

30, 1980

IN THE PRIVY COUNCIL

No. 5 of 1980

ON APPEAL FROM THE SUPREME COURT OF NEW SOUTH WALES
EQUITY DIVISION IN PROCEEDINGS NO. 1682 OF 1977

CADBURY SCHWEPPE'S PTY. LIMITED

TARAX DRINKS HOLDINGS LIMITED

TARAX DRINKS PTY. LIMITED

TARAX PTY. LIMITED

Appellants (Plaintiffs)

THE PUB SQUASH CO. PTY. LIMITED

Respondent (Defendant)

TRANSCRIPT RECORD OF PROCEEDINGS

PART 2

Volume IV

SOLICITORS FOR THE APPELLANTS

Sly & Russell,
68 Pitt Street,
SYDNEY.

By their Agents:

Stephenson and Harwood,
Saddlers' Hall,
Gutter Lane,
LONDON. DC 2V 6BS U.K.

SOLICITORS FOR THE RESPONDENT

Duffield & Duffield,
75 Miller Street,
NORTH SYDNEY.

By their Agents:

Slaughter & May,
35 Bassinghall Street,
LONDON. EC2V 5DB U.K.

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PART 2

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"Q"	Short Minutes of Order made by the Supreme Court of New South Wales in proceedings in the Equity Division by the Plaintiff against The Coca-Cola Export Corporation	6 May,	1977 849
"DD"	Schedule of Passages in Evidence to which Dr. Glaser's attention was directed	24 April,	1978 857

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WITH COMPLIMENTS

HOOVER AWARDS FOR MARKETING

M. East



HOOVER (AUSTRALIA) PTY. LIMITED

Name of enterprise: CADBURY SCHWEPPE'S PTY LTD

Main place of business or registered office: 636 ST. KILDA ROAD

MELBOURNE 3004

(City) (State) VICTORIA.

Name of Executive submitting entry: C. J. LOWE

Position and authority: DIRECTOR OF MARKETING

I declare that this submission is to the best of my knowledge accurate and is made in good faith.

Date: 29/3/76.

Signed: *C. J. Lowe*

To: The Secretary,
The Hoover Awards for Marketing,
P.O. Box 101,
WEST RYDE, N.S.W. 2114

FORM OF ENTRY

Details of Project Submitted

'SOLO' SOFT DRINK

Type of Marketing:

Domestic



indicate

Export



as

Domestic and Export



appropriate

Summary:

A totally new marketing concept in soft drinks designed to provide an acceptable package/product/image alternative to Coca-Cola.

DETACH HERE



A man's drink.

Cadbury Schweppes Pty. Ltd.
Entry for Hoover Marketing Awards, 1976.

1. INTRODUCTION AND INDUSTRY OUTLINE

The Australian soft drink market has an output of just under 200,000,000 Imperial Gallons, representing a per capita consumption of 14 gallons. It is a market which developed rapidly in the late 1960's, and which now has a wholesale value in excess of \$300,000,000.

Over the years the market has rationalised from many small bottlers to a tight competitive situation in which Cadbury Schweppes holds approximately 32%, Coca-Cola 38% and Amatil (Australian arm of British American Tobacco Co.) 13%. These three hold 80% of the major metropolitan markets and the level of competition between them is skilful and severe. The marketing expertise which has been applied by these three groups has contributed significantly to the growth of the total market.

Some 40% of consumption is "on-premise", i.e. in bottles or cans bought for immediate consumption by the purchaser. In this segment most of the gallonage is packed in 370 ml. and 250 ml. cans. The in-home market is satisfied with resealable litre, 900 ml. and 750 ml. bottles, mostly returnable.

In 1973 the Cola flavour accounted for about 35% of all gallonage, with Lemonade 20%, Orange 15%, Mixers 10% and Lemon 2%. An assorted selection of general flavours made up the balance.

Coca-Cola has dominated the on-premise market for years, holding the majority of that segment almost unassailably. This was the result of marketing leadership through the 1950's and 1960's. A large measure of this success was due to their innovative "personality brand" strategy at a time when most other manufacturers continued to pursue a "commodity product" philosophy under one generic brand.

During the 1970's the Cadbury Schweppes group of companies recognised the need to change philosophy so as to close the marketing gap between themselves and Coke.

It was recognised that more and more people were swinging to the Cola flavour and the possibility of the Industry reaching the American level of 65% Cola consumption was real. If this occurred, there would be insufficient market left in the traditional area to service the group's investment in soft drink assets.

Company objectives were redefined so as to develop a frontal confrontation strategy with Coke by introduction of competitive Colas (R. C. and Export) and to develop a lateral strategy by the introduction of a product which offered consumers benefits which the Coke range didn't.

Several major considerations influenced the decision:

- * it was recognised that children and teenagers developed life-long loyalties in the beverage market. Any product had, therefore, to have significant immediate appeal to them and sufficient depth to hold them through their maturation phase.

- * Coke brand loyalty was so strong that the frontal strategy offered less short and medium-term reward than did the lateral strategy.
- * development of the lateral strategy required a proposition and product which was totally unique, highly visible, offered product satisfaction equal to the product promise and, most importantly, offered a brand/image platform which would be as memorable and durable over future years as Coke.

2. FORMULATING THE PLAN

A small development team was formed between the Company and Masius Wynne-Williams, one of its major advertising agencies.

The objectives laid down by the team were to produce a brand/product/package/image/advertising mix which would offer a better proposition in all respects than Coke to the heavy Coke user in on-premise (individual consumption) markets. Penetration of the off-premise (family consumption) markets would be a natural extension if all elements of the marketing mix were right.

3. THE PLANNING STAGES

(i) Research —

Research provided a profile of the Coke drinkers' attitudes and beliefs. Among the chief findings were the strong feelings of new-found independence expressed by respondents. These encompassed the realisation of independence in expression, male/female relationships, individuality and financial freedom.

This life-style study was augmented by further research into product attitudes which produced the following verbatims:

"When I'm really thirsty I like to gulp down a drink."

"You can't drink a Coke fast."

"I don't really like the taste of beer, but I drink it when the rest of the mob does."

"Bacardi and Coke is a good drink."

"I'm 18 and independent. I've got my own car and my own money."

(ii) The Product and the Proposition —

The development team concluded that "there is a clear-cut market segment wanting a not too fizzy soft drink". For two reasons:

- (a) the lightly aerated drink has more flavour and is a better thirst quencher.
- (b) a lemon drink with soft bubble and real citrus flavour appeared to offer an opportunity in terms of product difference.

Obviously, however, product difference alone was not sufficient for a serious challenge to Coke. Equally important was a positioning for the new brand which, if possible, was to be more adult than Coke while appearing to offer an even more acceptable passport into an adult world.

Judgementally it was decided that the new brand should be lone male adventurer. The more adult male the brand, the more it would be removed from any risk of childhood association. Any female intrusion would reduce the brand's adulthood. In other words, the girls would follow the boys, but not the converse.

Next, the product promise was tied tightly to the masculine positioning with the proposition "You've never tasted a lemon drink like Solo, unless it was one of those great lemon squashes the pubs used to make." In the Australian pub culture lemon squash has always been tolerated as an occasional alternative to beer, while any other soft drink, straight lemonade or orange or Cola would be hailed as a sign of non-masculinity. So, the lemon squash had acceptable nostalgia in male terms.

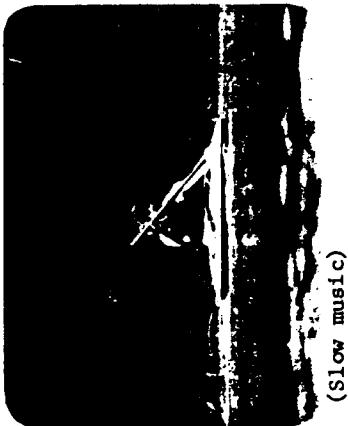
(iii) Branding and Packaging Design --

Of many names considered and tested, one name "Solo" emerged with three highly desirable attributes:

- (a) it was already a Company registered name
- (b) it had no negative associations
- (c) it linked with the proposed creative platform.

The brief for the pack design required a label which had nostalgia, a beer feeling (the final design was strongly influenced by the American Budweiser beer brand), instant identification of the flavour, no association with childish things, and something that would look good on a bar. Here are the final designs.





(Slow music)



(Slow music)



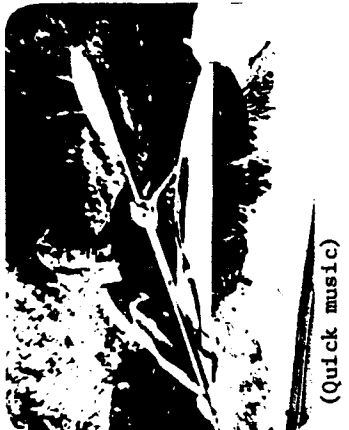
(Quick music)



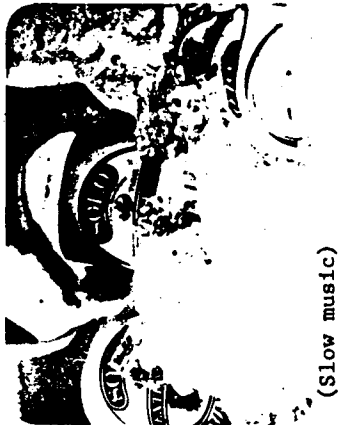
(Quick music)



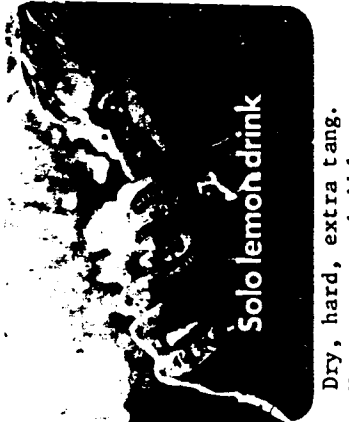
(Quick music)



(Quick music)



(Slow music)



Solo lemon drink

Dry, hard, extra tang.
Not too many bubbles.
Solo lemon. A man's drink.

You've never tasted a lemon
drink like Solo before,
unless it was one of those
great lemon squashes the
pubs used to make.

(iv) Product -

The product brief to the Product Development people required them to produce a packaged lemon squash just like the pubs used to make.

Staff from the Company laboratory and the external flavouring supplier were given a complete brief on the objectives, packaging and advertising so that they were in complete empathy with the brand.

This brief was not given until the packaging and advertising had been completed.

Solo was singularly different from most new product developments in that the product was tied to the concept, not the concept to the product.

(v) Advertising -

The strategy platform defined the bullseye of the target audience as the young adult male (18-25) who is a heavy user of soft drink (primarily Coke) and a non-drinker or light drinker of beer/spirits.

The job of Solo advertising was to persuade the target audience that Solo is genuinely an adult male soft drink, great at quenching big thirsts.

So Solo was sent to market in Victoria and Queensland in October 1973, with both a unique product proposition and a unique product position. No-one else had a lemon squash like the one the pubs used to make, no-one else had a male adventurist position. Package and product testing were carried out simultaneously and the launch commercial was produced.

It set out to match in execution the uniqueness of the promise and the positioning. The original 60-second commercial established a basic structure which has not been altered. The first 75% of the commercial is used to establish a virile male activity which will build an intense thirst. The final 15 seconds satisfy that thirst with Solo. (See storyboard opposite.)

Television advertising was supported with radio and point-of-sale advertising.

Of the two launch radio commercials, the first concentrated on the "lemon squash like the pubs used to make" theme. The second was based on a radio interpretation of the action in the canoeing action in the TV commercial.

The total concept was readily adapted to point-of-sale. Some of the items from a wide range of material included:

- Window decals of the unique Solo logotype and design.
- Decals of the can design.
- Can and bottle cutouts for in-store merchandising.
- Showcards to reinforce key visuals from TV commercials at point-of-purchase.
- Metal signs.

All material is totally consistent and uniform in approach.

4. POST LAUNCH EVALUATION

Solo achieved immediate success.

A post launch evaluation concluded that awareness, trial and favourable acceptance of Solo were all high.

"The whole concept — can design, name, product, advertising — has achieved a rare positioning for a soft drink; in that the product embraces a broad age spectrum — at least 14-24 (very much the same as Coke)."

"Solo-drinking has developed into almost a cult among young people. It is a status symbol immediately recognised by one's peers, because to be seen buying and drinking Solo means to be accepted as part of 'the group'". The main drinks it appears to have substituted are Coke (and other Colas), Sprint and Fanta."

Quantum Market Research.

The post-evaluation helped isolate a number of guidelines for future commercials.

1. The action must clearly establish a consuming thirst.
2. The action must have speed/vitality/masculinity.
3. The activity should be individualistic (team sports are out).
4. No machinery. Man must have control of the situation.
5. A spice of danger enhances the masculinity.
6. The drinking shot with Solo spilling down the chin is critical to communication of the product promise. (The anti-social spilling sequence is forgiven by the viewer, because the Solo man is presented as being very much alone — away from Society's gaze.)
7. The masculine positioning did not alienate females. The sexuality of the Solo man and his adventurous life-style had equal appeal to most females.
8. Acceptance and use by older age groups was singularly high. Solo was winning back consumers who had been lifetime Coke drinkers.

5. POST LAUNCH DEVELOPMENT

After the dramatic sales success following the Melbourne test market launch, the product was rolled out nationally from September 1974. By the end of the summer of 1975 Solo had become the second largest single brand in the Australian soft drink market and easily the most successful new brand launched for the preceding thirty years.

All of the following elements which formed part of the post launch development stage combined to achieve this success.

Advertising —

A particular feature of the success of the launch commercial was the outstanding male/female acceptability of the "Solo Man", Michael Ace. He was seen as the archetypal male men aspire to, and he was attributed with extraordinary sex appeal by women.

With this invaluable property it was a natural progression to feature Michael as the star of all follow-up commercials. These commercials, all incorporating the guidelines isolated from early post evaluation research, feature thirst-developing activities including Surfcat sailing, shark catching, armwrestling, horsebreaking and a new, more spectacular colour version of canoeing. In all of them, the product provides the resolution.



Public Relations —

The Solo concept has attracted widespread P.R. support from media. It is an exciting proposition and media has responded accordingly.

There have been temptations to over-capitalise on this aspect. However, the Company believes that the Solo man must retain his mystique and over-exposure has to be avoided.

However, there can be no doubt that the P.R. support received has contributed to the success of the product.

The exercise has proven that media will respond positively to the right story without all the trappings normally associated with P.R. activity.

SOLO TILT AT THE WORLD MARKET

By GRAHAM CASSIDY

The highly successful Solo lemon drink is to be sold on world markets by Cadbury Schweppes.

Preliminary research has shown that the drink meets the international palate test, and plans are now afoot to market it overseas.

It will be the first time a soft drink totally conceived and manufactured in Australia has been introduced to the world stage.

The past UK and US Cadbury Schweppes operations are to back the world Solo push.

Marketing director of Cadbury Schweppes Australia, Mr C. J. Lowe, told The Sun it was anticipated marketing of the drink would start in

at least three countries this year.

The forthcoming "internationalisation" of Solo is just one more chapter in what rates as a marketing blockbuster.

Since it was launched nationally in September, 1974, the drink has become anything but a "one man hand" on the sales front, slaking thirst to the tune of some 10 per cent of the total soft drinks market.

According to Cadbury Schweppes, Solo is now the second biggest selling "fizzy" drink brand in the land. Coca-Cola still com-



Tele-vision commercials, featuring actor Michael Ace as the "Solo Man", have headed the marketing juggernaut.

The drink, similar in taste to the lemon squash served in hotels, boasts all the hallmarks of a soft drink success story, Mr Lowe explained.

"It has product appeal, packaging appeal and the image concept is appealing. It is the first soft drink to be promoted deliberately with adults in mind."

The Solo sold overseas will not necessarily be the Solo sold here, taste-wise.

The concoction will be changed to conform with varying health and ingredient structures.

mands the No 1 slot by a wide margin.

Turning it into a winner hasn't been cheap. According to industry sources, Cadbury Schweppes has spent a massive \$800,000 on promoting Solo.

Off-Premise Market —

The extension of Solo to the take-home market is being steadily developed. Growth in family size returnable bottles is occurring



758. Exhibit "M" - Brochure relating to Hoover Awards

Sales Promotion —

The "Great Solo Search" competition was conducted in the winter months of 1975 to boost off-season sales and to add a new dimension to the presentation of the product. The promotion was of the underseal type in which consumers were asked to make up the word "SEARCH" from letters printed under bottle closures and ring-pull tabs. A popular feature of the promotion was the large number of jeans patches printed in the form of the Solo symbol.

Over 30,000 entries were received and sales benefited as a direct result.



Packaging —

In addition to 250 ml. and 370 ml. cans and 900 ml. screw-top bottles, 1¼ litre Plasti-Shield bottles were introduced in Sydney and cluster packs of four 385 ml. non-returnable bottles were introduced nationally in 1975.

Both innovations were designed to accelerate development of the supermarket trade segment and were backed with aggressive dealer promotional plans. Consumer off-take to date has been highly encouraging.

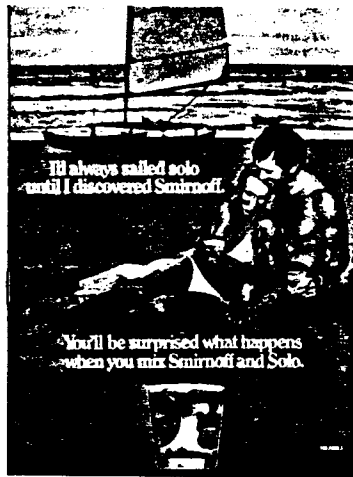


759. Exhibit "M" - Brochure relating to Hoover Awards

The Mixer Market —

The traditional Schweppes Mixer market has been under attack from Coca-Cola for some years, particularly with the younger market. In addition, Canada Dry re-entered the retail market in 1975.

To offer the younger drinker a sophisticated alternative to Bacardi & Coke and to expand the Solo image, a joint promotion with Smirnoff Vodka commenced in 1975. This was introduced through national full page newspaper advertisements and is now continuing with full colour advertisements in national magazines. These advertisements successfully combine the creative platforms of both brands. Advertising has been supported with promotional offers to the liquor trade, banded pack offers for consumers, and tastings in selected licensed outlets.



Franchise Distribution —

During 1975, Schweppes franchise bottlers throughout Australia were offered Solo to spread distribution to country areas and provincial markets. This programme included advertising support on a unit purchase basis.

Acceptance of these franchises by bottlers has been unanimous.

