

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SATNAM DISTRIBUTORS LLC, D/B/A LION &
BEAR DISTRIBUTORS,
553 Winchester Road, Unit B,
Bensalem, PA 19020,

Plaintiff,

v.

COMMONWEALTH-ALTADIS, INC.,
5900 N. Andrews Avenue, Suite 1100,
Fort Lauderdale, FL 33309

COMMONWEALTH BRANDS, INC.
5900 N. Andrews Avenue, Suite 1100,
Fort Lauderdale, FL 33309

ALTADIS, U.S.A., INC.,
5900 N. Andrews Avenue, Suite 1100,
Fort Lauderdale, FL 33309

HAROLD LEVINSON ASSOCIATES, INC.,
21 Banfi Plaza,
Farmingdale, NY 11735

Defendants.

Civil Action No.: 2:14-cv-06660-LFR

**DEFENDANTS COMMONWEALTH-ALTADIS, INC.'S,
COMMONWEALTH BRANDS, INC.'S, AND ALTADIS, U.S.A., INC.'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Defendants Commonwealth-Altadis, Inc., Commonwealth Brands, Inc., and Altadis, U.S.A., Inc. (collectively, "Commonwealth/Altadis") hereby move pursuant to Federal Rule of Civil Procedure 12(b)(6) and Local Rule 7.1, to Dismiss Plaintiff's Complaint Counts I, V, and VI. (Dkt. 1). In support thereof, Commonwealth/Altadis submit as follows:

1. On November 20, 2014, Plaintiff filed a Complaint alleging six Counts of violations of federal antitrust laws against Commonwealth/Altadis and Harold Levison Associates, Inc. (“HLA”). Counts I, V, and VI are against Commonwealth/Altadis and HLA, jointly. Counts II, III, and IV are against HLA, solely.

2. This Motion specifically addresses dismissing all Counts against Commonwealth/Altadis, and it also supports HLA’s separately filed, concurrent Motion to dismiss the remaining Counts as alleged against HLA.

3. As explained more fully in the Memorandum of Law accompanying this Motion, Plaintiff’s Complaint as a matter of law is deficient in stating a claim upon which relief may be granted. In particular, the Complaint does not allege basic requirements to establish a violation of the Robinson-Patman Act or the Sherman Act.

4. Overarching fundamental defects of the Complaint are that it does not allege any legally sufficient, plausible product or geographic market. Absent establishing these two criteria, there cannot be a violation of federal antitrust law. The Complaint is *silent* on the basic requirements to establish a Robinson-Patman price-discrimination claim: there are no allegations of contemporaneous sales of the same commodity with the effect to injure competition. There are conclusory claims of a conspiracy absent supporting facts, circumstantial or direct. Where allegations of antitrust injury or injury to competition would be needed to support a possible federal antitrust violation, the Complaint states a claimed injury to Plaintiff’s own business only.

5. On the foregoing basis, Commonwealth/Altadis respectfully requests that the Court dismiss with prejudice Plaintiff’s Complaint.

6. Oral argument is requested.

7. A proposed form of order is attached.

Dated: February 12, 2015

Respectfully submitted,

/s/ Carl W. Hittinger
Carl W. Hittinger (30250)
Baker & Hostetler, LLP
2929 Arch Street
Cira Centre, 12th Floor
Philadelphia, PA 19104
Ph: (215) 568-3100

Robert J. Brookhiser (*pro hac vice*)
Elizabeth B. McCallum (*pro hac vice*)
Baker & Hostetler, LLP
1050 Connecticut Avenue, N.W. Suite 1100
Washington, DC 20036
Ph: (202) 861-1500

*Attorneys for Defendants Commonwealth-
Altadis, Inc., Commonwealth Brands, Inc., and
Altadis, U.S.A., Inc.*

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CERTIFICATE OF SERVICE

I, Carl W. Hittinger, hereby certify that on February 12, 2015, I caused the foregoing
Motion to be served electronically upon the following:

Brent W. Landau
HAUSFELD LLP
325 Chestnut Street, Suite 900
Philadelphia, PA 19106

Mindy B. Pava
HAUSFELD LLP
1700 K Street, NW, Suite 650
Washington, DC 20006

*Attorneys for Plaintiff Satnam Distributors,
LLC d/b/a Lion & Bear Distributors*

/s/ Carl W. Hittinger
Carl W. Hittinger