



Fig. 1: B. & B. token

B&B: A Tale of Two Cities and Trademarks

By: Jack Sullivan

The pre-Prohibition whiskey trade was rife with examples of trademark infringement but the number of trademark cases actually taken to court within the industry appears to have been exceedingly small. An exception was the firm of Bluthenthal & Bickart, widely known as “B&B.” (Fig. 1). Even as the partners were being forced from their Atlanta base to Baltimore before the tide of Prohibition, they headed to the courts to defend their trademarks.

The leader of this liquor business was Aaron Bluthenthal, born in 1856 in Munchweiler, Pfalz, Germany, the son of Absalom and Rebecca Bluthenthal. About the year 1872, at the age of 16, Aaron emigrated to the United States. It appears that he initially settled in Arkansas where a number of Bluthenthal relatives lived. By the age of 24 he had moved to Atlanta, Georgia. There he met Monroe L. Bickart, several years his junior, who had been born in Pennsylvania but had married a woman from Georgia and was living in Atlanta. Not long after, Bluthenthal married Bickart’s sister, Francis. They would have two children.

In 1880, Bluthenthal and Bickart established a wholesale liquor firm, located at 42-46 Marietta Street, and later established a second outlet at 17-19 Forsyth Street (Fig. 2). By 1897 they also had created a branch in Cincinnati,

Ohio, located at 220 East Front Street. On their letterhead and in their advertising they also claimed to be proprietors of the Anderson County and W. B. Montgomery Distilleries in Kentucky and the Crystal Springs Distillery in Pickens County, Georgia. More to the truth, they were purchasing large quantities of raw product from these distilleries and then “rectifying” (blending) it in their own facilities.

Bluthenthal & Bickart packaged their product in glass flasks (Figs. 3,4) embossed with their name, a “B&B” logo, and the tag line, “Fine Old Whiskey.” The partners issued a blizzard of brand names for their liquor. Unlike many of their competitors, however, they took the time and not inconsiderable expense to trademark many of their whiskeys: In 1904, “Old Stock Four Aces” and “Old Joe Rye”; in 1905, “B&B,” “Royal Arch” and



Fig. 2: B&B letterhead



Fig. 3: Clear flask



Fig. 4: Amethyst flask



Fig. 5: Ceramic Mini jug



Fig. 6: Shot glass #1 (Atlanta)



Fig. 7: Shot glass #2 (Atlanta)

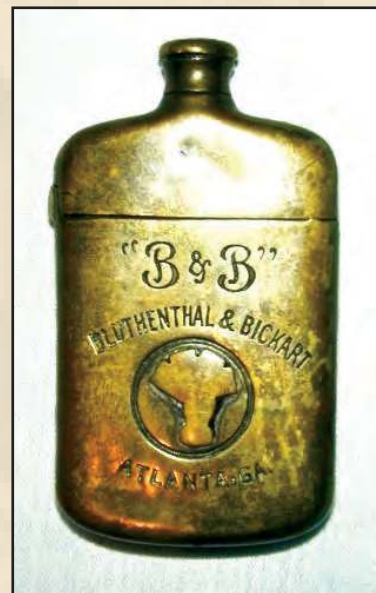


Fig. 8: Match safe

“Old Rookery”; in 1906, “Mountain Dell,” “Mark Rogers,” “Mistletoe,” “Silas Deane” and “Kentucky Blue Blood”; in 1907, “Hop Scotch” and in 1908, “Alligator Bait.”

From the outset in Atlanta, Bluthenthal & Bickart issued an array of giveaway items to the saloons, restaurants, hotels and other establishments buying their liquor. They included a whiskey miniature “scratch jug” (Fig. 5), shot glasses (Figs. 6,7), and a match safe (Fig.8). Note that each of these items carried the B&B brand as well as a prominent mention of Atlanta. The partners clearly were proud of their adopted home town.

Perhaps Bluthenthal & Bickart’s most expensive giveaway was a wooden framed print of two of the company brands, Four Aces Whiskey and Fitzhugh-Lee Whiskey (Fig. 9). The name of the latter brand is particularly interesting. Fitzhugh Lee was a Confederate cavalry general who subsequently vowed allegiance to the Union. He became a U.S. Army general who saw service in the Spanish-American War. My assumption is that the partners named the whiskey not long after Lee’s death in 1905.

