FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
Washington, D. C.

In the Matter of the Claim of	
CORN PRODUCTS REFINING COMPANY 17 Battery Place New York 4, New York	Docket No. Y-1206 Decision No. 1351
Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949	

PROPOSED DECISION OF THE COMMISSION

This is a claim for $33,228 by the Corn Products Refining Company, a corporation organized in 1906 under the laws of the State of New Jersey. The stock of the Corn Products Refining Company was and is almost entirely owned by individual nationals of the United States. According to claimant's statement, submitted with claim Y-1205, 2,511,460 shares of 2,530,000 of outstanding common stock were owned in 1949 by 25,390 residents of the United States, and it can be fairly and reasonably assumed that the overwhelming majority of these residents of the United States are, and have been during the pertinent period, United States nationals.

The claim is for the nationalisation or other taking of the following trademarks allegedly registered in Yugoslavia as property of the "Deutsche Maizena Gesellschaft mit beschrankte Haftung" (G.m.b.H.) of Hamburg, Germany, a wholly owned subsidiary of the claimant:

Trade-mark No. 4590 registered on February 2, 1926

Trade-mark No. 4591 registered on February 2, 1926

Trade-mark No. 10947 registered at an unknown date

All three trade-marks relate to the use of the word "MAIZENA."

No evidence has been submitted by the claimant that the aforesaid three trade-marks were actually registered with the Government of Yugoslavia and that they were in effect during the pertinent time of nationalization or other taking, nor was any evidence submitted that the "Deutsche Maizena Gesellschaft mit beschrankte Haftung" of Hamburg, Germany, or its successors were the actual owners of these trade-marks. The claimant has filed evidence in Docket No. Y-1205 with this Commission that the "Deutsche Maizena Werke, A.G.," Hamburg and another subsidiary, the "Gesellschaft fuer Industriebeteiligungen m.B.H.," Hamburg, were corporations whose stock was wholly owned by the claimant on September 1, 1939 and again since December 24, 1947. The record shows that the legal interest in the corporate shares of these two companies was transferred during World War II to persons of German nationality, in order to protect and preserve the property from seizure and confiscation by the German Government because as property of United States nationals such property would have been subject to confiscation by Germany.

Investigations made by members of the Commission's Field Branch in Yugoslavia revealed that the trade-mark "MAIZENA" after World War II was not in use in Yugoslavia. The plant of claimant's subsidiary, the "A.D. za Preradu Kukuruza" at Jabuka, near Pancevo, Yugoslavia, was sequestered by Yugoslav authorities on March 8, 1945 and it has continued under the management of the Government of Yugoslavia. The merchandise produced in that plant, which prior to the war bore the trade-mark "MAIZENA," has since then been distributed under the trade-mark "SEROBIN." Plain covering stickers were attached to the sides and back of the boxes remaining at the plant at the time of seizure and the trade-name was covered with a printed sticker reading "SEROBIN." Later, new printed boxes

with the name "SEPOBIM" were distributed and the present management of the plant denies ever using the trade-mark "MAIZENA" to describe or identify the merchandise manufactured in Yugoslavia.

The claimant failed to show that the aforesaid trade-marks were used by the Yugoslav Government at any time to describe the merchandise manufactured by the claimant or by any of its subsidiaries. No evidence is on record that the Government of Yugoslavia nationalized or took such trade-marks which would bring such action of the Yugoslav Government within the terms of Article 1 of the Yugoslav Claims Agreement of 1948. It is true that Article 4 of the Second Nationalisation Act enacted by Yugoslavia on April 28, 1948 (Official Gazette No. 35 of April 29, 1948), provides that "industrial property rights of the former owners of the enterprise shall be regarded as nationalized and shall pass into State ownership together with the enterprise." However, in the present case the trade-marks were not property of the nationalized enterprise "A.D. za Preradu Kukuruza," but, as alleged, property of the German subsidiary of the claimant, the "Deutsche Maizena Gesellschaft mit beschraenkter Haftung" of Hamburg. That German subsidiary must still be recognised as the owner of the trade-marks.

In any event, we do not consider that the trade-marks upon which the claim is based were nationalized or taken by Yugoslavia.

For the foregoing reasons, the claim must be and is hereby denied.

Dated at Washington, D. C.
OCT 12 1954

I hereby certify that the within is a true and correct copy of the original Proposed Decision on file with the Commission.

A. C. Coates
Deputy Clerk of the Commission

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Counsel for Claimant:

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17 Battery Place
New York 4, New York

FINAL DECISION

On October 12, 1954, a Proposed Decision was issued herein, denying the claim on the grounds the evidence indicated that the trademark "MAIZENA", owned by claimant's wholly owned German subsidiary, Deutsche Maizena Gesellschaft mit beschrankte Haftung, had not been taken by the Yugoslav Government. There is presently no question as to claimant's citizenship or ownership.

After the issuance of the Proposed Decision, a hearing was held November 16, 1954 in accordance with applicable Commission procedure. Following such hearing, the Government of Yugoslavia under date of November 24, 1954 filed an additional report in which it concedes that it took the trademarks in question on February 6, 1945 pursuant to the Enemy Property Law of November 21, 1944 (Official Gazette No. 2 of February 6, 1945).

Claimant evaluated the trademarks on a mathematical formula basis at $[illegible],028, arriving at this figure by multiplying the pounds reduced by 1½ cents per pound multiplied by a capitalization factor of 20. It was explained that 1½ cents per pound would be a normal royalty rate.

Inasmuch as the trademarks were owned indirectly by claimant, would expire in 1953, and were not subject to royalty payments payable to claimant, the Commission is not persuaded that a proper evaluation approach was used nor that a capitalization basis of 20 is realistic. In fact, it finds difficulty in applying a "royalty" approach in any event. Compensation was awarded to claimant under another claim for loss of its plant in Yugoslavia.

Based upon all the evidence before it, the Commission finds that the trademarks were taken and that they had a value of $10,000 at the time of taking.

AWARD

On the above evidence and grounds, an award is hereby made to Corn Products Refining Company, claimant, in the amount of $10,000, with interest thereon at 6% per annum from February 6, 1945, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of $2,123.67.

Dated at Washington, D. C.

DEC 30 1954

I hereby certify that the within is a true and correct copy of the original Final Decision on file with the Commission.

J. C. Coates
Deputy Clerk of the Commission