6. THE SALES RESULTS

In 1973 when Solo was in a two State test market, it achieved 0.4% of Company carbonated sales. In 1974 with a national launch in September of that year, Solo achieved 5.3% of Company sales. In 1975 Solo reached 13.8% of Company sales.

Exhibit "M" - Brochure
relating to Hoover Awards

Rejected from evidence:

Page 7:- 2nd last and last line of "Public
Relations"

Page 10:- Whole

Page 11:- Whole

Attachment on back cover:- "Stop Press"
newspaper article.

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

CASH SALE

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Telex: 20/538.

Date 15. 11. 73 Order No. _____ Invoice No. C3589 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
DELIVERY INSTRUCTIONS	PASSION FRUIT			
	DIXI COLA <i>S/TOP</i>	1		
	LEMONADE			
	ORANGE DRINK			
PACKING	SARS			
	GINGER BEER			
	LEMON DRINK <i>OLD TYPE</i>	2	1.00	2 00
	LIME FLAVOUR			
SHIPPING ONLY	CREAMEE SODA			
	BITTER LEMON			
	DRY GINGER ALE <i>S/T</i>	1		
	LO*CAL ORANGE			
VESSEL _____ BERTH _____ DESTINATION _____	LO*CAL BITTER LEMON			
	TOTAL NON-TAXABLE CANS	2	2.38	4 76
	SODA WATER			
	TONIC WATER			
Can Carton Weight — 10.225 Can Carton Measure — 0.14m x 0.26m x 0.40m 1 Carton = 8.865 litres Bottle Carton Weight 15.878 kg Bottle Carton Measure 0.33m x 0.28m x 0.26m 1 Carton = 8.865 litres	LO*CAL LEMONADE			
	TOTAL TARAX CANS	4		6 76
	26 OZ. O/W BOTTLES			
	DIXI COLA			
MARKINGS	LEMONADE			
	ORANGE DRINK			
	LEMON DRINK			
	BITTER LEMON			
TERMS	DRY GINGER ALE			
	TOTAL NON-TAXABLE BOTTLES			
	SODA WATER			
	TONIC WATER			
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.	LO*CAL LEMONADE			
	TOTAL 26 OZ. O/W BOTTLES			
4872.	<i>SALES TAX</i>			1 02
	AMOUNT PAYABLE	4	\$	7 78

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

TARAX PTY. LTD.
212 ANZAC AVE.
REDCLIFFE Q'LD 4020

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Telex: 20/538.

Date 21 DEC 191973 Order No. 1930E Invoice No. C4605 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c	
	PASSION FRUIT				
DELIVERY INSTRUCTIONS	DIXI COLA				
<u>T.N.T. 20-12-73</u>	LEMONADE				
	ORANGE DRINK EASY OPEN	600			
PACKING	SARS				
	GINGER BEER				
	LEMON DRINK SOLO " "	720			
	LIME FLAVOUR " "	240			
SHIPPING ONLY	CREAMEE SODA " "	360			
VESSEL _____	BITTER LEMON				
BERTH _____	DRY GINGER ALE				
DESTINATION _____	LO*CAL ORANGE				
	LO*CAL BITTER LEMON				
	TOTAL NON-TAXABLE CANS	1920	1574	3023	62
	SODA WATER				
	TONIC WATER				
	LO*CAL LEMONADE				
	TOTAL TARAX CANS	1920		3023	62
	26 OZ. O/W BOTTLES				
	DIXI COLA				
	LEMONADE				
	ORANGE DRINK				
	LEMON DRINK				
	BITTER LEMON				
	DRY GINGER ALE				
	TOTAL NON-TAXABLE BOTTLES				
	SODA WATER				
	TONIC WATER				
	LO*CAL LEMONADE				
	TOTAL 26 OZ. O/W BOTTLES				
MARKINGS					
TERMS					
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.					
	TRANSFER FEE			384	00
A5829.	AMOUNT PAYABLE	1920	\$	3407	62

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

TARAX PTY. LTD.,
212 ANZAC AVE.,
REDCLIFFE QLD 4020

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Tolex: 20/538.

Date 2 JAN 191974 Order No. 19562 & 8 Invoice No. C4748 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
DELIVERY INSTRUCTIONS TNT	PASSION FRUIT			
	DIXI COLA			
	LEMONADE			
	ORANGE DRINK EASY OPEN	240		
	SARS - -	360		
	GINGER BEER			
	LEMON DRINK SOLO - -	480		
	LIME FLAVOUR - -	360	1.57.48	2267 71
	CREAMEE SODA			
	BITTER LEMON			
PACKING	DRY GINGER ALE			
	LO*CAL ORANGE			
	LO*CAL BITTER LEMON			
	ROYAL CROWN COLA - -	480	1.48.32	807 94
	TOTAL NON-TAXABLE CANS	1920		3075 65
	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL TARAX CANS	1920		3075 65
	SHIPPING ONLY	26 OZ. O/W BOTTLES		
DIXI COLA				
LEMONADE				
ORANGE DRINK				
LEMON DRINK				
BITTER LEMON				
DRY GINGER ALE				
TOTAL NON-TAXABLE BOTTLES				
SODA WATER				
TONIC WATER				
VESSEL BERTH DESTINATION	LO*CAL LEMONADE			
	TOTAL 26 OZ. O/W BOTTLES			
	TRANSFER FEE			384 00
	AMOUNT PAYABLE	1920	\$	3459 65

Can Carton Weight — 10.225
 Can Carton Measure —
 0.14m x 0.26m x 0.40m
 1 Carton = 8.865 litres
 Bottle Carton Weight 15.878 kg
 Bottle Carton Measure
 0.33m x 0.28m x 0.26m
 1 Carton = 8.865 litres

MARKINGS

TERMS

NO CLAIMS RECOGNISED UNLESS MADE
 WITHIN SEVEN DAYS OF DELIVERY.
 E. & O.E.

A.5650

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

83

TARAX PTY. LTD.,
1317 NORTH RD,
HUNTINGDALE VIC. 3166

Telephone:
642-8497
642-0391
642-1402
P.O. Box 143
Greenacre, 2190
Cables:
"TARAX" Sydney
Telex: 20/538.

Date 1-FEB 191974 Order No. L.C. Invoice No. C.5428 Sales Tax No.

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
	PASSION FRUIT			
DELIVERY INSTRUCTIONS	DIXI COLA			
TNT	LEMONADE			
1-2-74	ORANGE DRINK EASY OPEN	760		
PACKING	SARS			
	GINGER BEER			
	LEMON DRINK SOLO - -	240		
	LIME FLAVOUR			
SHIPPING ONLY	CREAMEE SODA			
	BITTER LEMON - -	600		
VESSEL	DRY GINGER ALE			
BERTH	LO*CAL ORANGE			
DESTINATION	LO*CAL BITTER LEMON			
	TOTAL NON-TAXABLE CANS	1600	1.90.24	3043 84
	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL TARAX CANS	1600		3043 84
	26 OZ. O/W BOTTLES			
	DIXI COLA			
	LEMONADE			
	ORANGE DRINK			
	LEMON DRINK			
	BITTER LEMON			
	DRY GINGER ALE			
	TOTAL NON-TAXABLE BOTTLES			
	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL 26 OZ. O/W BOTTLES			
MARKINGS				
TERMS				
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.				
A.6976	AMOUNT PAYABLE	1600	\$	3043 84

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

TARAX PTY. LTD.,
212 ANZAC AVE.,
REDCLIFFE, Q'LD 4020

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Telex: 20/538.

Date 8.2. 1974 Order No. PHONE Invoice No. C5596 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
DELIVERY INSTRUCTIONS <u>TNT</u> <u>8-2-74</u>	PASSION FRUIT			
	DIXI COLA			
	LEMONADE			
	ORANGE DRINK			
	SARS			
	GINGER BEER			
	LEMON DRINK SOLO EASY OPEN	400		
	LIME FLAVOUR			
	CREAMEE SODA "	200		
	BITTER LEMON			
PACKING	DRY GINGER ALE			
	LO*CAL ORANGE			
	LO*CAL BITTER LEMON			
	DIET RITE COLA - -	200		
	TOTAL NON-TAXABLE CANS	800	1.90	24 1521 92
	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL TARAX CANS	800		1521 92
	SHIPPING ONLY	26 OZ. O/W BOTTLES		
DIXI COLA				
LEMONADE				
ORANGE DRINK				
LEMON DRINK				
BITTER LEMON				
DRY GINGER ALE				
TOTAL NON-TAXABLE BOTTLES				
SODA WATER				
TONIC WATER				
LO*CAL LEMONADE				
TOTAL 26 OZ. O/W BOTTLES				
VESSEL _____				
BERTH _____				
DESTINATION _____				
Can Carton Weight — 10.225 Can Carton Measure — 0.14m x 0.26m x 0.40m 1 Carton = 8.865 litres Bottle Carton Weight 15.878 kg Bottle Carton Measure 0.33m x 0.28m x 0.26m 1 Carton = 8.865 litres				
MARKINGS				
TERMS				
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.				
A 7306				
	AMOUNT PAYABLE	800	\$	1521 92

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

ANDRE SCHELLE CONFECTIONARY WHOLESALER
 3-5 STEEL ST.,
 NEWCASTLE WEST NSW. 2302

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Telex: 20/538.

Date illegible 19..... Order No..... Invoice No. C6277..... Sales Tax No. N13619.....

	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c	
FOR DELIVERY TO AS ABOVE	PASSION FRUIT				
DELIVERY INSTRUCTIONS KEIRS TRANSPORT	DIET RITE DIET RITE COLA	20			
PACKING	LEMONADE EASY OPEN	20			
	ORANGE DRINK - -	40			
SHIPPING ONLY	SABS SUNSHINE PINE - -	20			
	GINGER BEER - -	10			
	LEMON DRINK SOLO - -	20			
	LIME FLAVOUR - -	40			
	CREAMEE SODA - -	10			
	BITTER LEMON				
	DRY GINGER ALE - -	10			
	LO*CAL ORANGE - -	20			
	LO*CAL BITTER LEMON - -	20			
	ROYAL CROWN COLA - -	20			
VESSEL BERTH DESTINATION	TOTAL NON-TAXABLE CANS	250	2.40	600 00	
	SODA WATER - -	20	2.09	41 80	
	TONIC WATER				
	LO*CAL LEMONADE - -	20	2.09	41 80	
	TOTAL TARAX CANS	290		683 60	
	26 OZ. O/W BOTTLES				
	MARKINGS	DIXI COLA			
		LEMONADE	2		
		ORANGE DRINK	2		
		LEMON DRINK	2		
BITTER LEMON					
DRY GINGER ALE					
ROYAL CROWN COLA		2			
TOTAL NON-TAXABLE BOTTLES		8	2.00	16 00	
TERMS	SODA WATER				
	TONIC WATER				
	LO*CAL LEMONADE				
	TOTAL 26 OZ. O/W BOTTLES	8		16 00	
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.					
A2893	AMOUNT PAYABLE	298	\$	699 60	

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

CASH SALE,
DUNKERS AUTO WRECKERS,
120 PRAIRIE VALE RD.,
FAIRFIELD. NSW 2165

Telephone:
642-8497
642-0391
642-1402
P.O. Box 143
Greenacre, 2190
Cables:
"TARAX" Sydney
Telex: 20/538.

Date 6 MAR 19 1974 Order No. Mc Invoice No. C6110 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
AS ABOVE	PASSION FRUIT EASY OPEN	3	3.88	11 64
DELIVERY INSTRUCTIONS	DIXI COLA			
	LEMONADE - -	4		
	ORANGE DRINK - -	2		
PACKING	SARS - -	1		
	GINGER BEER			
	LEMON DRINK SOLO - -	1		
	LIME FLAVOUR - -	2		
SHIPPING ONLY	CREAMEE SODA			
	BITTER LEMON			
VESSEL	DRY GINGER ALE			
	LO*CAL ORANGE - -	1		
BERTH	LO*CAL BITTER LEMON			
	ROYAL CROWN COLA - -	11		
DESTINATION	TOTAL NON-TAXABLE CANS	22	3.48	76 56
	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL TARAX CANS	25		88 20
	26 OZ. O/W BOTTLES			
	DIXI COLA			
	LEMONADE			
	ORANGE DRINK			
	LEMON DRINK			
MARKINGS	BITTER LEMON			
	DRY GINGER ALE			
	TOTAL NON-TAXABLE BOTTLES			
	SODA WATER			
TERMS	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL 26 OZ. O/W BOTTLES			
A7960	AMOUNT PAYABLE	25	\$	88 20

Can Carton Weight — 10.225
Can Carton Measure —
0.14m x 0.26m x 0.40m
1 Carton = 8.865 litres
Bottle Carton Weight 15.878 kg
Bottle Carton Measure
0.33m x 0.28m x 0.26m
1 Carton = 8.865 litres

NO CLAIMS RECOGNISED UNLESS MADE
WITHIN SEVEN DAYS OF DELIVERY.
E. & O.E.

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

DAVID COHEN PTY. LTD.,
BOLTON ST.
NEWCASTLE NSW. 2303

Telephone:
642-8497
642-0391
642-1402
P.O. Box 143
Greenacre, 2190
Cables:
"TARAX" Sydney
Telex: 20/538.

Date 10 APR 19 1974 Order No. _____ Invoice No. C6810 Sales Tax No. 6946

	DESCRIPTION	CARTONS (2 DOZ) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
<p>FOR DELIVERY TO DAVID COHEN. SANDGATE ROAD, SHORTLAND</p> <p>DELIVERY INSTRUCTIONS TNT</p> <p>PACKING</p> <p>SHIPPING ONLY</p> <p>VESSEL _____</p> <p>BERTH _____</p> <p>DESTINATION _____</p> <p>Can Carton Weight — 10.225 Can Carton Measure — 0.14m x 0.26m x 0.40m 1 Carton = 8.865 litres Bottle Carton Weight 15.878 kg Bottle Carton Measure 0.33m x 0.28m x 0.26m 1 Carton = 8.865 litres</p> <p>MARKINGS</p> <p>TERMS</p> <p>NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.</p> <p style="text-align: right;">A8853</p>	<p>PASSION FRUIT</p> <p>DIXI COLA</p> <p>LEMONADE EASY OPEN 30</p> <p>ORANGE DRINK - - 30</p> <p>SARS</p> <p>GINGER BEER</p> <p>LEMON DRINK SOLO - - 30</p> <p>LIME FLAVOUR - - 30</p> <p>CREAMEE SODA</p> <p>BITTER LEMON</p> <p>DRY GINGER ALE - - 10</p> <p>LO*CAL ORANGE - - 30</p> <p>LO*CAL BITTER LEMON - - 20</p> <p>TOTAL NON-TAXABLE CANS 180 2.22 399 60</p> <p>SODA WATER</p> <p>TONIC WATER</p> <p>LO*CAL LEMONADE - - 20 2.22 44 40</p> <p>TOTAL TARAX CANS 200 444 00</p> <p>26 OZ. O/W BOTTLES</p> <p>DIXI COLA</p> <p>LEMONADE</p> <p>ORANGE DRINK</p> <p>LEMON DRINK</p> <p>BITTER LEMON</p> <p>DRY GINGER ALE</p> <p>TOTAL NON-TAXABLE BOTTLES</p> <p>SODA WATER</p> <p>TONIC WATER</p> <p>LO*CAL LEMONADE</p> <p>TOTAL 26 OZ. O/W BOTTLES</p> <p>AMOUNT PAYABLE 200 \$ 444 00</p>			

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

FRY & EADE WHOLESALERS CO. PTY. LTD.
35 HUDSON ST.,
HAYMARKET NSW 2303

Telephone:
642-8497
642-0391
642-1402
P.O. Box 143
Greenacre, 2190
Cables:
"TARAX" Sydney
Telex: 20/538.

Date -8 APR 1974 Order No. _____ Invoice No. C6811 Sales Tax No. N3303

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
KEIR TRANSPORT	PASSION FRUIT DIET RITE COLA	L/D 25		
DELIVERY INSTRUCTIONS PICK UP. MONDAY	DIXI COLA SUNSHINE PINE	50		
PACKING	LEMONADE	100		
	ORANGE DRINK	100		
	SARS			
	GINGER BEER	50		
SHIPPING ONLY	LEMON DRINK SOLO	100		
	LIME FLAVOUR	50		
	CREAMEE SODA			
	BITTER LEMON			
	DRY GINGER ALE			
	LO*CAL ORANGE	25		
VESSEL	LO*CAL BITTER LEMON			
BERTH	ROYAL CROWN COLA	200		
DESTINATION	TOTAL NON-TAXABLE CANS	700	2.20	1540 00
Can Carton Weight — 10.225 Can Carton Measure — 0.14m x 0.26m x 0.40m 1 Carton = 8.865 litres Bottle Carton Weight 15.878 kg Bottle Carton Measure 0.33m x 0.28m x 0.26m 1 Carton = 8.865 litres	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE	25	1.91	47 75
	TOTAL TARAX CANS	725		1587 75
MARKINGS	26 OZ. O/W BOTTLES			
	DIXI COLA			
	LEMONADE			
	ORANGE DRINK			
	LEMON DRINK			
	BITTER LEMON			
TERMS	DRY GINGER ALE			
	TOTAL NON-TAXABLE BOTTLES			
	SODA WATER			
	TONIC WATER			
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.	LO*CAL LEMONADE			
	TOTAL 26 OZ. O/W BOTTLES			
A2900	AMOUNT PAYABLE	725	\$	1587 75

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

NAVY

A.S.C.O. (NAVY ACCOUNT)
P.O. BOX 342,
MAROUBRA. NSW 2035

Telephone:
642-8497
642-0391
642-1402
P.O. Box 143
Greenacre, 2190
Cables:
"TARAX" Sydney
Telex: 20/538.

