

REEMSTMA CIGARETTENFABRIKEN  
Opposer,

INTER PARTES CASE NO. 3406 GMBH,

OPPOSITION TO:

Application Serial No. 54335

Filed : July 31, 1984

Applicant : Rothman's of Pall  
Mall, Ltd.

Trademark : WEST

Used on : Tobacco, raw or  
manufactured,  
smoker's articles,  
matches

- versus -

ROTHMAN'S OF PALL MALL, LTD.  
Respondent-Applicant.

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DECISION NO. 90-45 (TM)

November 19, 1990

DECISION

This is an opposition against the application for registration of trademark "WEST".

On July 31, 1984, ROTHMANS OF PALL MALL LIMITED, herein Respondent-Applicant, filed an application for the registration of trademark "WEST" under Serial No. 54335. After due examination, this Bureau finds the subject mark registrable under Section 37 of Republic Act No. 166, based on Home Registration. Accordingly, the application was recommended for allowance on July 19, 1985, and published for opposition on page 43, Volume 2, No. 5 of the May 31, 1989 issue of the BPTTT's Official Gazette which was released for circulation on the same date.

Believing that it would be damaged, Opposer REEMSTMA CIGARETTEN FABRIKEN GMBH, filed its Verified Notice of Opposition to the Respondent's application on June 27, 1989.

Both Opposer and Respondent-Applicant are foreign corporations. Opposer is a corporation organized and existing under the laws of the State of Federal Republic of West Germany with business address at Hamburg 52, Parkstrasse 51, Federal Republic of West Germany while Respondent-Applicant is a corporation organized under the laws of Liechtenstein with business address at Staedle 36, Vaduz, Liechtenstein.

On October 10, 1989, after the declaration of default and after the Opposer had finished presenting its evidence, Respondent-Applicant filed a Manifestation and Motion praying that the Order of Default be stricken out from the records in view of its letter dated July 18, 1985, withdrawing its application Serial No. 54335.

As there was no such letter found in the records, this Bureau denied Respondent's Manifestation and Motion as per Order No. 89-916 dated November 17, 1989.

On November 29, 1989, after the Opposer had formally offered its evidence and had filed its Memorandum, Respondent-Applicant filed again a Manifestation stating that it is enclosing a copy of the July 18, 1985 letter addressed to the Director of Patents. Finding no copy of such letter, this Bureau disregarded said Manifestation, and declared that the Order of Default still stands.

But finally, on January 9, 1990, this Bureau received a copy of the July 18, 1985 letter.

It appearing that there was indeed a withdrawal of the subject application prior to its publication in the May 31, 1989 issue of the BPTTT's Official Gazette, this Bureau hereby

declares such publication null and void, and considers Application Serial No. 54335 for the trademark "WEST" as VOLUNTARILY WITHDRAWN.

WHEREFORE, this Opposition case is DISMISSED for being moot and academic.

Let the records of this case be forwarded to Application, Issuance and Publication Division for appropriate action in accordance with this decision.

SO ORDERED.

IGNACIO S. SAPALO  
Director