In 1905, Bluthenthal & Bickart brought suit in the Florida courts against Theodore Mohlmann, a Jacksonville, Florida, liquor dealer. They claimed Mohlmann had violated their trademark on their Old Joe Rye, including the size, shape and color of the bottle, a similarly designed and colored label, and the



Fig. 9: Saloon sign with bottles



Fig. 10: B&B Baltimore Hq.



Fig. 11: Back of the bar bottle

name given the whiskey: "Old Geo." The crowning indignity, the plaintiffs said, was Mohlmann copying even the small corkscrew that the Atlanta firm attached to the Old Joe bottle. The Florida corkscrew was claimed to be virtually identical in "size, shape, quality and appearance."

A Georgia liquor company attempting to shut down a Florida competitor in Florida courts clearly faced daunting challenges. When the lower court in Jacksonville denied B&B an injunction and dismissed their case, the partners appealed to the State Supreme Court. While that court had some legal quibbles with the initial decision, it did not overturn it. Mohlmann's Old Geo remained on the market.

Seemingly undaunted by this setback, the brothers-in-law subsequently pressed similar charges against a Montgomery, Alabama, liquor dealer named J. W. Epperson. Epperson, like Mohlmann, was aping the Old Joe bottle right down to the corkscrew. He called his booze, "Old Jack." Once again, Bluthenthal and Bickart found it hard sledding in an out-of-state court. A Montgomery lower court denied their action for an injunction against Epperson. Still fighting for their brands, the partners appealed the lower court decision to the Alabama Supreme Court.

On Dec. 20, 1906, as the higher court upheld the earlier verdict, its judges added insult to injury. They scolded the Georgia partners on the grounds that examination had shown their Old Joe brand to be not as, as advertised, very old stock, fine old whiskey, or even rye whiskey. B&B had misrepresented the product on their labels with false statements, the jurists alleged, and by so doing had vitiated any trademark protection the partners might claim. Although Epperson's conduct was "without justification," the Alabama Supreme Court ruled, it was unwilling to issue an injunction and make him stop selling Old Jack Rye.

Meanwhile back in Atlanta, Aaron Bluthenthal was gaining recognition in the community because of the success of the liquor house and his leadership in civic betterment. In 1905 the Atlanta Constitution newspaper carried a story that cited Bluthenthal as part of a small committee of prominent businessmen who were working to bring the Georgia State Fair to Atlanta and who had pledged to guarantee its financial success with their own funds.