Date 7 MAY 191974 Order No. 15677 Invoice No. D378 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
CANTEEN	PASSION FRUIT			
DELIVERY INSTRUCTIONS TUESDAY AM 7-5.74	DIXI COLA PINE EASY OPEN	20		
	LEMONADE - -	20		
	ORANGE DRINK - -	20		
	SARS - -	10		
PACKING	GINGER BEER			
	LEMON DRINK SOLO - -	20		
	LIME FLAVOUR - -	20		
SHIPPING ONLY	CREAMEE SODA - -	10		
VESSEL <u>HMAS YARRA</u>	BITTER LEMON - -	10		
BERTH <u>GARDEN ISLAND</u>	DRY GINGER ALE			
	LO*CAL ORANGE			
DESTINATION _____	LO*CAL BITTER LEMON			
	ROYAL CROWN COLA - -	20		
Can Carton Weight — 10.225	TOTAL NON-TAXABLE CANS	150	2.00	300 00
Can Carton Measure —	SODA WATER			
0.14m x 0.26m x 0.40m	TONIC WATER			
1 Carton = 8.865 litres	LO*CAL LEMONADE			
Bottle Carton Weight 15.878 kg	TOTAL TARAX CANS	150		300 00
Bottle Carton Measure	26 OZ. O/W BOTTLES			
0.33m x 0.28m x 0.26m	DIXI COLA			
1 Carton = 8.865 litres	LEMONADE			
	ORANGE DRINK			
MARKINGS	LEMON DRINK			
	BITTER LEMON			
	DRY GINGER ALE			
	TOTAL NON-TAXABLE BOTTLES			
TERMS	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.	TOTAL 26 OZ. O/W BOTTLES			
A7088	AMOUNT PAYABLE	150	\$	300 00

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

CASH SALE
OFFICERS BAR
MAMENO

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Telex: 20/538.

Date 8 MAY 191974 Order No. _____ Phone _____ Invoice No. D434 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
<u>RADIO OFFICER</u>	PASSION FRUIT			
DELIVERY INSTRUCTIONS <u>WEDNESDAY AM</u> <u>8-5-74</u>	DIXI COLA SOFT TOP	2		
PACKING	LEMONADE " "	2		
	ORANGE DRINK " "	4		
SHIPPING ONLY VESSEL <u>MAMENO</u> BERTH <u>7</u> D/H DESTINATION <u>OSSS</u> Can Carton Weight — 10.225 Can Carton Measure — 0.14m x 0.26m x 0.40m 1 Carton = 8.865 litres Bottle Carton Weight 15.878 kg Bottle Carton Measure 0.33m x 0.28m x 0.26m 1 Carton = 8.865 litres	SARS SUNSHINE PINE " "	6		
	GINGER BEER " "	2		
	LEMON DRINK SOLO " "	6		
	LIME FLAVOUR			
	CREAMEE SODA			
	BITTER LEMON			
	DRY GINGER ALE " "	2		
	LO*CAL ORANGE			
	LO*CAL BITTER LEMON			
	TOTAL NON-TAXABLE CANS	24	2.16	51 84
	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL TARAX CANS	24		51 84
	26 OZ. O/W BOTTLES			
MARKINGS	DIXI COLA			
	LEMONADE			
	ORANGE DRINK			
	LEMON DRINK			
	BITTER LEMON			
	DRY GINGER ALE			
TERMS	TOTAL NON-TAXABLE BOTTLES			
	SODA WATER			
	TONIC WATER			
	LO*CAL LEMONADE			
	TOTAL 26 OZ. O/W BOTTLES			
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.				
A 9639	AMOUNT PAYABLE	24	\$	51 84

Exhibit 30 - Bundle of
Tarax Invoices

TARAX PTY. LTD.

T/Fers

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullara, 2190

CADBURY SCHWEPPE'S P/L, SCHWEPPE'S DIVISION
P.O. BOX 93
ALEXANDRIA, NSW 2015

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Telex: 20/538.

Date 6.9 19 74 Order No. 2510/7857 Invoice No. A7880 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
SILVERWATER	PASSION FRUIT			
DELIVERY INSTRUCTIONS	COLA			
SCHWEPPE'S TRANSPORT	LEMONADE			
30.8.74	ORANGE DRINK			
PACKING	SARS			
	GINGER BEER			
SHIPPING ONLY	SOLA LEMON DRINK STAND.	1034		
VESSEL	LIME FLAVOUR			
BERTH	BITTER LEMON			
DESTINATION	DRY GINGER ALE			
Can Carton Weight — 10.225	TOT. NON-TAX. CANS	1034	1.73.66	1795 64
Can Carton Measure —	TONIC WATER			
0.14m x 0.26m x 0.40m	TOTAL CANS	1034		1795 64
1 Carton = 8.865 litres	26 OZ. O/W BOTTLES	CARTONS (1 DOZ.)		
Bottle Carton Weight 15.878 kg	COLA			
Bottle Carton Measure	LEMONADE			
0.33m x 0.28m x 0.26m	ORANGE DRINK			
1 Carton = 8.865 litres	GINGER BEER			
MARKINGS	LEMON DRINK			
TERMS	LIME FLAVOUR			
NO CLAIMS RECOGNISED UNLESS MADE	DRY GINGER ALE			
WITHIN SEVEN DAYS OF DELIVERY.	RASPBERRY			
E. & O.E.	TOT. 26 OZ. O/W B'LES			
C.1068	AMOUNT PAYABLE	1034	\$	1795 64

TARAX PTY. LTD.

(Incorporated in Victoria)

Cnr. Roberts Rd. and Naughton St., Chullora, 2190

CADBURY SCHWEPPE'S P/L SCHWEPPE'S DIVISION
BOX 93 P.O.,
ALEXANDRIA, NSW 2015

Telephone:
 642-8497
 642-0391
 642-1402
 P.O. Box 143
 Greenacre, 2190
 Cables:
 "TARAX" Sydney
 Telex: 20/538.

Date 6.9 1974 Order No. 2509/7856 Invoice No. A7875 Sales Tax No. _____

FOR DELIVERY TO	DESCRIPTION	CARTONS (2 DOZ.) 13 OZ.	UNIT PRICE \$ c	AMOUNT \$ c
ALEXANDRIA	PASSION FRUIT			
DELIVERY INSTRUCTIONS SCHWEPPE'S TRANSPORT	COLA			
	LEMONADE			
FRB 291 30.8.74	ORANGE DRINK			
	SARS			
PACKING	GINGER BEER			
	SOLO LEMON DRINK STAND	1800		
SHIPPING ONLY	LIME FLAVOUR			
	BITTER LEMON			
	DRY GINGER ALE			
	TOT. NON-TAX. CANS	1800	1.73.66	3125 88
VESSEL _____	TONIC WATER			
	TOTAL CANS	1800		3125 88
BERTH _____	26 OZ. O/W BOTTLES	CARTONS (1 DOZ.)		
	COLA			
DESTINATION _____	LEMONADE			
	ORANGE DRINK			
Can Carton Weight — 10.225 Can Carton Measure — 0.14m x 0.26m x 0.40m 1 Carton = 8.865 litres Bottle Carton Weight 15.878 kg Bottle Carton Measure 0.33m x 0.28m x 0.26m 1 Carton = 8.865 litres	GINGER BEER			
	LEMON DRINK			
	LIME FLAVOUR			
	DRY GINGER ALE			
MARKINGS	RASPBERRY			
	TOT. 26 OZ. O/W B'LES			
TERMS				
NO CLAIMS RECOGNISED UNLESS MADE WITHIN SEVEN DAYS OF DELIVERY. E. & O.E.				
C 1065	AMOUNT PAYABLE	1800	\$	3125 88

Director N.E. Region Route Trade Sales Mgr. 3rd May, 1977.
ST. KILDA SYDNEY

SOLO FACTS SHEET N.S.W. MARKET

- 1) Introduction - Solo was introduced to the N.S.W. Market in October, 1974.
- 2) Nature and Extent of Advertising - approximately 90% of N.S.W. advertising has been on television with the balance on radio and out-door. Media spent as follows:

	1974	\$100,000	10
	1975	\$300,000	
	1976	\$150,000	
	Jan-March 1977	<u>\$ 90,000</u>	
		<u>\$640,000</u>	

- 3) Extension of Sales - Solo is distributed throughout all segments of the trade in N.S.W. Main retail outlets are small stores such as milk bars, delicatessens etc. and grocery stores, chiefly large supermarkets belonging to the major chains and groups. Solo is also distributed through the liquor trade in N.S.W. 20

Distribution of Solo cans in the two main segments in Sydney is as follows:

	<u>Numerical</u> <u>Distribution</u>	<u>Weighted</u> <u>Distribution</u>
Food Stores	89	95
Small Traders	94	97

Source: A.C. Nielson December, January, February, 1977.

- 4) Leed Lemon Soda Squash Entry - Leed Lemon Soda Squash was distributed to the trade in Sydney during week commencing April 18, 1977. 30
- 5) Leed Lemon Soda Squash Advertising - To May 3, 1977, no media advertising in respect to Leed Lemon Soda Squash has been noted.

CJL:js

C.J. LOWE

Ex "B.2"



AFFIDAVIT SEC. 8
ACCEPTED

PRINCIPAL REGISTER
Trademark

AFFIDAVIT SEC. 15
RECEIVED 7-9-69

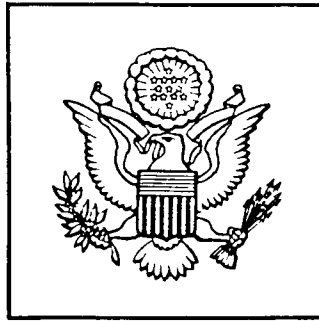
Ser. No. 142,816, filed Apr. 23, 1962



Herschi N.V. (Dutch company)
Wijngaardsweg 59
Hoensbroek, Netherlands

For: SOFT DRINKS, in CLASS 45.
Applicant disclaims any exclusive right in the word "Fresh," apart from the mark as shown. 10
The lining in the drawing is a part of the mark and does not represent colour.
Owner of Dutch Reg No. 127,278, dated Feb. 15, 1957

United States of America



DEPARTMENT OF STATE

To all to whom these presents shall come, Greeting:

I Certify That the document hereunto annexed is under the Seal of the Patent and Trademark Office, Department of Commerce of the United States, and that such Seal is entitled to full faith and credit.*

In testimony whereof, I, Cyrus R. Vance,

Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Acting Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this sixteenth day of August, 1947.

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Cyrus R. Vance
Secretary of State.
By Donald J. Sawyer
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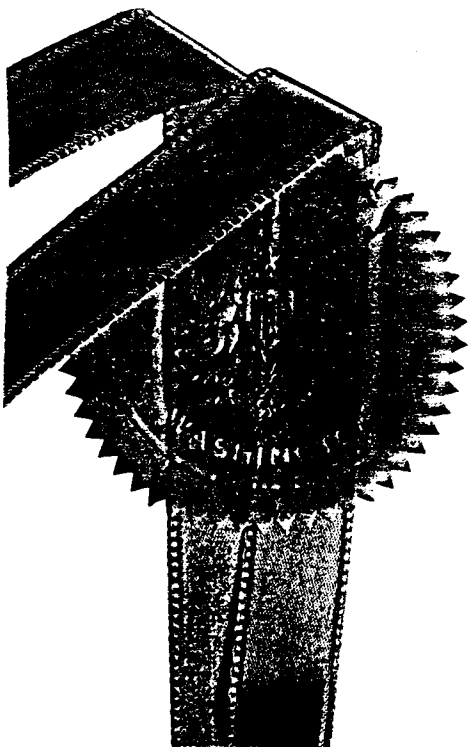
Issued pursuant to RS 161, 5 USC 22, RS 203, 5 USC 158; Sec. 1 of Act of June 25, 1948, 62 St. 946, 28 USC 1733; Sec. 4 of Act of May 26, 1949, 63 St. 111, 5 USC 151c; and Secs. 104 and 332 of Act of June 27, 1952, 66 St. 174 and 253, 8 USC 1104, 1443, and 5 USC 140.

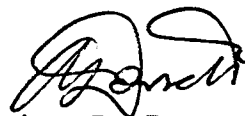
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I, Ashley J. Dorsett, Consul of the Australian Embassy, Washington D.C., DO HEREBY CERTIFY that the signature "Harold J. Haughton" appearing on the reverse hereof United States of America Department of State Document of Authentication No. 13482, is to the best of my knowledge the true signature of Harold J. Haughton, Acting Authentication Officer, Department of State, and that the seal impressed is the official seal of the United States of America Department of State.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED THE SEAL of the Australian Embassy this sixteenth day of August, 1977.

DONE AT WASHINGTON, D.C., in the UNITED STATES OF AMERICA.




(A. J. Dorsett)
Consul

7713482

United States Patent Office

753,758

Registered July 30, 1963

AFFIDAVIT SEC. 8
ACCEPTED

PRINCIPAL REGISTER
Trademark

AFFIDAVIT SEC. 15
RECEIVED 7-9-69

Ser. No. 142,816, filed Apr. 23, 1962



FURB

Herschi N.V. (Dutch company)
Wijngaardsweg 59
Hoensbroek, Netherlands

For: SOFT DRINKS, in CLASS 45.
Applicant disclaims any exclusive right in the word
"Fresh," apart from the mark as shown.
The lining in the drawing is a part of the mark and
does not represent color.
Owner of Dutch Reg. No. 127,278, dated Feb. 15, 1957.

REGISTERED FOR A TERM OF 20 YEARS FROM July 30, 1963



Attest:

AUG 15 1977

S. Berkeley
Attesting Officer

CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION
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TO BE IN: Registrant

C. Marshall Dann
Commissioner of Patents

PLAN F 1974

Sales Volume - '000 c/s

	Total	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Sales Curve - %	100.0%	7.6	5.1	3.2	6.0	5.5	9.0	11.0	12.5	14.4	10.0	8.2	7.4
<u>7 oz. Ret:</u>													
Pepsi-Cola	251	19.1	13.	8.	15.1	13.7	22.5	27.5	31.4	36.1	25.1	20.5	19.
Passiona	20	1.5	1.	.7	1.2	1.1	1.8	2.2	2.5	2.9	2.	1.6	1.5
Lemonade	22	1.7	1.1	.8	1.3	1.2	2.	2.4	2.8	3.	2.2	1.8	1.7
Tango	32	2.5	1.6	1.	1.9	1.8	2.9	3.5	4.	4.6	3.2	2.6	2.4
Lemon	17	1.3	.9	.6	1.	.9	1.5	1.8	2.1	2.5	1.7	1.4	1.2
Coola	25	1.9	1.4	.9	1.5	1.3	2.3	2.6	3.2	3.6	3.8	2.1	1.2
G.Circle 15,2													
<u>Total</u>	367	28	19	12	22	20	33	40	46	53	37	30	27
<u>10.oz. Ret.</u>													
Pepsi-Cola	103	7.7	5.3	3.	6.1	6.1	9.2	12	13	15	10	8	7
Tango	32	2.3	1.7	1.	1.9	1.9	2.8	3	4	4	3	3	2
<u>Total</u>	135	10.0	7.0	4	8.	8.	12.	15.	17	19	13	11	9
<u>502</u>	502	38	26	16	30	28	45	55	63	72	50	41	38
<u>10 oz. NRB</u>													
Pepsi-Cola	37	10.4	7.	4.4	8.2	7.5	12.3	15.	17.1	19.8	13.8	11.3	10.2
Passiona	18	1.4	.9	.6	1.1	1.0	1.6	2.	2.3	2.5	1.7	1.5	1.4
Lemonade	29	2.2	1.5	1.0	1.8	1.6	2.6	3.2	3.7	4.2	2.8	2.3	2.1
add Tango	58	4.4	3.0	1.9	3.6	3.2	5.2	6.2	7.3	8.4	5.8	4.8	4.3
C-TIME	26	2.0	1.4	.8	1.7	1.4	2.4	2.9	3.2	3.8	2.6	2.0	.8
LEMON	35	2.8	1.8	1.1	2.1	1.9	3.2	3.8	4.4	5.1	3.5	2.9	2.5
PUB	8	.8	.4	.2	.5	.4	.7	.9	1.0	1.2	.8	.8	.7
SQUASH													
Bitter Lemon													
<u>Total</u>	311	24.4	16.50%-50%	10	19	17	28	34	39	45	31	26	22
No. 1 Line -	813	62	42	26	49	45	73	89	102	117	81	67	60

Total HRS = 800/c.pts

"TOP"

Suggested major product for new company —
AS P. R. BROOKS —

- 1) Pepsi-Cola
- 2) Big Boy
- 3) Passiona
- 4) Coca
- 5) Pub Squash
- 6) C-Time — with juice content
- 7) 7-Time — drink line
- 8) Strike-Cola — balancing Pepsi —
- 9) Late } low caloric range
- 10) Citrus }
- 11) Amixal Range — Ambassador Royale
at least H. Flamm.

