterclaim if applicable]. For each cause of action, the order shall succinctly list the elements of the
2 claim, damages and any defenses. A cause of action in the Complaint [and/or Counterclaim] which is
3 not listed shall be dismissed with prejudice.

4 c.. A list, in alphabetical order, of each witness counsel actually expect to call at trial
5 with a brief statement, not exceeding four sentences, of the substance of the witnesses' testimony.

6 d. A list, in alphabetical order, of each expert witness counsel actually expect to call
7 at trial with a brief statement, not exceeding four sentences, of the substance of the expert witnesses'
8 testimony.

9 e. A list, in alphabetical order, of additional witnesses, including experts, counsel
10 do not expect to call at this time but reserve the right to call at trial along with a brief statement, not
11 exceeding four sentences, of the substance of the witnesses' testimony.

12 f. A list of all exhibits that counsel actually expect to offer at trial with a
13 one-sentence description of the exhibit.

14 g. A list of all other exhibits that counsel do not expect to offer at this time but
15 reserve the right to offer if necessary at trial with a one-sentence description of the exhibit.

16 h. A statement of all facts to which the parties stipulate. This statement shall be on
17 a separate page and will be read and provided to the jury.

18 i. A list of all deposition transcripts by page and line number, and videotape
19 depositions by section, that will be offered at trial.

20 The Court encourages the parties to consult with the assigned Magistrate Judge to work out any
21 problems in preparation of the proposed pretrial order. Judge Battaglia will entertain any questions
22 concerning the conduct of the trial at the pretrial conference.

23 8. Counsel for plaintiff will be responsible for preparing the pretrial order and arranging the
24 meetings of counsel pursuant to Civil Local Rule 16.1(f). On or before April 5, 2013, plaintiff's counsel
25 must provide opposing counsel with the proposed pretrial order for review and approval. Opposing
26 counsel must communicate promptly with plaintiff's attorney concerning any objections to form or
27 content of the pretrial order, and both parties shall attempt promptly to resolve their differences, if any,
28 concerning the order.

1 9. The Proposed Final Pretrial Conference Order, including objections to any other parties'
2 Federal Rule 26(a)(3) Pretrial Disclosures shall be prepared, served and lodged with the assigned District
3 Judge on or before April 12, 2013, and shall be in the form prescribed in and comply with Local
4 Rule 16.1(f)(6).

5 10. The final Pretrial Conference is scheduled on the calendar of **Judge Battaglia** on
6 April 19, 2013 at 1:30 p.m.

7 11. A post trial settlement conference before a Magistrate Judge may be held within 30 days
8 of verdict in the case.


9 12. The dates and times set forth herein will not be modified except for good cause shown.

10 13. Briefs or memoranda in support of or in opposition to any pending motion shall not
11 exceed twenty-five (25) pages in length without leave of a District Court Judge. No reply memorandum
12 shall exceed ten (10) pages without leave of a District Court Judge. Briefs and memoranda exceeding
13 ten (10) pages in length shall have a table of contents and a table of authorities cited.

14 14. All other terms and conditions of prior schedule orders shall remain in full force and
15 effect.

16 **IT IS SO ORDERED.**

17 Date: 6/28, 2012

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21 KAREN S. CRAWFORD
22 United States Magistrate Judge
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