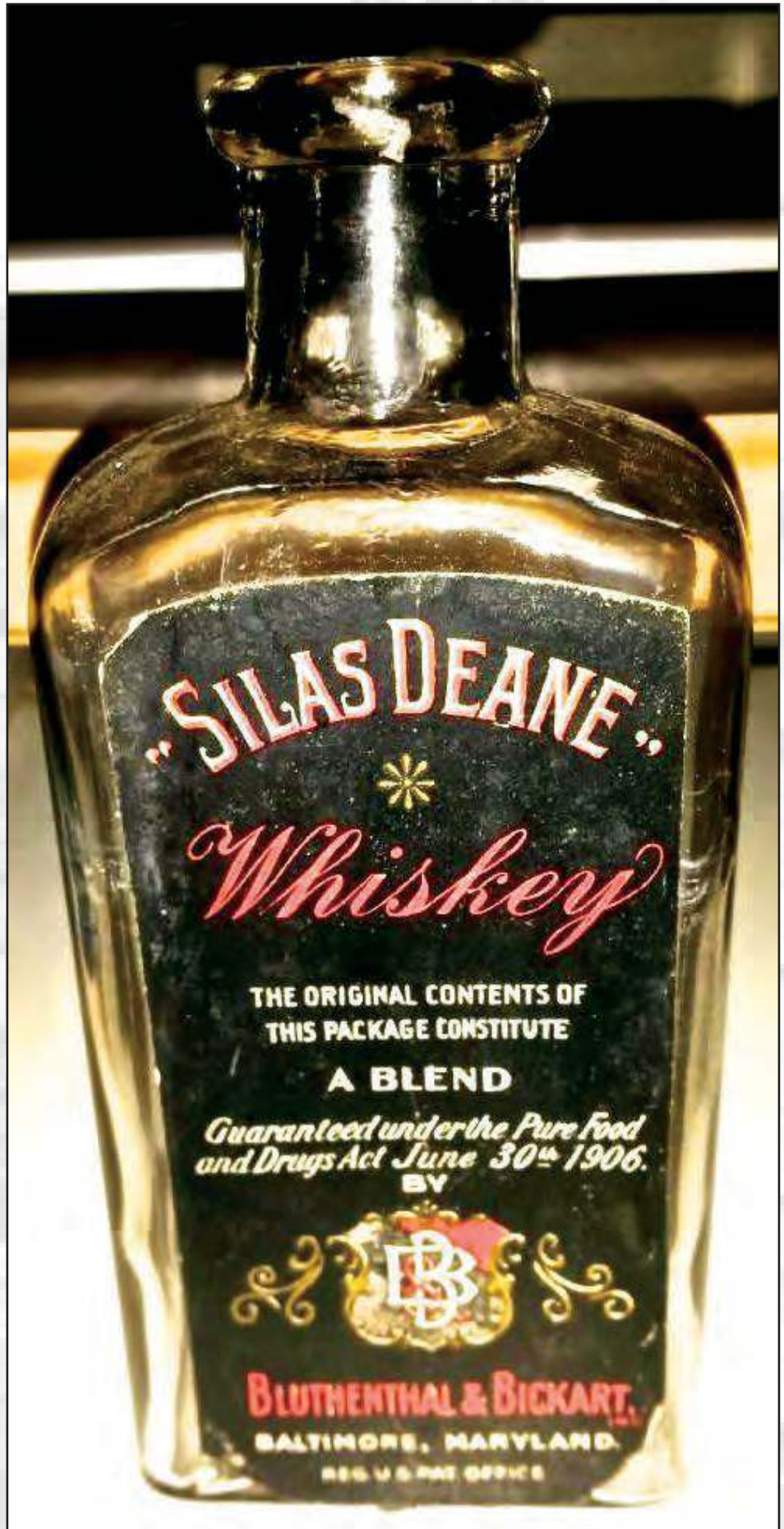


Fig. 12: Silas Deane bottle

As elsewhere in the South, however, the drumbeat for statewide prohibition was growing by the day and in 1908, Georgia voted to ban all production and sales of alcoholic drink. The city that B&B had so extolled their advertising now was “dry.” Bluthenthal & Bickart rapidly moved their barrels, bottles and brands to Baltimore, Maryland. They recognized that the environment for prospering was much better in a state and city where whiskey was a major commodity. The partners purchased a large building downtown at 301-307 Lombard Street (Fig. 10) and late in 1908 reopened their liquor house. Note the large B&B sign on the roof.

The partners succeeded in this second effort as they had in Georgia. They featured their familiar brands and a few new ones, like “B&B Maryland Rye,” as shown on a back-of-the-bar bottle (Fig. 11). Baltimore now showed up prominently on their bottle labels (Fig. 12) as well as on give-away items such as shot glasses (Fig. 13) and saloon signs (Fig. 14).

The 1910 census found Aaron Bluthenthal, age 54, living with wife Francis in a high-class board house on Baltimore’s Eutaw Street. Monroe Bickart and his wife also were lodged there. The firm appeared in Baltimore directories at the Lombard Street address until 1919 and the advent of National Prohibition. Once shut down it never reopened.

Albert Bluthenthal, the German immigrant, and Monroe Bickart, the transplanted Pennsylvanian, over the years faced major setbacks in business. Having made their home in Georgia, they

ultimately found the state less than hospitable to their whiskey trade. Moreover, they had placed their trust in the Nation’s trademark laws only to reap disappointment and even a scolding. Nonetheless, as a tribute to their intelligence and hard work, B&B persevered — and prospered — for almost 60 years.



Fig 13: Shot glass #3 (Baltimore)



Fig. 14: Saloon sign with men