} existing lines

all new flavors
disclosed for others
only C-Time — 7-Time

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Plan F 1974

Sales Volume - '000 c/s

		Total													
Sales Curve %	100.0%	7.6	5.1	3.2	6.0	5.5	9.0	11.0	12.5	14.4	10.0	8.2	7.4		
27.oz. Ret:	95	7.2	4.8	3.1	5.7	5.2	8.6	10.5	11.9	13.7	9.5	7.8	7.0		
Pepsi-Cola															
32.oz.Ret. add: Big Boy - C-TIME - PUB SQUASH - 7-TIME FOR FUTURE ADD TO 26 oz OMB										TOO					
Passiona	53	4.0	2.7	1.7	3.2	2.9	4.8	5.8	6.6	7.6	5.4	4.9	4.2		
Lemonade	135	10.3	6.8	4.2	8.1	7.3	12.2	14.8	16.8	19.5	13.4	11.6	10.5		
Tango	53	4.0	2.7	1.7	3.2	2.9	4.8	5.8	6.6	7.6	5.4	4.9	4.3		
Lemon	11	.8	.7	.4	.6	.6	.9	1.2	1.4	1.6	1.1	.9	.8		
Coola	14	1.1	.8	.5	.8	.8	1.0	1.1	1.7	1.9	1.4	1.1	.8		
D.G.A.	9	.6	.5	.4	.4	.3	.7	.8	1.0	1.1	.8	.8	.6		
Total	275	20.8	14.2	8.9	16.3	14.8	24.4	29.5	34.1	39.3	27.5	24.2	21		
26.oz. NRB															
Pepsi-Cola	370	28	19	12	22	20	33	40	46	53	37	32	28		
Passiona	71	5.3	3.6	2.2	4.3	3.9	6.5	7.9	9.0	10.1	7.1	5.9	5.2		
Lemonade	42	3.1	2.1	1.3	2.5	2.3	3.9	4.6	5.4	6.0	4.1	3.7	3.2		
Tango	30	2.2	1.5	.9	1.9	1.6	2.7	3.3	3.9	4.1	3.0	2.6	2.3		
Coola	14	1.0	.6	.5	.9	.8	1.3	1.6	1.9	2.0	1.2	1.2	1.0		
Total	6	.4	.2	.1	.4	.3	.6	.6	.8	.8	.6	.6	.5		
Total	163	12	8	5	10	9	15	18	21	23	16	14	12		
26.oz. Spark L.															
Lemonade	16	1.2	.8	.4	.8	.8	1.2	2.	2.4	2.8	1.6	1.2	1.2		
Orange	9	.7	.5	.3	.5	.5	.7	1.2	1.4	1.7	1.0	.7	.7		
Lime	5	.4	.2	.1	.2	.2	.4	.6	.8	.8	.4	.4	.4		
Lemon	4	.3	.2	.1	.2	.2	.3	.5	.6	.7	.4	.3	.3		
Cola	6	.4	.3	.1	.3	.3	.4	.7	.8	1.0	.6	.4	.4		
Total	40	3	2	1	2	2	3	5	6	7	4	3	3		
No. 2 Line															
Total Hrs = 720 c/s	796	15	10	6	12	11	18	23	26	30	20	17	15		
	573	43	29	18	34	31	51	63	72	83	57	49	43		

PLAN F 1974

Sales Volume - '000 c/s

		Total											
Sales Curve %	100.0	7.6	5.1	3.2	6.0	5.5	9.0	11.0	12.5	14.4	10.0	8.2	7.4
Ring Pull Cans: 13.oz.	add: C-TIME - 7-TIME - PUB SQUASH - Rate - Citra - STRIKE COLA for future												
Pepsi-Cola	122	9.3	6.2	3.9	7.3	6.7	10.9	13.4	15.4	17.6	12.2	10.0	9.1
Passiona	151	11.5	7.7	4.8	9.2	8.3	13.5	16.6	18.9	21.7	15.1	12.4	11.3
Lemonade	75	5.7	3.8	2.4	4.5	4.2	6.8	8.2	9.4	10.9	7.5	6.0	5.6
Tango	108	8.2	5.5	3.5	6.6	6.0	9.6	11.9	13.5	15.6	10.8	8.8	8.0
Coola	50	3.8	2.5	1.6	3.0	2.8	4.5	5.5	6.3	7.2	5.0	4.1	3.7
Lemon	37	2.8	1.8	1.2	2.3	2.1	3.3	4.0	4.7	5.3	3.7	3.0	2.8
B. Lemon	12	.9	.6	.4	.7	.8	1.1	1.3	1.6	1.8	1.2	.9	.9
D.G.A.	8	.6	.4	.3	.6	.5	.7	.9	1.0	1.1	.8	.6	.5
Ginger Beer	15	1.2	.7	.5	.9	.8	1.4	1.7	1.7	2.3	1.5	1.2	1.1
Cola	5	.4	.3	.1	.3	.3	.5	.6	.6	.7	.5	.4	.4
Orange	8	.6	.5	.3	.6	.5	.7	.9	.9	.9	.9	.6	.6
Total	591	45	30	19	36	33	53	65	74	85	59	48	44
250. mls.													
Pepsi-Cola	51	4.0	2.7	1.7	2.9	2.7	4.6	5.5	6.1	7.2	5.4	4.2	4.0
Passiona	47	3.7	2.5	1.6	2.7	2.5	4.2	5.2	5.7	6.3	5.0	3.9	3.7
L'de	24	1.9	1.2	.9	1.3	1.2	2.2	2.6	2.9	3.4	2.4	2.1	1.9
Tango	29	2.3	1.5	.9	1.6	1.5	2.6	3.2	3.7	3.9	3.0	2.5	2.3
Lemon	10	.8	.5	.4	.6	.4	.9	1.0	1.3	1.6	.9	.8	.8
Coola	16	1.3	.6	.5	.9	.7	1.5	1.5	2.3	2.6	1.3	1.5	1.3
Total	177	14	9	6	10	9	16	19	22	25	18	15	14
c/f.	768	59	39	25	46	42	69	84	96	110	77	63	58

	100.0	7.6	5.1	3.2	6.0	5.5	9.0	11.0	12.5	14.4	10.0	8.2	7.4
13oz. PLAIN END CAN													
PEPSI COLA	768	59	39	25	46	42	69	84	96	110	77	63	58
PASSIONA	40	3.1	2.2	1.4	2.5	2.2	2.7	4.5	5.0	5.8	4.2	3.2	3.2
LEMONADE	32	2.6	1.7	1.1	1.9	1.6	2.7	3.3	3.8	4.3	3.7	2.6	2.6
TANGO	15	1.2	.8	.5	1.0	.8	1.3	1.6	2.0	2.1	1.3	1.2	1.2
LEMON	14	1.1	.7	.5	.9	.7	1.2	1.4	1.8	1.9	1.6	1.1	1.1
COOLA	2	.2	.1	.1	.1	.2	.2	.2	.2	.2	.2	.1	.1
	10	.8	.5	.4	.6	.5	.9	1.0	1.2	1.6	.9	.8	.8
<u>TOTAL:</u>	113	9	6	4	7	6	10	12	14	16	11	9	9
13 P/E Cluster P.													
PASSIONA	41	3.3	2.1	1.3	2.2	2.2	4.2	3.9	5.4	6.2	3.9	3.3	3.0
LEMONADE	17	1.3	.9	.5	1.0	.9	1.5	1.9	2.1	2.6	1.7	1.4	1.0
TANGO	15	1.2	.6	.6	1.0	1.0	1.3	1.7	1.9	1.7	1.8	1.2	1.0
COOLA	13	1.2	.4	.6	.8	.9	1.0	1.5	1.6	1.5	1.6	1.1	1.0
<u>TOTAL:</u>	86	7	4	3	5	5	8	9	11	12	9	7	6
13 P/E SPARK L'CAN													
LEMONADE	21	1.6	1.2	.6	1.2	1.2	1.8	2.0	2.8	3.2	2.0	1.8	1.6
ORANGE	15	1.1	.8	.4	.8	.8	1.2	1.9	1.9	2.2	1.6	1.2	1.1
LEMON	8	.5	.4	.2	.4	.4	.7	1.1	1.0	1.1	1.0	.7	.5
LIME	9	.6	.6	.3	.6	.6	.8	1.2	1.1	1.1	.8	.8	.6
COLA	17	1.2	1.0	.5	1.0	1.0	1.5	1.8	2.2	2.4	1.6	1.5	1.2
<u>TOTAL</u>	70	5	4	2	4	4	6	8	9	10	7	6	5
<u>TOTAL CANNING LINE</u>	1037	80	53	34	62	57	93	113	130	148	104	85	78

PLAN F 1974

Sales Volume - '000 c/s

Sales - Curve %	100.0	7.6	5.1	3.2	6.0	5.5	9.0	11.0	12.5	14.4	10.0	8.2	7.4
Postmix: 1.95 =3c/s													
Pepsi-Cola	74	5.6	3.8	2.3	4.6	4.0	6.6	8.0	9.3	10.7	7.4	6.0	5.7
Passiona	8	.5	.4	.3	.6	.4	.7	.9	1.0	1.2	.8	.7	.5
L'de	32	2.4	1.5	1.0	2.0	1.8	2.8	3.5	4.0	4.6	3.2	2.6	2.6
Tango	13	1.0	.7	.4	.8	.7	1.2	1.4	1.6	1.9	1.3	1.1	.9
Lemon	9	.7	.5	.3	.6	.5	.7	.9	1.2	1.3	1.0	.7	.5
Coola	4	.3	.2	.1	.2	.2	.4	.4	.5	.6	.4	.3	.3
D.G.A.	19	1.5	.9	.6	1.2	1.4	1.6	1.9	2.4	2.7	1.9	1.6	1.5
<u>Total</u>	159	12	8	5	10	9	14	17	20	23	16	13	12
Premix 1.96= -.66c/s													
Pepsi-Cola	55	4.2	2.7	1.9	3.2	3.2	5.4	5.9	6.9	8.3	5.6	4.5	3.3
L'de	10	.8	.4	.3	.6	.6	.8	1.0	1.3	1.6	1.1	.8	.9
Tango	20	1.6	.8	.7	1.1	1.1	1.6	1.9	2.5	2.9	2.1	1.6	2.1
Coola	2	.4	.1	.1	.1	.1	.2	.2	.3	.2	.2	.1	.1
<u>Total</u>	87	7	4	3	5	5	8	9	11	13	9	7	6
Pre and Postmix	246	19	12	8	15	14	22	26	31	36	25	20	18
Canning	1037	80	53	34	62	57	93	113	130	148	104	85	78
No. 2 Line	573	43	29	18	34	31	51	63	72	83	57	49	43
No. 1 Line	813	62	42	26	49	45	73	89	102	117	81	67	60
Total Auburn	2669	204	136	86	160	147	239	291	335	384	267	221	199
add: G. Circle	14	1	1	1	1	1	1	1	2	2	1	1	1
<u>Total Sales</u>	2683	205	137	87	161	148	240	292	337	386	268	222	200

2,713 77 - 60

Plan F 1974

Summary of Variable Mfg Cost

	Unit	Quantity	Unit Price	Total Value
<u>Raw Materials</u>				
Syrup	g/s	789035	\$.5793	\$ 457065
Sugar	tons	2244	201.10	451,310
CO2 Gas	tons	613	78.40	48045
				= \$956,420
<u>Packing Materials</u>				
<u>Seals</u>				
Crown Seals	9 +toss	149,071	\$.311	\$ 46,361
screw top	'000	6,219	\$ 7.269	45,205
Can Ends	'000	25,396	\$ 7.200	182,850
				\$274416
<u>Glass:</u>				
10.NRB	'000	7,587	\$33.76	\$256,125
26 NRB-GREEN	'000	366	73.28	26,790
-WHITE	'000	2,476	67.45	166,934
				449849
<u>Cans</u>				
Ring Pull	'000	14,344	43.75	\$627,534
Plain End	'000	6,521	37.50	244,546
250 mls - R/P	'000	4,291	34.30	147,178
				1,019,258
<u>Cartons</u>				
10 NRB's	'000	318	93.45	\$ 29,671
26 NRB	'000	207	105.63	21,871
Cans - 13 oz.	'000	488	77.25	37,698
Cluster 13 oz.	'000	88	78.27	6888
Cluster wrap	'000	526	27.00	14,197
Trays	'000	301	48.30	14,539
Cartons 250 mls.	'000	182	73.40	13,331
				138,195
<u>Labels etc.</u>				
Labels	'000	2,593	4.37on.	\$ 11,338
Films	lbs	18,005	-.38	6,842
Glue	lbs	7,558	-.26	1,965
				20145 = 1,901,863 =
				<u>\$2,858,283</u>

X-Y-Z. Co. Ltd.

Volume Budget for 12 months

	if start from July 1974												Total c/s	
	1	2	3	4	5	6	7	8	9	10	11	12		
Returnables: in '000 c/s														
7 oz.														
Cottees - 3 Flavours	2.0	2.0	2.0	2.0	4.0	6.0	3.0	3.0	2.0	2.0	2.0	2.0	2.0	32.0
Pepsi - 1 "	1.0	1.0	1.0	1.0	2.0	3.0	2.0	2.0	2.0	1.0	1.0	1.0	1.0	18.0
*New Products "	-													
#	3.0	3.0	3.0	3.0	6.0	9.0	5.0	5.0	4.0	3.0	3.0	3.0	3.0	50.0
10.oz.														
Cottee's 3. flvrs	3.0	3.0	4.0	4.0	6.0	8.0	4.0	3.0	3.0	3.0	2.0	2.0	2.0	45.0
Pepsi 1 "	2.0	2.0	2.0	3.0	4.0	6.0	2.0	2.0	3.0	2.0	2.0	2.0	2.0	32.0
*New Products 4"	1.0	1.0	1.0	2.0	4.0	8.0	3.0	3.0	4.0	2.0	2.0	2.0	2.0	33.0
#	6.0	6.0	7.0	9.0	14.0	22.0	9.0	8.0	10.0	7.0	6.0	6.0	6.0	120.0
32 oz.														
Cottee's 3 flvrs	10.0	10.0	10.0	14.0	18.0	25.0	20.0	14.0	12.0	10.0	10.0	10.0	7.0	160.0
Pepsi 1 "	3.0	3.0	4.0	4.0	6.0	10.0	10.0	11.0	10.0	8.0	8.0	3.0	3.0	80.0
*New Products 4 "	5.0	5.0	6.0	6.0	10.0	20.0	15.0	14.0	12.0	12.0	10.0	5.0	5.0	120.0
#	18.0	18.0	20.0	24.0	34.0	55.0	45.0	39.0	34.0	30.0	28.0	15.0	15.0	360.0
Total-Returnables	27.0	27.0	30.0	36.0	54.0	86.0	59.0	52.0	48.0	40.0	37.0	24.0	24.0	530.0

- *New Products: 1) C-Time - to replace; Tango
- 2) 7- " - to balance; Big Boy
- 3) Pub Squash to replace: Lemon and if possible Coola

One way Packages and cans the same - add to cans L/c range - CITRA - Rate (Rate L/C Lemonade - Citra L/C Lemon or Pub Squash)

See on other Pages

'10'

Robo

1.

ARTHUR S. CAVE & CO.
Patent and Trade Mark Attorneys

Goldfields House
1 Alfred Street
SYDNEY, N.S.W.

Mailing Address: GPO Box 3878
SYDNEY, NSW
2001, AUSTRALIA
Telephone: 27 9791
Cables: VALSE, SYDNEY
Telex: AA25448
Answer back code: VALSE AA25448
Bankers: COMMONWEALTH
TRADING BANK OF
AUSTRALIA

10

AWE:mb

12th March, 1975.

Received
15 MAR 1975

Passiona Marketers Pty. Ltd.,
15 Percy Street,
AUBURN. N.S.W. 2144

Attention: Mr. Ian Robertson.

Dear Sir,

Re: Trade Mark Applications in Australia

20

We refer to our conference with Mr. Kaufmann of Messrs. G.M. Lorentz & Co., Solicitors and with you on 3rd March, 1975 when your various trade mark matters were discussed.

The following is a summary of the position of the various items discussed:-

Trade Mark Searches: "PUB SQUASH". There are no registrations or pending applications for registration of these words as a trade mark as applied to soft drinks. So far as the Australian Trade Marks register is concerned you are free to use this mark for these goods, but due to the inherently descriptive nature of the mark, the words are not registerable per se as a trade mark.

30

However, you will submit to us in due course, a label incorporating these words for the purpose of seeking registration of the label as a trade mark. We will deal with the matter further when the label comes to hand.

XXXXXX". There are no registrations or pending applications for registration of this word as a trade mark as applied to soft drinks. So far as the Australian Trade Marks Register is concerned you are free to use the mark for these goods. "xxxx" has geographical signification and possibly surname significations, and so registration of the word per se as a trade mark may present some difficulties in the Australian Trade Marks Office.

40

Exhibit 21 (a) - Letter from
Arthur S. Cave & Co.

However, as with "PUB SQUASH", you will in all probability include the word in a label and we will be pleased to discuss this with you at your convenience.

..2..

PATENT, TRADE MARKS AND DESIGNS OFFICES
CANBERRA

Address reply to -
Registrar of Trade Marks
Woden. A.C.T. 2606
Telephone: Canberra 83 2211

RECEIVED
19 MAY 1975
ARTHUR S. CAVE & CO.

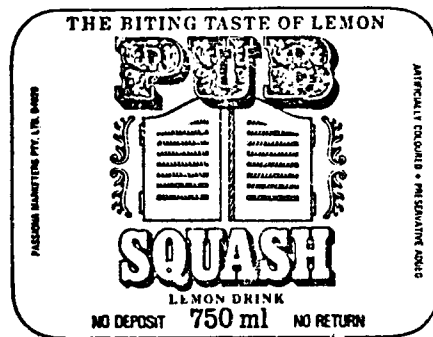
15 MAY 1975

Re Trade Mark Application No. .. 286,987 in the name of
..... PASSIONA MARKETERS PTY. LTD.

Your ref. LODGED ON: 6th May, 1975 10

Gentlemen,

Application for registration of a trade mark in
Class 32 consisting of or comprising the following promi-
nent particulars:



has been numbered as above.

Applications are examined in order of lodgement, and
it may be some months before this application is referred
to an Examiner for report. However, examination of trade
mark applications can be expedited on request and upon
showing due cause. Any applicant who considers that he is
disadvantaged by the current delay and who can satisfy the
Registrar of hardship will on request receive favourable
consideration for early examination. 20

Arthur S. Cave & Co.
SYDNEY. N.S.W. 2000

F. Danill
for SENIOR CLERK
(Trade Marks)

'130'

Crest

AUSTRALIAN INDUSTRIAL RESEARCH AND DEVELOPMENT GRANTS BOARD
Reference 75/528 Telephone 466211 P.O. Box 4009, Canberra,
A.C.T. 2600

24 DEC 1976

PERSONAL

Mr. P.R. Brooks,
Public Officer,
The Pub Squash Co.
Pty Ltd,
P.O. Box 266,
AUBURN, N.S.W. 2144.

10

Dear Mr. Brooks,

With reference to your application dated 22 November 1975,
I wish to advise that the Board has approved payment of a
general grant of \$25,000 for I.R. & D. performed by your com-
pany in the 1974-75 grant year.

A cheque for this amount will be forwarded within the
next few days.

20

Enclosed herewith is a copy of the calculations adopted
by the Board in arriving at the amount of grant now payable.

Yours sincerely,

D.McMillan
(E.W. Ryan)
per Executive Officer

Cheque for \$25,000 banked 10 Jan '77
A/c 2-14

The Chairman,
Australian Industrial Research &
Development Grants Board,
P.O. Box 4009,
CANBERRA, A.C.T. 2600.

INDUSTRIAL RESEARCH AND DEVELOPMENT GRANTS ACT 1967-1973
APPLICATION FOR GRANT - YEAR 1974-75

Application is hereby made for a grant in respect of expenditure by this company on industrial research and development carried out during the year. The supporting information is supplied on a confidential basis. 10

Name of Company PASSIONA MARKETERS PTY LTD
Business Address 15 Percy Street
..... AUBURN N.S.W. 2144
Postal Address Post Office Box 266
..... AUBURN N.S.W. 2144
When and where Incorporated .. New South Wales May 13, 1974 ..
Products Manufacturer or ~~Mixer~~ of..... Softdrink
Location of Manufacturing or ~~Mixing~~ Operations 15 Percy Street,
..... AUBURN 20
Location of Research Unit(s) .. 15 Percy Street, AUBURN
Person to whom enquiries re application are to be directed
Name T.D. JAY Title Marketing Manager Telephone No. 649.7111
Address as above

DECLARATION*

I, the person making this application declare that:

- (a) the results of the industrial research and development undertaken by the company relating to the activities set out in the attached statement Supporting Information (I) will be exploited on normal commercial terms and otherwise in a manner that will be for the benefit of the Australian economy. 30
- (b) except as provided under the Industrial Research and Development Grants Act 1967-1973, performance of industrial research and development of the company has not been assisted financially by the Australian Government or out of moneys provided by the Australian Government and
- (c) during the year ended 30 June 1975, the company carried on, in its own right, the manufacture of goods or mining operations. 40

Exhibit 24(b) - Form of
Application

Name in full of Public Officer ... PETER ROBERT BROOKS

Date 22. 75 Signature of Public Officer ... P.R. Brooks

*If claim involves I.R. & D. performed, without charge, for a related company, the related company must also give a declaration in terms of section (a). If assistance by, or out of moneys provided by the Australian Government has been received please amend section (b) of the declaration and specify the amount of such assistance. If the company did not carry on the manufacture of goods or mining operations during the year, but anticipates that it will do so during the year ended 30 June 1976, please amend section (c) accordingly.

