

IN THE MATTER OF AN ARBITRATION
UNDER THE RULES OF
THE INTERNATIONAL CHAMBER OF COMMERCE

SOCIÉTÉ DÉCOR D'AGEN

Claimant

v.

BOTTLES Group

Respondent

Witness statement of Benjamin Dupont

1. My name is Benjamin Dupont. I am a French Citizen. I currently live and work in Paris, France.
2. I am currently the Chief Executive Officer (“CEO”) of Société Décor d’Agen (“SODECA”). In this Statement I will refer to SODECA as Claimant and to the BOTTLES Group as Respondent. In my capacity as the CEO of SODECA, a position that I have held since 1999, I am the executive ultimately responsible for all of the decisions made with respect to SODECA.
3. I submit this Witness Statement to support Claimant’s Statement of Claim.
4. In his correspondences dated 16 June 2013, I understand that Respondent has argued, among other things, BOTTLES Group is blameless as it had performed its obligation to sign a contract with SODECA.
5. My Witness Statement will address why, as a factual matter, this assertion is untrue. It will cover three general areas.
6. First, I will describe Claimant and Respondent long-term partnership, which resulted in the Agreement dated 18 June 2010. Throughout their relationship SODECA was committed to work constructively with BOTTLES Group and participated to the success of Paris Soda.
7. Second I will describe the investments SODECA made in order to complete its obligations under Agreement dated 18 June 2010.
8. Third, I will discuss the events preceding BOTTLES Group’s brutal termination letter dated 3 September 2012, including SODECA’s attempts to work constructively with Respondent. It was only after reception of the letter dated 3 September 2012, which brutally terminated the agreement that it became clear BOTTLES Group had no intention of honouring its commitments and that we reluctantly filed this arbitration.

I. A LONG-TERM PARTNERSHIP AND THE SUCCESS OF PARIS SODA

9. SODECA was created in 1965. In 1999, at the time I became CEO of the company, SODAPIC contacted us, as they were about to bring a new product in the European market: Paris Soda. SODAPIC wanted us to provide our unique expertise for the serigraphy decoration of their new bottle. The same year we started to work together.
10. Our partnership was based on regular orders: GLASS1 was providing naked-bottles and we were decorating them. Immediately Paris Soda had a huge success and everyone was pleased with the cooperation in place.
11. Since 1999, SODECA kept improving its designs and technics, which participated to the continuous increase in the sales of the product. As the CEO I believe our decorations and their renewal throughout the years is the main reason why Paris Soda succeeded and kept attracting new consumers. Our expertise and adaptation to the market have largely contributed to the attractiveness of Paris Soda.
12. Although SODECA proceeded to investments, we reached the point where we were not able to complete their orders. SODAPIC encouraged us to share part of our expertise and know-how with GLASS1, in order for the latter to help us decorating the amount of bottles ordered by SODAPIC.
13. At that time, we really depended on our partnership with SODAPIC. SODAPIC asserted that this transmission of knowledge would not affect our partnership. On the contrary, they convinced us they would have more business for us in the coming years, suggesting at the same time any refusal may have consequences in the future.
14. We were under tremendous pressure. I was afraid to loose the business if we could not respect the orders and delays, so I accepted to cooperate with GLASS1. Our decision to share our technics relied on our long-term relationship and the assurance our relationship would go on.
15. In 2007, BOTTLES Group acquired SODAPIC. Our partner, SODAPIC and after its acquisition BOTTLES Group, expressed on many occasions its satisfaction to work

with us and acknowledged in several letters from 1999 to 2008 the key role played by SODECA in the success of Paris Soda.

16. On 31 January 2008, a first contract was signed between BOTTLES Group and SODECA. However in July 2009, BOTTLES Group confirmed their will not to pursue our contractual relations after the termination date provided in the agreement. In this correspondence they also informed us of their intent to contract with GLASS1.
17. However, our negotiations went on and a Settlement Agreement was concluded on 3 February 2010. Under the terms of this agreement, BOTTLES Group committed (i) to order to SODECA decorations as for 4 millions bottles in 2010 and (ii) to conclude a new contract for substantial orders in the following years. In return, BOTTLES Group asked us to waive our rights on the decorations, which we thought was a simple formality as the designs were expressly made for Paris Soda.
18. BOTTLES Group did not order the agreed number of orders. First I did not worry as they signified us a delay had occurred. However, I soon realized BOTTLES Group could not meet the terms of our agreement. In order to pursue our constructive cooperation, we agreed on an annex to the contract signed on 18 June 2010 whereby the volumes were reduced.
19. Following this renegotiation of the terms of our agreement, several correspondences were exchanged between BOTTLES Group and SODECA as the orders were still below the contractual volumes. However, even though BOTTLES Group did not perform its obligations, I wanted to preserve our partnership in the future and therefore decided to grant them some time to comply with the contract's provisions.

II. THE INVESTMENTS MADE BY SODECA

20. A few years after the start of our partnership, we invested quite consequently to adapt our production to the orders. However, the most significant investments were made after 2008. Indeed, at that time we shifted from 100 000 bottles to decorate a month to millions. The exponential increase of the orders made by BOTTLES Group required

us to develop our production and technics. We invested in a new factory and in equipment. Employees were hired and trained to acquire our expertise.

21. In addition to that, SODECA had to embrace the commitments of BOTTLES Group in relation to corporate social responsibility. In this regards, we developed new inks for instance and complied we environmental norms. Substantial investments were devoted Research and Development.
22. Another instance of our investments occurred when BOTTLES Group requested us to provide them with a new line using a particular technic such as it was done in the US market. We worked on this new technic, prepared new decorations and invested to be able to implement this technic at the industrial level.
23. However, despite our certitude our partnership with BOTTLES Group would go on and these investments will be recovered, Respondent's correspondence dated 3 September 2012 put a brutal end to our hopes.

III. THE BRUTAL TERMINATION OF THE PARTNERSHIP

24. For all the reasons discussed above, I was stunned when, by letter dated 3 September 2012, the BOTTLES Group confirmed the expiration of the contract as of 31 January 2014 under Article 12 of the 18 June 2010 Agreement.
25. At that time, Marie Durand, a qualified engineer in charge of the Paris Soda orders in our new plant, exchanged correspondences with BOTTLES Group. We thought BOTTLES Group actually just wanted to renegotiate the terms of our agreement. Indeed, we analysed their behaviour in light of their previous actions and reminded the pressure they used to conduct us to share our knowledge with GLASS1 in 2005. Therefore we anticipated this letter to be part of a negotiation strategy.
26. In addition, BOTTLES Group kept referring to our partnership and the new decorations we were developing in accordance with their needs and expectations. Through their attitude, they tried to convince us our partnership would go on. When we received the letter, we understood they actually intended terminating.

27. Furthermore, as we devoted time, money and energy during the past fifteen years to our partnership with BOTTLES Group, the increase in orders and challenging demands monopolized our attention and we had to give up some opportunities as a matter of fact.
28. The brutal change in BOTTLES Group's behaviour did allow us to adapt and seek new contracts. The consequences were tremendous for SODECA as the low volumes ordered directly cost us 3 millions euros. Moreover, because of BOTTLES Group's failure to comply with its obligations, we were unable to renew some contracts with our subcontractors, we decided not to recruit as it was initially planned and had to fire several employees. Today our new plant is idle.
29. Despite my attempts to find a resolution to our disagreement, BOTTLES Group kept its position and stopped cooperating.
30. Being in full agreement with the statements contained in this document, I hereby sign it and acknowledge its contents on this ... day of November 2014.

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Benjamin Dupont
CEO SODECA