



## Modelo takes crown in beer dispute

Tom Jones · Monday, 20 June 2016 (1 week ago)

Mexican brewery Grupo Modelo has won an ICC arbitration with Guatemalan partners who sold imitation Corona beers in the US and Australia – but failed to secure moral damages for alleged harm caused to the brand.



Corona beers (Credit: iStock.com/monticello)

In an award on 29 May, a Mexico City-seated tribunal chaired by Argentina's **Horacio Grigera Naón** issued a declaration that Modelo had validly terminated its contract with Guatemala's Centroamericana brewery and distributor Pacaya following due diligence.

The tribunal also rejected a US\$8 million counterclaim for breach of contract by the two Guatemalan companies and ordered them to pay US\$2 million to cover the legal fees of the arbitration and related litigation in the Guatemalan courts.

The co-arbitrators were Mexican arbitrator **Carlos Muggenburg**, appointed by Modelo, and Guatemalan arbitrator **Jorge Rolando Barrios**, appointed by the Guatemalan companies.

Modelo, which is owned by the world's largest brewer [Anheuser-Busch InBev](#), signed an agreement with Centroamericana in 1995 to allow the Guatemalan brewer to distribute Corona on a limited basis throughout the country.

When Anheuser-Busch InBev became the controlling shareholder of Modelo in 2012, it undertook a review of its existing distribution schemes. It terminated the agreement with Centroamericana – which is owned by the prominent Castillo family – on the basis of the imitation sales.

In the arbitration, Centroamericana and



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of the agreement was invalid and that they were entitled to a fixed level of compensation under Guatemalan public policy, regardless of the circumstances of the termination.

But the tribunal said that Centroamericana's production of imitation Corona beer had breached the duties of good faith and loyalty owed under the agreement. Modelo was therefore justified in ending the deal.

However, the tribunal rejected Modelo's claim for moral damages to reflect alleged harm to Corona caused by selling "inferior quality" beer under its brand name. The tribunal held that Modelo had failed to produce evidence that the perception of the brand had been altered in the eyes of consumers.

When it came to costs, the tribunal clarified that if Modelo is able to recover its litigation expenses from the Guatemalan courts then its determination regarding those costs will no longer apply.

Modelo was represented by Mexican firm Von Wobeser y Sierra, along with Guatemalan co-counsel Carrillo y Asociados and Palacio y Asociados. Centroamericana instructed Mexico's Basham Ringe y Correa.

#### Grupo Modelo v Centroamericana

##### Tribunal

- **Horacio Grigera Naon** (Argentina) (Chair)
- **Carlos Muggenburg** (Mexico)(appointed by Modelo)
- **Jorge Rolando Barrios** (Guatemala)(appointed by Centroamericana)

##### Counsel to Grupo Modelo

- Von Wobeser y Sierra

Partner **Marco Tulio Venegas** with of counsel **Margarita Garate** and senior associate **Michelle Carrillo** in Mexico City

- Carrillo y Asociados

Partners **Rodolfo Alegria** and **René Rodriguez**

- Palacio y Asociados

Partners **Marco Antonio Palacios** and **Myriam Lopez**

##### Counsel to Centroamericana

- Basham Ringe y Correa

Partner **Rodrigo Lan** with associate **Arturo Oropeza** and outside counsel **Edgar**

**Martinez**

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