10

SUPPORTING INFORMATION (I)

DESCRIPTION OF INDUSTRIAL RESEARCH AND DEVELOPMENT ACTIVITIES

Please describe all industrial research and development (I.R. & D.) projects undertaken during the grant year. Give sufficient detail to satisfy the Board that the activities conform with the definition of I.R. & D. set out in the explanatory notes.

If the application involves eligible expenditure in excess of \$50,000, a separate statement may be requested to enable the Board to determine the appropriate level of selective grant payment. 10

Passiona Marketers Pty Ltd was incorporated in May 1974 for the purpose of taking over the Cottees General Foods softdrink manufacturing operations. At the time of takeover the Cottees corporate standing in the marketplace was at an all time low. This was due largely to substandard product quality control and poor product presentation.

The future corporate success of Passiona Marketers therefore depended heavily upon a total rejuvenation of the Cottees market standing. This was the major objective of the research and development programme. The R & D activities undertaken included - New Product development - Plant design and development. 20

The following is a list of R & D projects carried out by Mr. M. Allman, Mr. J. Newell, Mr. T. Tait and Mr. C. Black during 1974-75 and essentially occupying all of their time.

(A) NEW PRODUCT DEVELOPMENT

New product R & D work involves specialised chemical studies into the blending of raw materials, including flavours and essences, emulsifiers, stabilizers and sugar content. Subjective determination of organoleptic quality are made from a large number of varying samples. The problems of developing an acceptable flavour is extremely complex. These problems require a high degree of investigatory work which is far more complex than would appear on the surface, and the uncertainties involved in providing both a consistent and acceptable taste by formulatory means are significant and must be solved. 30

The following new products have been or are still being developed by our company: 40

(2) PUB SQUASH (Lemon based flavour)

As with C-Time detailed investigation was carried out into:

- Preservative levels
- Flavour characteristics
- Production processes
- Compatibility of the product and packaging
- Selection of a flavour emulsion

10

In addition to the above factors, special development work was required to:

- Obtain and maintain a sufficiently fine pulp which will remain dispersed throughout the product.
- Create a suitable flavouring oil. Because of the extremely delicate nature of these products the end objective is extremely difficult to obtain. Extensive product experimentation is required.
- Investigatory work into creating a product which resists oxidative degradation is continuing. The influence of ultra violet light on the finished product is an extremely complex problem.

20

Exhibit 24(b) - Form of Application

PASSIONA MARKETERS PTY. LTD.

Prescribed Expenditure

Appendix D
Supporting Schedule

ITEM 1: MATERIALS

The following material costs were incurred during 1974-75 in the course of our new product development programme. These product development runs are a necessary and integral part of new soft-drink development. Factors such as flavour characteristics, product style and presentation, composition etc. require rigorous and thorough testing prior to undertaking a commitment for full production. 10

The following Standard Costs are used in costing the development runs. All product produced was utilised solely for development purposes.

STANDARD COSTS / CASE

	<u>Ring Pull Cans</u>	<u>One Way Bottles</u> <u>10oz.</u>	20
Concentrate	0.250	0.160	
Sugar	0.260	0.170	
Gas	0.015	0.010	
Packaging	1.670	1.240	
Labour	0.050	0.160	
Services	0.115	0.060	
	<u>\$2.36</u>	<u>\$1.80</u>	

Product Development Runs

<u>Date</u>	<u>Product</u>	<u>Pack Type</u>	<u>Quantity</u>	<u>Standard Cost \$</u>	<u>\$</u>	30
24. 8.74	C-Time	Ring Pull Cans	400 cases	2.36	944.00	
24. 8.74	7-Time	Ring Pull Cans	400 cases	2.36	944.00	
6. 9.74	C-Time	Ring Pull Cans	400 cases	2.36	944.00	
7. 9.74	7-Time	Ring Pull Cans	400 cases	2.36	944.00	
19.10.74	Passiona	10oz. O.W.B.	400 cases	1.80	720.00	
14. 2.75	Pub Squash	Ring Pull Cans	400 cases	2.36	944.00	
24. 5.75	Citra	Ring Pull Cans	400 cases	2.36	944.00	
24. 5.75	Rate	Ring Pull Cans	400 cases	2.36	944.00	
				<u>Claim</u>	<u>\$7,328.00</u>	

Additional information on the above products is detailed under "Description of Industrial Research and Development Activities" in supporting information (1) at the commencement of this claim. 40

COPY

Client: Passiona Marketers Pty. Ltd.
Pub Squash 30 second T.V. commercial
"The Million Dollar Man"

NOTE:

This television commercial is based around the television character of the "SIX MILLION DOLLAR MAN", in casting of the leading man, the photographic and production style, and the approach to the sound track which utilises distorted sound effects synced with the on screen action.

10

VISUAL:

The evil face, slashed by a scar running down the side of an unruly unshaven profile turns to centre screen and throws a challenge off screen. The sound track distorts a weird heavy noise.

CUT: The MAN turns, in close shot, into screen and accepts the challenge.

CUT: In slow motion, The MAN (a spitting image in looks, and dress, for Lee Majors) races in slow motion towards camera, closer, closer, then jumps, up and up, and ...

20

CUT: ... lands, arms stretched, before the force of evil ready to meet him in arm to arm combat.

CUT: The enemy picks up a long piece of dead wood, and in slow motion swings it around, across The MAN's back.

.../2

HARRIS WHITBURN & ASSOCIATES

"The Million Dollar Man" -2- 24th March, 1975.

CUT: In slow motion, the wood breaks in two across The MAN's back and flies off screen.

CUT: The MAN, in slow motion, brings one arm, stretched out to full length, into contact with the heavy's head, forcing him back into the air.

10

CUT: That same outstretched arm continues towards screen, now carrying a firmly gripped can of PUB SQUASH.

The can of PUB SQUASH continues towards screen and holds, while The MAN rips the top from the can in slow motion and lemon squash sprays out into the air.

CUT: Show in silhouette, The MAN lifts the can back for the refreshment he needs, then lowers the can into close shot. and crushes the can in his hands.

CUT: Close shot. PUB SQUASH can.

VOICE OVER:

20

~~"PUB-SQUASH---MAKES-A-MAN-FEEL-LIKE-A-MILLION-DOLLARS."~~

"WHEN YOUR THROUGH WITH THE HASSLES RIP INTO A PUB LEMON SODA SQUASH"

PUB LEMON SODA SQUASH

Crest

HARRIS ROBINSON
& ASSOCIATES PTY. LTD.

Crest

T.V. COPY

JOB NO. "FURNACE"
DATE: 21.9.75.CLIENT: PUB SQUASH
PRODUCTION: 30" T.V.

VIDEO	AUDIO
Foreman in helmet walking through factory.	
Looks into blast furnace that is glowing.	10
Watches molten metal.	
Close up of man's face sweating.	
He wipes his mouth	
Switches to pub squash can shot.	
Close of man's face and wipes mouth again.	
Shot of man holding Pub Squash Can and opening it.	
Cuts to machinery working.	20
Cuts back to man drinking Pub Squash.	
Shot of consol panel for machinery and man stopping machinery.	
More machinery shots.	
Man opens another can	
Drinks again.	
Cuts to man starting up machinery again.	
Looks once more back into furnace.	
Freeze frame of can of pub soda squash with SUPER - "Pub Soda Squash Lemon Drink".	
	When the heat is on, and your throat is aching for the local, rip into a Pub Soda Squash drown that thirst with the biting taste of lemon in PUB SODA SQUASH. 30

Exhibit 33(b) - Television
script for advertisement
"Furnace"

Crest

HARRIS ROBINSON
& ASSOCIATES PTY. LTD.

Crest
FILE COPY

T.V. COPY

JOB NO. PS 258
DATE: 20.6.77

CLIENT: PUB SQUASH COMPANY
PRODUCTION: PUB SQUASH 60"

VIDEO	AUDIO
<p>YOUNG SURFER-LOOKING BLOKE WORKING IN A SMALL, CRAMPED MACHINE SHOP. HORRIFYING DEVICES ARE CHRUNING OUT FITMENTS OF SOME SORT. HE IS HOT AND HAS ALMOST HAD IT FOR THE DAY. HE SWITCHES OFF THE MACHINE AND PICKS UP A BOX FILLED WITH THE FITMENTS HE'S TURNED UP. HE STAGGERS ACROSS THE ROOM UNDER ITS WEIGHT, TURNING HIS HEAD TO LOOK AT HIS KNEEBOARD AS HE GOES PAST. IT'S PROPPED UP AGAINST THE SHOP WALL. HOLD ON BOARD.</p>	<p><u>TELEVISION SILENCE</u></p> <p>Well I'd been working all day, trying to make the thing pay..</p> <p>10</p>
<p>ROUGHLY MATCH DISSOLVE THROUGH TO THE BOARD BEING HELD BY THE SURFER. HE IS STANDING BY THE ROADSIDE IN THE SUN AND DUST. HIS OVERALLS HAVE BEEN REPLACED WITH BOMBAY BLOOMERS, AN OLD SHIRT, BIGFOOTS AND A DILLY BAG AND WETSUIT OVER ONE SHOULDER. HE'S TRYING TO HITCH A RIDE TOWARD THE WATER.</p>	<p>and I was hitching with my kneeboard to the water ..</p> <p>20</p>
<p>CLOSE UP OF THE SURFER'S FACE SHOT ON LONG LENS FROM THE OTHER SIDE OF THE ROAD, SO THAT BIG TRUCKS AND BUSES KEEP BLURRING THROUGH FRAME OUT OF FOCUS, FLASHING HIS FACE ON AND OFF. HE IS SWEATING AND LICKS HIS DRY LIPS AS HE LOOKS ABOUT FOR A LIFT.</p>	<p>Man I was thirsty and dry</p> <p>30</p>
<p>A RED RANGE ROVER DRIVEN BY A VERY GOOD-LOOKING LADY IN HER LATE TWENTIES COMES BOPPING ALONG. SHE SEES THE SURFER AND PULLS INTO THE SIDE OF THE ROAD.</p>	<p>and then this chick came driving by</p>
<p>THE CAMERA SLOW RUNS UP TO THE RANGE ROVER, WHICH HAS STOPPED A BIT DOWN THE ROAD. THE DOOR OPENS AND CAMERA TURNS IN AND LOOKS UP AT HER, SMILING PLEASANTLY.</p>	<p>and she said "Step inside, my dear, and I'll take you.</p> <p>40</p>
<p>SHOT THROUGH THE WINDSCREEN OF BLOKE SITTING THERE WITH AMAZED, WIDE-EYED,</p>	

Exhibit 33(c) - Television
script for advertisement
"Kneeboard"

Exhibit 33(c) - Television
script for advertisement
"Kneeboard"

LOOKING-STRAIGHT-AHEAD SMILE ON HIS
FACE. FEMALE HAND HOLDING CAN OF PUB
SQUASH REACHES INTO FRAME AND TOUCHES
HIS ARM. HE DOES A 'TAKE' AND LOOKS
ACROSS AT THE CAN.

And then she laid
this can of Pub Squash
on me ...

98 BAY ROAD, WAVERTON, N.S.W. 2060. PHONE 92 7173

Exhibit 33(c) - Television
script for advertisement
"Kneeboard"

Crest

HARRIS ROBINSON
& ASSOCIATES PTY. LTD.

Crest
FILE COPY

T.V. COPY

JOB NO. PS 258
DATE: 20.6.77

CLIENT: PUB SQUASH COMPANY
PRODUCTION: PUB SQUASH 60"

VIDEO	AUDIO	
CUTS BETWEEN HIS FACE LOOKING AT HER, SURPRISED; SHE LOOKS AT HIM, COOL AND SMILING; HIS SMILING; HANDS ON CAN AS IT CROSSES OVER.	She laid this can of cold Pub Squash on me ...	10
THE GIRLS SAYS SOMETHING TO HIM THAT ALMOST FREAKS THE SURFER. SHE LAUGHS AT HIS EMBARRASSMENT AND HE TRIES TO HIDE IT BY POURING THE PUB SQUASH INTO HIMSELF.	She said, 'you need it I see'	
HE SPILLS A BIT AS HE DRINKS AND APOLOGISES PROFUSELY AS HE DABS IT OFF THE SEAT WITH THE FLAPS OF HIS BOMBAY BLOOMERS.	I drank it all down	20
DISSOLVE THROUGH TO SHOW THE SURFER IN THE WATER, CARVING THROUGH THE TUBES ON HIS KNEEBOARD.	And it tasted like a Lemon squash oughta	
SURFING CONTINUES	Now that lady has made me feel better	
SURFING CONTINUES AND THEN DISSOLVE TO THE WET SURFER ON THE BEACH WITH THE LADY. SHE'S HELPING HIM OUT OF HIS WET-SUIT AND RUBS HIM WITH THE TOWEL.	And if she wants to be friendly, I'll let her ...	30
THROUGH TO SHOW THEM SITTING ON THE BEACH TOGETHER. SHE PASSES HIM THE CAN OF PUB SQUASH FROM AMONGST HER THINGS ON THE SAND. AS HE TAKES IT SHE LEANS ACROSS AND HIS FACE DISAPPEARS BEHIND THE GIRL'S HAIR AS SHE EITHER KISSES HIM OR LOOKS <u>VERY CLOSELY</u> AT HIM.	Cause she laid that can of Pub Squash on me	
HIS HAND HOLDING THE PUB SQUASH CAN IS OVER HER SHOULDER AND COMES INTO FRAME. IT DROPS FROM HIS FINGERS AND IS FROZEN AN INCH OR TWO AWAY FROM THEM.	She laid that cold can of Pub Squash on me	40

98 BAY ROAD, WAVERTON, N.S.W. 2060 PHONE 92 7173

(FADE)
Exhibit 33(c) - Television
script for advertisement
"Kneeboard"

Crest

HARRIS ROBINSON
& ASSOCIATES PTY. LTD.

Crest

T.V. COPY

JOB NO.
DATE: October 19, 1976

CLIENT: The Pub Squash Company P/L
PRODUCTION: Uncola No. 1

VIDEO

AUDIO

ENTIRE VIDEO IS A SLOW, CLOSE-UP SHOT OF A BIG, FAT LEMON HAVING THE TOP SLICED OFF AND A HAND SQUEEZING IT SO THAT THE JUICE RUNS OUT IN A RICH, LUXURIOUS STREAM. TOWARDS THE END THE CAMERA PANS DOWN TO SHOW A CAN OF PUB SQUASH WITH THE LEMON JUICE SPLATTERING ONTO IT AND FORMING A POOL AROUND IT. THIS ENTIRE SEQUENCE IS IN SLOW MOTION.

REGGAE TRACK BY GROOVE

the Hound Voice Over
(as recorded by Groove)

There's just no way you 10
can get the same kind
of fresh, natural juice
out of a cola nut like
you can out of an
UNcola nut.

THROUGHOUT THIS, AT INTERVALS, ARE SHOTS SHOWING COLA NUTS BEING BUSTED OPEN IN A VARIETY OF WAYS.

And it's UNcola nuts
that go into PUB SQUASH!

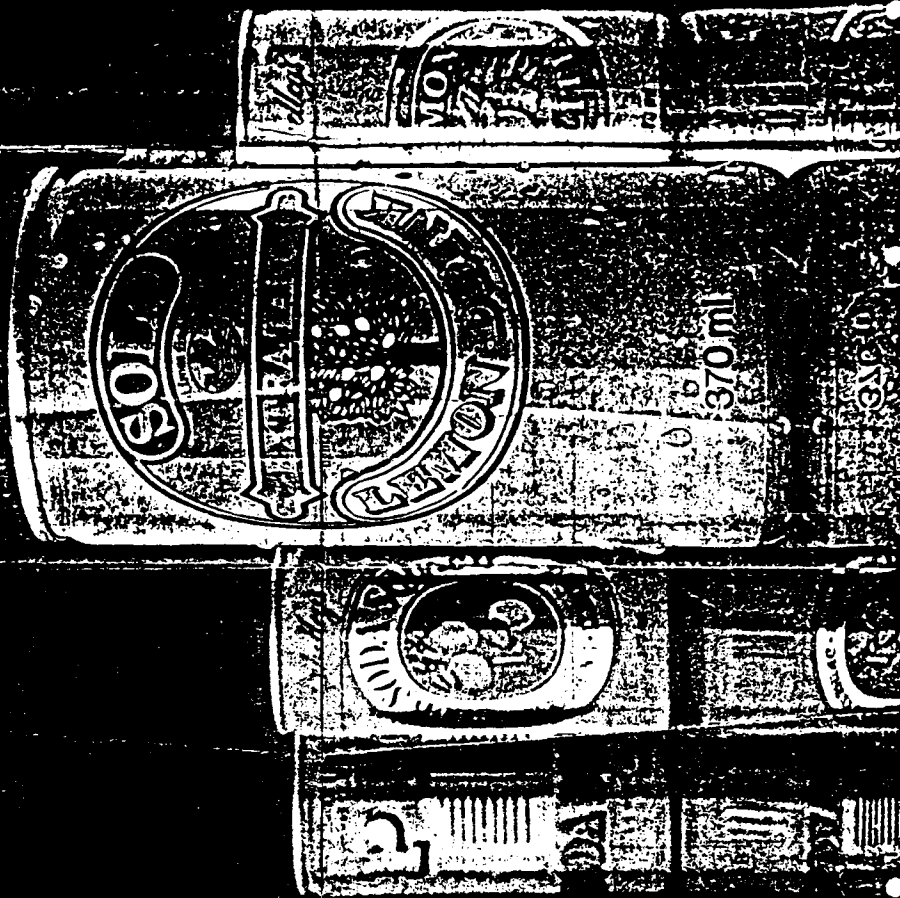
Oh7-yeah. 20

COMMERCIAL WILL START WITH A SHOT OF A COLA NUT XXXXXXXXXXXXXXXX AND A LITTLE FADE ON/FADE OFF SUPER WILL SAY:
'A COLA NUT'.

