

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

| | | |
|--------------------------------|---|------------------------|
| MILLERCOORS, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 19-cv-218-WMC |
| |) | |
| ANHEUSER-BUSCH COMPANIES, LLC, |) | |
| |) | |
| Defendant. |) | |

Declaration of Adam J. Simon

I, Adam J. Simon, do hereby declare and state as follows:

1. I am an attorney duly licensed to practice law in the State of Missouri and am admitted to practice law in the United States District Court for the Western District of Wisconsin. I am competent to testify as to all matters stated, and if called upon to do so, I would testify to the facts set forth in this Declaration.

2. On April 2, 2019, counsel for MillerCoors provided my firm with a secured download link that purported to “contain[] Dr. Wind’s data files, including the verbatims.”

3. The download link provided on April 2, 2019 included only two video files, “original-loop.mp4” and “Disclaimer-1-03a.mp4.” A true and correct copy of each of these files can be provided to the Court electronically at the Court’s request.

4. The file named “original-loop.mp4” appears to be Anheuser-Busch’s original “Mountain Folk” advertisement. The file named “Disclaimer-1-03a.mp4” appears to be the same video with the addition of a prominent disclaimer that reads:

While corn syrup is used during the brewing of Miller Lite and Coors Light, *there is NO corn syrup in the Miller Lite and Coors Light you drink.*

5. Below is a screen shot taken from the “Disclaimer-1-03a.mp4” video approximately 35 seconds into the video.



6. The download link provided on April 2, 2019 also included a file named “Verbatim Responses.csv”. It is my understanding that the column labeled “vector value” in this spreadsheet corresponds to the “codes” assigned to verbatim responses provided by consumers in Dr. Wind’s survey pursuant to his “Codebook for Open-Ended Responses,” which was attached as Appendix K to his report. It is also my understanding that in the column labeled “Hvideo,” the value 2 refers to responses from the control group in Dr. Wind’s survey and the value 1 refers to responses from the test group. According to his codebook, the description of Code 2a was “In the beer you drink” and the description for Code 2b was “(Not) in the beer you drink.” The Codebook further instructed that the relevant terms for these codes include “in final product / in beer you drink / consumed corn syrup,” and the Codebook also includes an example for which these codes would be appropriate: “There is Corn Syrup **in the final product of Beer.**” I filtered the “Verbatim Responses” spreadsheet to show all comments coded as either 2a or 2b and found that zero responses from the test group were coded as indicating any understanding of whether

corn syrup was in the beer consumers drink.

7. On April 3, 2019, counsel for MillerCoors provided my firm with an additional Excel file titled “387330_Beer_FinalAllStatus03182019.xlsx” which appears to include all of the survey respondents’ verbatim answers to open-ended questions. A true and correct copy of this file can be provided to the Court electronically at the Court’s request.

8. In order to respond to paragraph 88 of Plaintiff’s Proposed Findings of Facts, I conducted a search of the open-ended responses in “387330_Beer_FinalAllStatus03182019.xlsx” for the word “finishing” and the search returned zero results.

9. I also have reviewed a report generated by Dentsu Aegis Network reflecting the number of times the Bud Light commercials *Special Delivery*, *Medieval Barbers*, and *Trojan Horse* have aired between February 3, 2019 and March 18, 2019. That report is attached hereto as Exhibit 1.

10. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18th day of April 2019, in St. Louis, Missouri.


By: 
Adam J. Simon

EXHIBIT 1



amnet CARAT dentsu

iProspect[®] isobar mcgarrybowen MERKLE. MTG Posterscope



Fetch F firstborn gravity gyro: icuc•social



dentsu AEGIS network

Our records show the following creative spots aired between 2/3/19 and 3/18/19.

Special Delivery: Aired on 29x Broadcast and Cable Networks.

AUBL9178H :60 → 4

AUBL9218H :30 → 941

Total :60x 4

Total :30x 941

Overall Total: 945

Shop Talk/ Medieval Barbers:

AUBL9073H :15 → 257

Trojan Horse:

AUBL9069H :15 → 566

Adam Maloney

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