ONCE THE LEMON MAKES ITS FIRST APPEARANCE, SUPER SAYS: 'AN UNCOLA NUT'.

WHEN CAMERA FINALLY FRAMES THE PUB SQUASH CAN, SUPER: THE UNCOLA.

**Solo separates the men
from the boys.**



AWE:mt

13th January, 1976

The General Manager,
Cadbury Schweppes Pty. Limited,
323 Canterbury Road,
RINGWOOD. VIC. 3134

Dear Sir,

Re: Passiona Marketers Pty. Limited
" PUB SQUASH " - " PUB SODA SQUASH "

We act for Passiona Marketers Pty. Limited, the proprietor of the above trade marks. Our client has used its trade marks continuously and extensively and has established substantial goodwill and reputation in the trade marks as applied to goods of its manufacture. 10

Our client's attention has been directed to a double page advertisement which appeared in the Sydney " Daily Mirror " of 22nd December, 1975. This advertisement features cans of various Shelleys soft drinks and a can of our client's " PUB SODA SQUASH ". One can, viz. " SOLO " lemon drink, is located ahead of the others and is larger in the advertisement than the others. Also the advertisement includes the words " SOLO SEPARATES THE MEN FROM THE BOYS ". 20

Our client contends and we agree that : (a) your advertisement is a deliberate attempt by you to mislead the purchasing public into the belief that our client's " PUB SODA SQUASH " is a product of Cadbury Schweppes Pty. Limited; (b) that your " SOLO " lemon drink is a superior product to our client's " PUB SODA SQUASH "; and (c) that having regard to the use of the trade marks " PUB SQUASH " and " PUB SODA SQUASH " by our client, the use by you of a can of our client's " PUB SODA SQUASH " in the advertisement of, is false advertising which is likely to deceive the purchasing public and cause damage to our client. 30

We are therefore instructed to demand that you give the following undertaking :

1. You will immediately give a written assurance that you will not repeat the advertisement complained of and that this assurance will also extend to future advertisements caused to be published by you, in that you will not include any of our client's products in your advertisements. 40

'complained

.... /2

Exhibit 22(a) - Letter from
Arthur S. Cave & Co.

-2-

Cadbury Schweppes Pty. Limited,

13th January, 1976

2. That you will immediately cause to be published in the " Daily Mirror " and in all other newspapers, trade journals and the like in which the advertisement complained of has appeared, a notice of apology for having included our client's product in the advertisement and that the said advertisement in its present form will not be repeated.

10

Your acknowledgement of this letter and your agreement to the undertaking set out above are required within seven days of the date hereof. Otherwise our client will take such action as it is advised to protect its rights in this matter.

Yours faithfully,
ARTHUR S. CAVE & CO.

A. W. EDWARDS

"29" "E"

HEDDERWICK, FOOKES & ALSTON

SOLICITORS
121 WILLIAM STREET
MELBOURNE, VIC., 3000
BOX 1776Q, G.P.O., MELBOURNE, 3001

TELEPHONE: 82 0381

CABLES: HEDDERWICK
MELBOURNE
TELEX: 31620

S. C. G. MACINDOE
L. S. JONES
D. W. ROGERS
W. R. M. IRVINE
R. H. Y. SYME
A. G. HISCOCK
P. M. HODDAY
M. J. STANDISH
M. C. S. GLEDHILL

CONSULTANT
J. A. RICHARDS

OUR REFERENCE.....MD.PH

YOUR REFERENCE.....AWE.mt



Arthur S. Cave & Co.,
G.P.O. Box 3876,
SYDNEY, N.S.W. 2001

Dear Sirs,

We act on behalf of Cadbury Schweppes Pty. Ltd. and have been handed your letter of 13th January 1976. We have also had the opportunity to view a copy of the advertisement complained of. 10

Our client denies that the advertisement is an attempt to mislead or that it is capable of interpretation sought to be drawn from it. Our client further denies that there can be any suggestion of false advertising or deception.

On the contrary, our client considers the advertisement is a reasonable attempt on its part to inform the public that there is no relationship between its product and other products similarly packaged and presented which have subsequently appeared on the market. 20

Yours faithfully,
Hedderwick, Fookes & Alston

MD:PH IED:MM:76-185

4th March, 1976.

Messrs. Hedderwick, Fookes & Alston,
Solicitors,
121 William Street,
MELBOURNE. 3000

Dear Sirs,

Re: Passiona Marketers Pty. Limited and Cadbury Schweppes

We act for Passiona Marketers Pty. Limited on whose behalf 10
Messrs. Arthur S. Cave & Co., wrote to you on 13th January.
We have had the opportunity of perusing your reply of 20th
January.

We have sought the opinion of Senior Counsel, who has advised
that your client's conduct may amount to a breach under the
Trade Practises Act 1974; however, we now understand from our
client that Mr. Saunders of your client company has indicated
that such conduct will not occur again and that the posters
based upon the offending advertisement have been removed 20
from various retail outlets. Accordingly, in the circumstances
we are instructed to take no further action in this
particular case, but in view of Counsel's advice were your
client to engage in similar conduct in the future, proceedings
would be commenced forthwith.

Yours faithfully,
MAUNDER & JEFFREY

Per:

APPLICATION FOR REGISTRATION OF BUSINESS NAME

U
S
E

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R
S

- 1. The business name is PUB SQUASH COMPANY
- 2. The principal or only place of business in South Australia is situated at 382 PAYNEHAM ROAD, PAYNEHAM SOUTH AUSTRALIA 5070
- 3. Other places of business in South Australia are situated at BANKSIA ROAD, MT. GAMBIER S.A. 10
- 4. A concise description of the true nature of the business is MANUFACTURE & DISTRIBUTION OF AERATED WATERS
- 5. The date (or proposed date) of commencement of business is 1st APRIL 1977
- 6. The name and other particulars of each applicant are as shown below:-

Christian Names and Surname of Each Individual, and Corporate Name of Each Corporation	Usual Place of Residence of Each Individual and Place of Registered Office in South Australia of Each Corporation	Former Christian Name and Surname (if any). Married women must fill in Maiden Name here
CADBURY SCHWEPPE PTY. LTD.	C/- SCRUTINY NOMINEES PTY LIMITED 41 CURRIE STREET ADELAIDE S.A. 5000	

*If any individual is under the age of 21 years he must be described as an infant, and the date of his birth must be shown. 20

- 7. The above business name has been adopted in substitution for the name: (Strike out this item if it is not applicable).

8. Mr. _____ of _____
has consented in writing to be my/our resident agent in South Australia for the purposes of the Act and has been authorized in writing to accept on my/our behalf service of any notices for the purposes of the Act, and of any process.

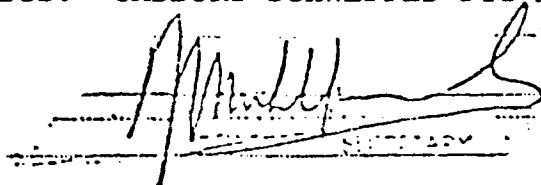
(This item must be completed only if the applicant (or ALL the applicants, if more than one) resides outside South Australia, or has no fixed address within the State.) 30

Signature of resident agent named in Item 8 (if applicable)

Exhibit 3 - Application for
Registration of Business
Name (South Australia)

Dated this 10th day of March 1977.

For and on behalf of
Signatures: CADBURY SCHWEPPE'S PTY. LTD.



CADBURY SCHWEPPE'S PTY. LTD.

/ This application must be signed by each applicant or by some person authorised in writing to sign the application on his behalf, case of a corporation, it must be signed by a director, manager or secretary of the corporation, or, in the case of a foreign company, it signed by the registered agent in South Australia of the company.

10

Business Names Act 1962--Sections 7, B

Application for Registration of a Business Name

1. Business name ... PUB SQUASH COMPANY
(BLOCK LETTERS)
(In order to effect Registration the name must be both sufficiently dissimilar from those of existing firms or companies and devoid of misleading or undesirable words or phrases.) 10

2. Where the business is or is proposed to be carried on---
 - (a) At one address in TAS., state that address 76 FEDERAL STREET, NORTH HOBART 7000
 - (b) At more than one address in TAS. state ---
 - (i) the principal address .----.....
 - (ii) each other address----.....
 (Give address or addresses in full.) (Where the business is not sole occupant of the building, particulars sufficient to enable the business to be located readily are required, e.g., Room 101 First floor, or at the office of) 20

3. Concise description of Nature of Business MANUFACTURE & WHOLESALING OF AERATED WATERS
(The particulars supplied here must clearly indicate the branch of trade or profession in which the name will be employed. Vague descriptions such as "Trading", "Investors" or "Retailing" may not be accepted.)

4. Name and other particulars of each applicant who is an individual and the corporate name and registered office in TAS. of each applicant which is a corporation --- 30

Christian Names and Surname of each individual and Corporate Name of each Corporation	Former Christian Names or Surname (if any) of each Individual	Usual Place of Residence of each individual and Place of Registered Office in Tas of each Corporation
CADBURY SCHWEPPE'S PTY. LTD. 8373 (BLOCK LETTERS)		C/o Colybrand Pty. Limited C/o Coopers & Lybrand AMP Building 86 Collins Street HOBART TASMANIA 7000

Exhibit 3 - Application for
Registration of Business
Name (Tasmania)

5. Date or proposed date of commencement of carrying on business in TAS. under the above-mentioned business name by the applicant or applicants 1st APRIL 1977...
6. If the business name shown above (Item 1) is a name adopted in substitution for a business name already registered by the applicant(s) state that other name

Signed at _____ on the _____ day of 19 _____ 10
(Usual Signature)*

Signed at _____ on the _____ day of 19 _____
(Usual Signature)*

Signed at _____ on the _____ day of 19 _____
(Usual Signature)*

Signed by JAMES MARTIN KIRKPATRICK
of CADBURY SCHWEPPE'S PTY. Limited
at MELBOURNE this Fifteenth day of March 1977.

xxxxxxx/xxxxxxx/secretaryxxxxxxx
J.M. Kirkpatrick 20

(Usual Signature)*

7. Full name and address of resident agent authorized, in writing, to accept service on behalf of the persons carrying on or proposing to carry on business under the above business name of any notices for the purposes of the Business Names Act 1962 and of any process.

(Full name) COLYBRAND PTY. LTD.
of (address) 8th floor AMP. Building 86 Collins St. Hobart
Signature of person who has consented, in writing, to be the resident agent 30

COLYBRAND PTY. LTD.
DIRECTOR *[Signature]*

(Usual Signature of Agent)

Notes undecipherable.

* If any applicant is under the age of twenty-one years he is to be described as an infant and the date of his birth is to be set out in the above statement.
† Strike out irrelevant and inapplicable.
‡ This statement is to be signed by the person or persons carrying on or proposing to carry on the business or by some person or persons authorized in writing to sign the statement on his or their behalf. In the case of a corporation the statement is to be signed by a director or officer or the secretary of the corporation or by a person registered under clause 3 of Part 11 of the Companies Act 1961. It may be signed by the agent of the corporation appointed for the purpose of this Division.
§ This form is to be completed where the person or persons proposing to carry on business in Victoria under a business name resides or carries on business outside of Victoria.

SOUTH AUSTRALIA

'55'

IN THE SUPREME COURT

No. 672 of 1977

BETWEEN

THE PUB SQUASH CO. PTY. LIMITED

Plaintiff

and

CADBURY SCHWEPPE'S PROPRIETARY LIMITED

Defendant

ELIZABETH the Second, by the Grace of God Queen of
Australia and her other Realms and Territories, Head of the
Commonwealth.

10

To CADBURY SCHWEPPE'S PROPRIETARY LIMITED

of 5th Floor, 41 Currie Street, Adelaide, South Australia

We command you, that within eight (8) days after the
Service of this Writ on you, inclusive of the day of such
service, you do cause an appearance to be entered for you
in the Supreme Court of South Australia in an action at
the suit of

THE PUB SQUASH CO. PTY. LIMITED

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and take notice that in default of your so doing the
plaintiff may proceed therein, and judgement may be given
in your absence.

GENDERS, WILSON AND PARTNERS,
Per: (Signed)
Solicitors for the Plaintiff.

21 APR 1977

Witness, the Honourable John Jefferson Bray

Chief Justice of our said Supreme Court at Adelaide, the
21st day of April 1977.

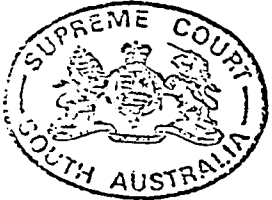
N.B. - This Writ is to be served within twelve calendar months
from the date hereof, or if renewed, within the period
for which the same is renewed and not afterwards.



Exhibit 1 - Writ of Summons

A defendant may appear to this writ by entering an appearance either personally or by Solicitor at the Master's Office, Supreme Court House, Victoria Square, Adelaide.

The Plaintiff's claim is for
(as annexed hereto)



This writ was issued by GENDERS, WILSON AND PARTNERS of and whose address for service is 123 Waymouth Street, Adelaide, S.A. Solicitor for the said plaintiff, ~~whomxxxxxxidxxxxxk~~ whose office is situated at 155 Holbrooks Road, Underdale in the State of South Australia. 10

This writ was served by me at 41 Currie Street, Adelaide on the defendant Cadbury Schweppes Proprietary Limited on Thurs day the 21st. day of April 1977.

Indorsed the 21st day of April 1977.

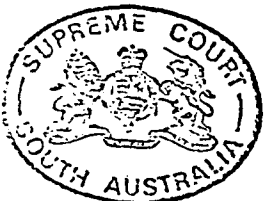
(Signed) M.A. Smith

(Address) 123 Waymouth Street, Adelaide.

Form 190/1
WRIT OF SUMMONS

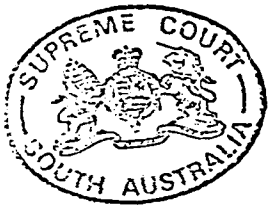
The plaintiff's claim is for:-

1. An injunction to restrain the defendant whether by its directors, officers, servants or agents or any of them or otherwise howsoever from doing the following act, that is to say, infringing the plaintiff's Registered Trade Mark Class 32 Number B286, 987.
2. Obliteration upon oath of all marks and words or any colourable imitation thereof upon all articles, the use of which being the marks or words to be obliterated would be a breach of the first injunction prayed for and verification upon oath that the defendant no longer has in its possession, custody or control any articles so marked. 10
3. An injunction to restrain the defendant whether by its directors, officers, servants or agents or otherwise howsoever from passing off or attempting to pass off the business of the defendant as manufacturers and distributors/ of aerated waters as the business of the plaintiff by the use in connection therewith of the business name 'Pub Squash Company' or any colourable imitation thereof or by any other means. 20
4. Obliteration upon oath of all marks and words or any colourable imitation thereof upon all articles produced by or on behalf of the defendant or in its possession, custody or control which would be in breach of the second injunction prayed for and verification upon oath that the defendant no longer has in its possession custody or control any articles so marked.



-2-

5. An injunction to restrain the defendant whether by its directors, officers, servants or agents or otherwise howsoever from doing the following acts or any of them, that is to say, passing off or attempting to pass off or causing, enabling or assisting others to pass off any product not the goods of the plaintiff as and for the plaintiff's product 'Pub Soda Squash Lemon Drink'.
6. An enquiry as to damages or at the plaintiff's option an account of profits and payments of all sums found due upon taking such enquiry or account. 10
7. Further or other relief.
8. Costs.



SOUTH AUSTRALIA

'64'

IN THE SUPREME COURT

No. 672 of 1977

BETWEEN:

THE PUB SQUASH CO. PTY. LIMITED

Plaintiff

and

CADBURY SCHWEPPES PROPRIETARY LIMITED

Defendant

AFFIDAVIT

I, JOHN FRANCIS LEONARD of 9/55 Avoca Street, South Yarra in
the State of Victoria, make oath and say:

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JL.
1/6/78

JL
1/6/77

1. I am an Executive of the Defendant company and duly author-
ised to swear this Affidavit on its behalf.

2. As at the date of swearing this Affidavit the Defendant
has not undertaken any business under the style "Pub
Squash Company".

3. The Defendant denies the Plaintiff's allegations pertain-
ing to the infringement of trade mark and passing off.
Under cover of the denials and pending the outcome of
this suit, the Defendant has applied to the Registrar of
Companies to change the description of the nature of the
business to be carried on by The Pub Squash Company by
deleting "manufacture and distribution of aerated waters"
and substituting "the sale of syrup concentrates including
the sale of lemon syrups" so as to avoid any suggestion
of possible confusion with the Plaintiff.

20

J. Leonard

1/6/77



Exhibit 1 - Affidavit of
John Francis Leonard

4. In addition to the matters set out in paragraph 3 hereof and under cover of the same denials and pending the outcome of this suit, the Defendant will not undertake the manufacture and distribution of aerated waters under the style "Pub Squash Company" and will not accept any orders for the manufacture and distribution of aerated waters under that style.

SWORN by the said Deponent at)
Melbourne in the State)
of Victoria this 1st)
day of June, 1977)

10

J. Leonard

Before Me :-

A Commissioner for taking Declarations and Affidavits under the Evidence Act, 1953.

THIS AFFIDAVIT is filed by MURRAY & CUDMORE of 44 Pirie Street, Adelaide. Solicitors for the Defendant.

J. Leonard
1/6/77

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B E T W E E N :

THE PUB SQUASH CO. PTY. LIMITED

Plaintiff

- and -

CADBURY SCHWEPPE'S PROPRIETARY LIMITED

Defendant

D E F E N C E

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1. The Defendant admits the allegations contained in paragraphs 1 and 2 of the Statement of Claim.
2. The Defendant does not admit any of the allegations contained in paragraph 3 of the Statement of Claim.
3. If the Plaintiff is the registered proprietor of the alleged trade mark referred to in paragraph 3 of the Particulars of Claim (which is not admitted) the Defendant denies that such registration is and has been valid and subsisting and further says that the proceedings have been commenced by the Defendant in the Supreme Court of New South Wales claiming (inter alia) an order that the Register of Trade Marks may be rectified by the expungement therefrom of the entry in respect of the Plaintiff's said alleged trade mark.
4. The Defendant does not admit any of the allegations

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-2-

contained in paragraph 5 of the Statement of Claim and further says that if the Defendant commenced to carry on business in the State of South Australia under the name The Pub Squash Co. Pty. Ltd. (which is not admitted) the Plaintiff is carrying on business in contravention of the provisions of the Companies Act 1962 as amended.

5. The Defendant does not admit any of the allegations contained in paragraphs 6 and 7 of the Statement of Claim. 10
6. The Defendant denies each and every allegation contained in paragraph 8 of the Statement of Claim as if the same were set out herein and specifically traversed.
7. The Defendant does not admit the allegations contained in paragraph 9 of the Statement of Claim.
8. The Defendant denies each and every allegation contained in paragraphs 10 and 11 of the Statement of Claim as if the same were set out herein and specifically traversed.
9. The Defendant admits the allegations contained in paragraphs 12 and 13 of the Statement of Claim. 20
10. The Defendant denies each and every allegation contained in paragraphs 14, 15 and 16 of the Statement of Claim as if the same were set out herein and specifically traversed.
11. The Defendant does not admit any of the allegations contained in paragraph 17 of the Statement of Claim.
12. The Defendant denies each and every allegation

-3-

contained in paragraph 18 of the Statement of Claim as if the same were set out herein and specifically traversed.

COUNTERCLAIM

13. Since October 1973 the Defendant has carried on and still carries on in South Australia and elsewhere the business of (inter alia) the production and sale of a lemon drink under the name of "Solo Lemon Drink". 10
14. "Solo Lemon Drink" was and is a lightly aerated lemon squash style of soft drink which was and is produced and sold by the Defendant in cans having a capacity of 370 ml and 250 ml respectively and in bottles having a capacity of 1.25 litres.
15. The physical appearance and get up of the cans and bottles in which "Solo Lemon Drink" is sold and offered for sale was devised by or for the Defendant.
16. From October 1973 and thereafter until the middle of 1975 the Defendant advertised in South Australia and elsewhere "Solo Lemon Drink" very widely and at great expense and in particular:- 20
 - (a) advertised the physical appearance, colour and get up of the cans and bottles in which the same is sold and offered for sale by the Defendant;
 - (b) advertised "Solo Lemon Drink" as having certain of the qualities of, or as being like "those great lemon squashes the pubs used to make" and

-4-

- otherwise associated "Solo Lemon Drink" with a lemon squash drink "like the pubs used to make", and continued so to advertise its said product in the manner hereinbefore particularised after the middle of 1975.
17. The physical appearance or get up of the cans and bottles of "Solo Lemon Drink" had prior to and at the middle of 1975 become and thereafter remained associated in the minds of the Public with the lemon drink produced and sold by the Defendant and as signifying the lemon drink produced and sold by the Defendant. 10
18. Prior to and at the middle of 1975 the Defendant's product became and thereafter remained associated in the minds of the Public with a lemon squash just like the pubs used to make and the expression "a lemon squash just like the pubs used to make" signified in the minds of the Public the lemon drink produced and sold by the Defendant and that expression became and remained distinctive of the Defendant's lemon drink. 20
19. The Defendant had prior to and as at the middle of 1975 acquired and still has a substantial reputation in "Solo Lemon Drink" and the physical appearance and get up of the cans and bottles in which the same is sold and offered for sale had prior to the middle of

-5-

1975 become and remains distinctive of the Defendant's
lemon drink.

20. The Plaintiff in or about the middle of 1975 began to pro-
duce and sell in various Australian States lemon drink
called "Pub Squash" the name of which was changed in or
about November 1975 to "Pub Soda Squash".

21. Pub Squash and Pub Soda Squash was and is a lightly aerat- 10
ed lemon squash style of soft drink which was and is pro-
duced and sold by the Plaintiff in cans having a capacity
of 370 ml and in bottles having a capacity of 1.25 litres.

22. The physical appearance or get up of the cans and bottles
of lemon drink produced and sold by the Plaintiff from the
commencement of such production and sale so nearly resem-
bled and has at all times since and still so nearly re-
sembles the physical appearance or get up of the cans of
lemon drink produced and sold by the Defendant as at all
relevant times to have been calculated and is still calcu- 20
lated to deceive and to lead to the Plaintiff's lemon
drink being passed off on persons who wish to buy the
Defendant's lemon drink.

23. The Plaintiff by calling its lemon drink "Pub Squash"
or "Pub Soda Squash" and by depicting bar room doors
on the cans and bottles in which the same was sold and
offered for sale and otherwise causing the cans and
bottles to resemble those of the Defendant intended to

-6-

appropriate for itself the reputation which the Defendant had acquired in relation to its product and intended so to deceive and in fact so deceived members of the Public that they believed that the Plaintiff's lemon drink was the Defendant's lemon drink or otherwise associated with the Defendant.

24. The Plaintiff has in fact passed off and enabled others to pass off its product as the Defendant's product throughout the very extensive market for the Defendant's product within South Australia and elsewhere in Australia. 10
25. The Defendant has been injured in its reputation by the aforesaid conduct of the Plaintiff and has suffered and will suffer loss and damage and has lost and will lose profits which it otherwise could and would have earned from the sale of "Solo Lemon Drink".

AND THE DEFENDANT COUNTERCLAIMS:-

1. An enquiry as to damages for the passing off by the Plaintiff of lemon drink not produced by the Defendant as and for the Defendant's lemon drink. 20
2. At the option of the Defendant an account of profits.
3. Payment of all sums due upon taking such enquiry or account.
4. Further or other relief.
5. Costs.

THIS DEFENCE AND COUNTERCLAIM is filed and delivered the 3rd day of June 1977 by MURRAY & CUDMORE of 44 Pirie Street Adelaide. Solicitors for the Defendants.

IN THE SUPREME COURT

No. 672 of 1977

BETWEEN:

<u>THE PUB SQUASH CO. PTY. LIMITED</u>	Plaintiff
and	
<u>CADBURY SCHWEPPE'S PROPRIETARY LIMITED</u>	Defendant

STATEMENT OF CLAIM

(Writ issued the 21st day of April 1977)

1. The plaintiff is a proprietary limited company incorporated 10 in the State of New South Wales and having its office situated at 155 Holbrooks Road, Underdale in the State of South Australia.
2. The defendant is a company registered in South Australia as a foreign company.
3. The plaintiff is the registered proprietor of the Trade Mark registered under Number B286, 987 in Class 32 in respect of lemon drinks as of the 6th day of May 1975. A prominent feature of the said Trade Mark are the words 'Pub Squash'. 20
4. The said registration is and has at all material times been valid and subsisting.
5. In or about the month of August 1976 the plaintiff commenced to carry on business in the State of South Australia under the name 'The Pub Squash Co. Pty. Limited'.
6. The plaintiff carries on the business of a manufacturer and distributor of aerated waters and soft drinks.

-2-

7. In the course of its said business the plaintiff has made regular and extensive use of the said Trade Mark in the manufacture and marketing of its product 'Pub Soda Squash Lemon Drink'.
8. The defendant has since the registration of the said Trade Mark, infringed the plaintiff's said Trade Mark by using in the course of trade in South Australia in relation to its manufacture and distribution of aerated water the plaintiff's said Trade Mark or colourable imitation thereof as a distinctive feature thereof. 10
9. The plaintiff has in the course of the said business made extensive use of the name 'The Pub Squash Co. Pty. Limited'.

PARTICULARS

The plaintiff has under the name 'The Pub Squash Co. Pty. Limited:-

- a) taken and continues to take orders from approximately one thousand customers and sent invoices to those customers for goods supplied by the plaintiff; 20
- b) registered its business premises;
- c) incurred accounts;
- d) opened a bank account;
- e) obtained a sales tax number;
- f) obtained a payroll tax number;

Exhibit 1 - Statement of
Claim

-3-

- g) registered 12 motor vehicles;
 - h) opened a telephone account;
 - i) opened a post office account;
 - j) sought approval pursuant to the Packages Act.
10. As a consequence of the said use of the name the plaintiff has acquired a substantial reputation in the name 'The Pub Squash Co. Pty. Limited'. 10
11. There are circumstances of the trade in which the plaintiff's said business lies that makes the plaintiff's said reputation in the words 'The Pub Squash Co. Pty. Limited' of special importance.
12. The defendant on or about the 10th day of March 1977 lodged with the Registrar of Companies, an application to register the business name 'Pub Squash Company'. The said business name was registered on the 14th day of March 1977.
13. In the said application the defendant stated that it proposed to carry on the business under the name 'Pub Squash Company'. The defendant further stated:- 20
- "... the true nature of the business is manufacture and distribution of aerated waters."
- The defendant further stated:-
- "the date (or proposed date) of commencement of business is 1st April 1977."
14. The defendant in carrying on a business under the name 'Pub Squash Company' has passed off or attempted to pass

Exhibit 1 - Statement of
Claim

off its business as and for the business of the plaintiff.
The plaintiff is unable before discovery, to give particulars of all the acts of passing off committed

-4-

by the defendant but will at the trial of this action seek to recover in respect of all such acts.

15. The acts of the defendant aforesaid, are in the circumstances, calculated to lead to the defendant's business being confused with the plaintiff's business and to members of the public acquiring the goods of the defendant in the belief that they are acquiring the goods of the plaintiff. 10
16. By reason of the aforesaid acts the plaintiff has suffered or is likely to suffer damage.
17. The plaintiff produces and has sold in South Australia since the month of August 1976 a drink known as 'Pub Soda Squash Lemon Drink'.
18. By reason of the registration of the business name 'Pub Squash Company' and the carrying on of business under that name by the defendant, the public and especially those members of the public who purchase goods from the plaintiff, may believe that the said drink known as 'Pub Soda Squash Lemon Drink' and other drinks, are produced by the defendant and they will desist from ordering drinks from the plaintiff. 20

AND the plaintiff's claim is for:-

Exhibit 1 - Statement of Claim

1. An injunction to restrain the defendant whether by its directors, officers, servants or agents or any of them or otherwise howsoever from doing the following act, that is to say, infringing the plaintiff's registered Trade Mark Number B286, 987, Class 32.
2. Obliteration upon oath of all marks and words or any

-5-

- colourable imitation thereof upon all articles, the use of 10
which being the marks or words to be obliterated would be
a breach of the first injunction prayed for, and verifica-
tion upon oath that the defendant no longer has in its
possession, custody or control any articles so marked.
3. An injunction to restrain the defendant whether by its directors, officers, servants or agents or otherwise howsoever from passing off or attempting to pass off the business of the defendant as manufacturers and distributors/ of aerated waters as the business of the plaintiff by the use in connection therewith of the 20
business name 'Pub Squash Company' or any colourable imitation thereof or by any other means.
 4. Obliteration upon oath of all marks and words or any colourable imitation thereof upon all articles produced by or on behalf of the defendant or in its possession, custody or control, which would be in breach of the second injunction prayed for and verification upon oath that the defendant no longer has in its possession custody or

Exhibit 1 - Statement of
Claim

control any articles so marked.

5. An injunction to restrain the defendant whether by its directors, officers, servants or agents or otherwise howsoever from doing the following acts or any of them, that is to say, passing off or attempting to pass off or causing, enabling or assisting others to pass off any product not the goods of the plaintiff as and for the plaintiff's product 'Pub Soda Squash Lemon Drink'.
6. An enquiry as to damages or at the plaintiff's option an account of profits and payments of all sums found due

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-6-

upon taking such enquiry or account.

7. Further or other relief.
8. Costs.

THIS STATEMENT OF CLAIM is filed and delivered this day
of 1977 by GENDERS, WILSON AND PARTNERS, of 123
Waymouth Street, Adelaide. Solicitors for the Plaintiff.

BUSINESS NAMES ACT, 1963
(Section 12(1), (2))

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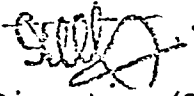
STATEMENT OF CHANGE IN CERTAIN PARTICULARS

1. The business name is PUB SQUASH COMPANY
2. The principal or only place of business in South Australia is situated at 382 Payneham Road Payneham
3. The date of the change is 9th day of May 1977
4. *Full particulars of the change are:-
 - (1) The proposed date of commencement of business was postponed from the 1st day of April 1977 to the 10th day of May 1977. 10
 - (2) The true nature of the business intended to be carried on under the above name was changed to the sale of syrup concentrates including the sale of Lemon Syrups in place and to the entire exclusion of the business of manufacture and sale of aerated waters.

Dated the 27th day of May 1977.

CADBURY SCHWEPPEES PTY. LTD.
By its agent in South Australia

SCRUTINY NOMINEES PTY. LTD.
Per:


Director /Signature
Agent in South
Australia

20

*The types of changes in respect of which notice is required to be given on this statement are:-

- (1) Change in the nature of the business.
- (2) Change of address of any place of business in South Australia.
- (3) Change in description of any address (e.g., change of street number or name). 30
- (4) Establishment of additional place(s) of business.
- (5) Cessation of business at one or more places of business in South Australia.
- (6) Change in residential address of an individual, or in the address of the registered office in South Australia of a corporation carrying on the business.

Exhibit 2 - Statement of
Change in Particulars

- (7) Change of name of an individual or corporation carrying on the business.

/This statement must be signed --

- (a) in the case of a change referred to in Items (1) to (5) above, by one of the persons carrying on the business or by some person authorized in writing to sign the statement on his behalf;
- (b) in the case of a change referred to in Items (6) and (7) above, by the person in respect of whom the change has occurred, or by some person authorized in writing to sign the statement on his behalf; 10
- (c) in the case of a corporation, by a director, manager or secretary of the corporation, or, in the case of a foreign company, it may be signed by the registered agent in South Australia of the company.

This statement must be lodged, within 14 days after the date of change, with the Registrar of Companies, State Bank Building, 51 Pirie Street, Adelaide. (Postal address: Box 1407, GPO, Adelaide, S.A. 5001.) 20

FEE: \$1.00. Increased fees become payable in the event of late lodgment of this statement.

STATEMENT OF CHANGE IN CERTAIN PARTICULARS

1. The business name is PUB SQUASH COMPANY
2. The principal or only place of business in South Australia is situated at 382 Payneham Road, Payneham 5070
3. The date of the change is 20th May, 1977
4. *Full particulars of the change are:-

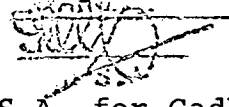
Concise description of true nature of the business is:-

10

Sale of Lemon Syrup

Dated the 20th day of May 1977

SCRUTINY NOMINEES PTY. LIMITED


Secretary
Agents in S.A. for Cadbury
Schweppes Pty. Ltd.
/Signature

*The types of changes in respect of which notice is required to be given on this statement are:-

- (1) Change in the nature of the business. 20
- (2) Change of address of any place of business in South Australia.
- (3) Change in description of any address (e.g., change of street number or name).
- (4) Establishment of additional place(s) of business.
- (5) Cessation of business at one or more places of business in South Australia.
- (6) Change in residential address of an individual, or in the address of the registered office in South Australia of a corporation carrying on the business. 30
- (7) Change of name of an individual or corporation carrying on the business.

/This statement must be signed --

- (a) in the case of a change referred to in Items (1) to (5)

Exhibit 2 - Statement of
Change in Particulars

above, by one of the persons carrying on the business or by some person authorized in writing to sign the statement on his behalf;

(b) in the case of a change referred to in Items (6) and (7) above, by the person in respect of whom the change has occurred, or by some person authorized in writing to sign the statement on his behalf;

(c) in the case of a corporation, by a director, manager or secretary of the corporation, or, in the case of a foreign company, it may be signed by the registered agent in South Australia of the company.

10

This statement must be lodged, within 14 days after the date of the change, with the Registrar of Companies, State Bank Building, 51 Pirie Street, Adelaide. (Postal address: Box 1407, G.P.O., Adelaide, S.A. 5001.)

FEE: \$1.00. Increased fees become payable in the event of late lodgment of this statement.

S.A. SOFT DRINK MANUFACTURERS' ASSOCIATION INCORPORATED

P.O. Box 15,
Eastwood, S.A. 5063



Telephone: 31 3161
Telegrams: SAFED,
Adelaide

Secretariat:
S.A. Employers'
Federation Inc.

ADELAIDE

Mr. P. Ballard,
The Pub Squash Co.Pty.Ltd.,
4/14 Durham Terrace,
CHELTENHAM,
S.A. 5014.

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29th September, 1976.

Dear Sir,

At our September Monthly Meeting your Company's application for membership was tabled and accepted upon payment of the subscription notice attached.

Our meetings are held in the Board Room of the South Australian Employers' Federation Inc., 164 Fullarton Road, Dulwich, on the second Thursday of each month excepting January. There is no meeting held in January.

20

Should you require any further information, do not hesitate to contact me.

Yours faithfully,

T.J. Morris

T.J.Morris
Secretary.

Encl.

TJM:BIS

The South Australian Soft Drink Manufacturers Association, Incorporated

110-113 BROOKMAN BUILDINGS
GRENFELL STREET, ADELAIDE, No 1926

RECEIVED from The Pine Squash Co P/L

of

the sum of One hundred & fifty Pounds

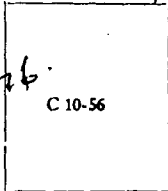
..... Shillings None only Pence

Annual Subscription to 30th Sept., 195.....

..... 1976/77 Subscription

Date

25/10/76



per J/KC

OTHER INCOME			Subscriptions		
			<u>150</u>	-	

Exhibit 23(b) - Receipt
issued by S.A. Soft Drink
Manufacturers' Assoc. Inc.

Cadbury Schweppes Pty. Ltd.

INCORPORATED IN VICTORIA

Schweppes Division

382 Payneham Road, Payneham, South Australia, P.O. Box 47, Marden, South Australia 5070. Telephone: 37-1475

Pub Squash,
155 Holbrooks Road,
UNDERDALE. 5032

INVOICE No. 2

A/C

DATE 1.3.77

232 Doz 900ml Bottles	1.20	\$278.40
232 Crates	1.00	\$232.00
1 C S A Pallet	8.00	8.00
5 Chep Pallets	8.00	40.00

\$558.40

278.40

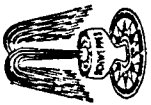
836.80

SPECIAL NOTICE.—The contents of the bottles in this invoice only are sold, the bottles are not sold by but remain the property of Cadbury Schweppes Pty. Ltd. Such bottles must not be sold, refilled, destroyed or otherwise dealt with. Cadbury Schweppes Pty. Ltd. claim possession thereto immediately the contents put in by them have been emptied.

NOTICE.—No allowance will be made for any breakages, unless noted at time of delivery.

Form No. 554

841. Exhibit 14 - Bundle of statements and invoices



Schweppes Drinks

A Division of Cadbury Schweppes Pty. Ltd. (Incorporated in Victoria)

TELEPHONE

P.O. BOX 47 MARDEN, S.A. 5070

337 1475 P.O. BOX 47 MARDEN

STU 08 S.A. 5070

BRANCH 44

STATEMENT

AS AT 26 MAR 77 PUB SQUASH

DU E 23 APR 77 155 HOLBRUOKS RD

ACCOUNT No. UNDERDALE

5032-0248

S A 5032

PUB SQUASH

155 HOLBRUOKS RD

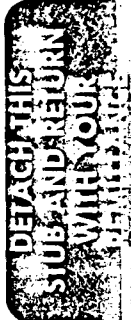
UNDERDALE

S A 5032

ACCOUNT No. FOR PERIOD TO

5032-0248 PUB SQUA 26 MAR 77

DATE	DESCRIPTION	DOCUMENT No.	DEBIT	CREDIT
28-02-77	OPENING BAL.		0.00	
28-02-77	INVOICE	000001	1625 768.00	
11-03-77	INVOICE	000002	1788 558.40	
11-03-77	CASH	440310		1405.60
11-03-77	CASH	440310		3.00
21-03-77	INVOICE	000000	1645.384.00	
21-03-77	INVOICE	000000	1788.276.40	
		685		555.20

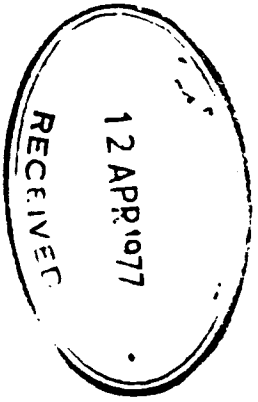


CODE	OFFICE USE ONLY
7	
6	
5	
4	
3	
2	
1	
0	
TOTAL	

DETAILS OF BALANCE DUE

PAYMENTS RECEIVED AFTER THE DATE SHOWN ABOVE WILL APPEAR ON NEXT MONTH'S STATEMENT.	OVERDUE	CURRENT	BALANCE DUE
TERMS: STRICTLY NETT 28 DAYS	0.00	530.20	530.20
			25.00

BALANCE	500.20
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Cadbury Schweppes Pty. Ltd.

INCORPORATED IN VICTORIA

Schweppes Division

382 Payneham Road, Payneham, South Australia, P.O. Box 47, Marden, South Australia 5070. Telephone: 37-1475

Pub Squash,
155 Holbroocks Road,
UNDERDALE. 5032

INVOICE No. 1

A/C

DATE 1.3.77

<p>320 Doz 900ml Bottles (Cottees)</p> <p>320 Crates</p> <p>7 CSA Pallets</p> <p>1 Chep Pallet</p>	<p>1.20 each</p> <p>1.00</p> <p>8.00</p> <p>8.00</p>	<p>\$384.00</p> <p>\$320.00</p> <p>\$ 56.00</p> <p>\$ 8.00</p>	<p>768.00</p> <p>320.00</p> <p>56.00</p> <p>8.00</p> <hr style="width: 100%;"/> <p>1152.00</p>
		<p>\$768.00</p> <p>384</p>	

SPECIAL NOTICE.—The contents of the bottles in this invoice only are sold, the bottles are not sold by but remain the property of Cadbury Schweppes Pty. Ltd. Such bottles must not be sold, refilled, destroyed or otherwise dealt with. Cadbury Schweppes Pty. Ltd. claim possession thereto immediately the contents put in by them have been emptied.

NOTICE.—No allowance will be made for any breakages, unless noted at time of delivery.

Form No. 554

843. Exhibit 14 - Bundle of Statements and invoices

Cadbury Schweppes Pty. Ltd. *Permit*

LOY BROS. PTY. LTD. 30 DAVIS ROAD, GLYNDE.

M THE PUB SQUASH COMPANY PTY LTD 155 HOLBROOK ROAD, UNDERDALE.... 5032	SPECIAL INSTRUCTIONS <hr/> <hr/> <hr/>
---	---

SALES TAX CERT. No. 	BRANCH CODE 77 INV. TYPE <input type="checkbox"/> INV. No. No 2430	ORD. No. _____ DATE ORD. ____/____/____ DEL. 18/7 /77										
<input type="checkbox"/> INT. ISSUES CATEGORY <input type="checkbox"/>	POD = 1 <input type="checkbox"/> ACCOUNT = 2 <input type="checkbox"/>	LOCATION CODE <table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr> </table>										
<input type="checkbox"/> TERRITORY <input type="checkbox"/>												

ITEM	CODE	QUANTITY	PRICE	AMOUNT
SHELLS AND EMPTIES RETURNED TO YOU:				
18.7.77 CH INV 1991				194 40
30.6.77 CH INV 1984				166 40
PLEASE PAY WITHIN 14 DAYS				

	TOTAL	\$ 360	80
--	--------------	--------	----

DEL. BY: _____ REC. BY: _____

Twin Press

Cadbury Schweppes Pty. Ltd.

INCORPORATED IN VICTORIA

Schweppes Division

382 Payneham Road, Payneham, South Australia, P.O. Box 47, Marden, South Australia 5070. Telephone: 37-1475

The PUB. SQUASH. Co Pty Ltd
 155 HOLBROOK RD.
 UNDERDALE. S.A. 5032.

INVOICE No. 33205.

DATE 26.7.77.

	M.T. Containers returned on 13/7/77. YOUR REF. 1990.			
8 1/2	Doz large Bottles @	2.40	21	00.
8	Schweppes Crates.	2.00	16	00.
1	Coltees crate	2.00	2	00.
			39	00.

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NOTICE.—No allowance will be made for any breakages, unless noted at time of delivery.

Form No. 554

Cadbury Schweppes Pty. Ltd.

INCORPORATED IN VICTORIA

Schweppes Division

382 Payneham Road, Payneham, South Australia, P.O. Box 47, Marden, South Australia 5070. Telephone: 37-1475

THE PUB. SQUASH. CO. PTY LTD
155 HOLBROOK RD.
UNDERDALE S.A. 5032.

INVOICE No. 33156.

DATE 26.7.77.

M.T. Containers returned on 22.6.77 YOUR REF. 1969.			
28	Doz large bottles @	2.40.	67 20.

SPECIAL NOTICE.—The contents of the bottles in this invoice only are sold, the bottles are not sold by but remain the property of Cadbury Schweppes Pty. Ltd. Such bottles must not be sold, refilled, destroyed or otherwise dealt with. Cadbury Schweppes Pty. Ltd. claim possession thereto immediately the contents put in by them have been emptied.

NOTICE.—No allowance will be made for any breakages, unless noted at time of delivery.

Form No. 554

Cadbury Schweppes Pty. Ltd.

INCORPORATED IN VICTORIA

Schweppes Division

382 Payneham Road, Payneham, South Australia, P.O. Box 47, Marden, South Australia 5070. Telephone: 37-1475

PUB. SQUASH.
155 HOLBROOKS. RD.
UNDERDALE. 5032.

INVOICE No. 98771

REFER. No. 1703.

DATE 28.7.77.

MTS RECEIVED. 1.3.77			
400. G.P. crates. @	1.00	(400.00.)	11/-

SPECIAL NOTICE.—The contents of the bottles in this invoice only are sold, the bottles are not sold by but remain the property of Cadbury Schweppes Pty. Ltd. Such bottles must not be sold, refilled, destroyed or otherwise dealt with. Cadbury Schweppes Pty. Ltd. claim possession thereto immediately the contents put in by them have been emptied.

Cadbury Schweppes Pty. Ltd.

INCORPORATED IN VICTORIA

Schweppes Division

382 Payneham Road, Payneham, South Australia, P.O. Box 47, Marden, South Australia 5070. Telephone: 37-1475

PUB. SQUASH.
 155. HOBBOCKS. RD.
 UNDERDALE. 5032.

INVOICE No. 98772.

REFER. No. 1695.

DATE 28-7-77.

NT'S RECEIVED. 25-2-77.			
144 Doz. 900ML. SCHWEPES. @	2.40	345	60.
144. U.R. crates @	1.00	144	00
13 Doz. 185ML. " @	1.20	15	60
18. G.P. crates @	1.00	18	00
4. PALLETS @	8.00	24	00.
		8	00
	CR.	(555 20)	

SPECIAL NOTICE.—The contents of the bottles in this invoice only are sold, the bottles are not sold by but remain the property of Cadbury Schweppes Pty. Ltd. Such bottles must not be sold, refilled, destroyed or otherwise dealt with. Cadbury Schweppes Pty. Ltd. claim possession thereto immediately the contents put in by them have been emptied.

IN THE SUPREME COURT)
)
OF NEW SOUTH WALES)
)
EQUITY DIVISION)

No. 1083 of 1977

BETWEEN CADBURY SCHWEPPE'S PTY. LTD.

Plaintiff

AND THE COCA COLA EXPORT CORPORATION having
its registered office in New South Wales
at 9 Rodborough Street, French's Forest,
trading as COCA COLA BOTTLES SYDNEY.

Defendant

10

SHORT MINUTES OF ORDER

By consent and without admissions:-

1. Order that the Defendant by itself its servants or agents be restrained from supplying, selling, offering for sale or advertising for sale, cans of soft drink not of the Plaintiff's manufacture, got up in such a way as to lead to such cans of soft drink being believed to be or passed off or sold as being of the Plaintiff's manufacture or otherwise associated with the Plaintiff.

2. Order that there be excluded from the operation of the said order not more than 20,000 cartons each containing 24 cans of 370ml. of Leed Lemon Soda Squash being goods of the Defendant either in stock or in the course of manufacture at the date of commencement of these proceedings.

20

3. Order that the Defendant pay to the Plaintiff the sum of \$5,000 damages.

4. Order that the Defendant pay the Plaintiff's costs agreed at \$2,400.

5. It is noted that the Defendant by its counsel undertakes

-2-

excepting existing stocks of such labels
to the Court that/it will not produce and use on 750 ml.
bottles or cause to be produced and used on 750 ml. bottles
any further paper labels of the size and design presently
used upon the 750 ml. bottles of Leed Lemon Soda Squash.

6. Liberty to apply.

DATED: this 6th day of May, 1977.

10

(Sgd.) L.J. Priestley

Counsel for Plaintiff

(Sgd.) T. Simos

Counsel for Defendant

IN THE SUPREME COURT
OF NEW SOUTH WALES
EQUITY DIVISION

)
)
)
)
)

No. 1682 of 1977

CADBURY SCHWEPPE'S PTY. LIMITED

Plaintiff.

THE PUB SQUASH CO. PTY. LIMITED

Defendant.

STATEMENT IN ANSWER TO INTERROGATORIES

The Plaintiff, Cadbury Schweppes Pty. Limited, answers the Defendant's Interrogatories specified in Notice filed herein as follows:- 10

1. A. When did the Plaintiff first become aware of
 - a) The manufacture in New South Wales by the Defendant of a soft drink styled
 - i) Pub Squash?
 - ii) Pub Soda Squash?
 - b) The introduction by the Defendant into the market for soft drinks in New South Wales of a soft drink styled
 - i) Pub Squash? 20
 - ii) Pub Soda Squash?

1. B. The Plaintiff first became aware of the sale by the Defendant in New South Wales of a soft drink called "Pub Squash" in approximately May of 1975. About 6 months later the Plaintiff became aware of the sale in New South Wales by the Defendant of a soft drink called "Pub Soda Squash". The Plaintiff upon becoming

Exhibit 18 - Answer to
Interrogatories

aware of such sales believed that the soft drinks
were manufactured in New South Wales by the Defendant.

B.J. Bannon JP C.J. Lowe

-2-

2. A. When did the Plaintiff first become aware of
- a) The application of the Defendant for registration of a trade mark incorporating the words "Pub Squash"? 10
 - b) The registration of the Defendant as the proprietor of
 - i) A trade mark incorporating the words "Pub Squash"?
 - ii) The trade mark being number B286987 under the Trade Marks Act 1955, as amended?
2. B. At some stage in 1975 or 1976 the Plaintiff became aware of the application for registration and the subsequent registration of a trade mark incorporating the words "Pub Squash" but is unable to say precisely 20 when it became so aware.
3. A. When did the Plaintiff first become aware of
- a) The existence
 - b) The carrying on of business in New South Wales of a company styled "The Pub Squash Co. Pty. Ltd." or "The Pub Squash Co. Pty. Limited"?
3. B. In or about May or June of 1976.

Exhibit 18 - Answer to
Interrogatories

6. A. Has the Plaintiff applied for registration of
B.J. Bannon JP C.J. Lowe

-3-

- a) The business name "Pub Squash Company"?
b) Any business name incorporating the words "Pub
Squash"?
in any State or Territory of Australia.

6. B. Yes. 10

7. A. If yes to 6., specify

- a) Each State or Territory in which application has
been made
b) In relation to each State or Territory in which
application has been made
i) The name or names for which application has
been made
ii) The date upon which each application referred
to in (i) above was made
iii) The name or names of which the Plaintiff 20
has become the registered Proprietor
iv) Whether the Plaintiff knew at the time of
making the application that the Defendant was
a) manufacturing
b) selling
its product in that State or Territory under
the name "Pub Squash" or "Pub Soda Squash".

7. B. a) South Australia

Tasmania

b) i) Pub Squash Company

ii) South Australia - 11th March, 1977

Tasmania - about 17th March, 1977

iii) Pub Squash Company

iv) At the time of making the South Australian
application the Plaintiff knew that the
Defendant had been selling its product in

10

B.J. Bannon JP

C.J. Lowe

-4-

the State under the name of Pub Soda Squash
for a short period but believed that it was
not manufacturing its product in that State.
At the time of making the Tasmanian Applica-
tion the Plaintiff believed that the Defen-
dant was neither manufacturing or selling
Pub Squash or Pub Soda Squash in that State.

20

8. A. In relation to each application for registration of
a business name referred to in 7.

a) What did the Plaintiff state to be the nature of
the business in relation to which the application
was made?

b) What was the date upon which it was proposed to
commence to carry on business?

Exhibit 18 - Answer to
Interrogatories

- c) Has the said application been amended and if so
in what particular or particulars?
8. B. a) Tasmania - manufacture and wholesaling of aerated
waters.
South Australia - manufacture and distribution of
aerated waters.
- b) The Plaintiff in each of its applications stated
that the proposed date for commencement of busi- 10
ness was 1st April, 1977.
- c) The South Australian application was amended on
or about 20th May, 1977 to describe the business
therein referred to as the sale of lemon syrups.

-12-

45. A. How many slogans or captions have been used by the
Plaintiff in advertising its product Solo Lemon Drink.
45. B. Five central themes with minor variations as to word-
ing.
46. A. In relation to each slogan or caption referred to in 20
answer to 45. above specify
- a) The slogan or caption
- b) The date upon which it was first used
- c) The media in which it was first used
46. B. i) Solo - a man's drink)
Lemon squash like the pubs) Nov - Dec
used to make) 1973 -
Television

Exhibit 18 - Answer to
Interrogatories

- ii) Solo separates the men from the boys - Dec.
1975 - Press
- iii) Solo says it all - August, 1976 - Television
- iv) Don't give me any imitations of Solo-
Television - January, 1977.

47. A. Is it correct to say that the product Solo Lemon
Drink is a squash "like the pubs used to make"?

47. B. Yes.

10

B.J. Bannon JP

C.J. Lowe

-13-

Filed 23rd August, 1977.

JOHN EBENEZER THOMSON by his
Partner

Andrew Forsyth
Solicitor for the Plaintiff.

Witness.

Page of Commencement of Evidence.

EVIDENCE FOR CADBURY SCHWEPPE'S PTY. LTD.

<u>BELL (Robert Keith).</u>	P. 56	
<u>CALDERARA (Paul David).</u>	P. 61	
<u>BOULTEN (Philip Richard).</u>	P. 64	
<u>ISAAC (Colin Robert).</u>	P. 67 and 85	
<u>GOODEN (Gerard John).</u>	P. 69	
<u>BEECH (Maureen).</u>	P. 73	
<u>GINN (Philip Leonard).</u>	P. 73A	
<u>HARRISON (Howard Gerard).</u>	P. 89	10
<u>REITZEN (Richard).</u>	P. 90	
<u>MOLYNEUX (Mary Brigid).</u>	P. 91	
<u>DONOVAN (Michael Stephen).</u>	P. 93	
<u>GUEST (David John).</u>	P. 96	
<u>FOSTER (Carl Stephen).</u>	P. 98	
<u>HEALY (Stephen).</u>	P. 141	
<u>MASON (Annette Louise).</u>	P. 162	
<u>GLANVILLE (David).</u>	P. 239	
<u>BURKE (Maureen).</u>	P. 348	

EVIDENCE FOR THE PUB SQUASH CO. PTY. LTD.

20

<u>FUGGER (Douglas Cyril).</u>	P. 391.	
<u>HADLUND (Kerrin Jennifer.)</u>	P. 409	
<u>TOLLEY (John Raymond George).</u>	P. 415	
<u>MARTIN (Donald John).</u>	P. 421.	
<u>SMITH (Albert Trevor).</u>	P. 427.	
<u>FINN (Kenneth Patrick).</u>	P. 431.	
<u>WATERS (Laura Marge).</u>	P. 490	

24th April, 1978

Dr. S. Glaser.

(cont'd)

<u>Witness.</u>	<u>Page of Commencement of Evidence.</u>	
<u>WHITE (Roy George William).</u>	P. 496	
<u>FORD (Brian Francis).</u>	P. 501	
<u>SHELLEY (John Joseph).</u>	P. 504.	
<u>MELIDES (Gregory John).</u>	P. 509	
<u>MOSMAN (Kevin Anthony).</u>	Ps. 514 and 611.	
<u>ESSEY (Robert).</u>	P. 518.	10
<u>ALEXANDER (Colin).</u>	P. 523	
<u>HACK (Reginald).</u>	Ps. 532 and 539.	
<u>WICKHAM (Warren Frederick).</u>	P. 593.	
<u>MEAGHER (Robert Michael).</u>	P. 603	
<u>SCHOUTIN (Albert).</u>	P. 616.	
<u>ESSEY (George).</u>	P. 623.	

It is difficult at this stage to formulate precisely the type of evidence that we may ask you to give in this matter, but as a starting point, we would be grateful if you would express an opinion on the questions set forth hereunder in the light of the evidence referred to above:- It will, of course, be necessary for you to be familiar with our Client's advertisements. If in fact you are not familiar with them at present, please let us know and we shall arrange for you to view the same at your convenience. The questions that we would like you to consider and express an opinion upon are as follows:- 20