

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WARNER-LAMBERT PHARMACEUTICAL COMPANY
WARNER-LAMBERT LTD.

Claim No. CU-2091
CU-2092

Decision No. CU

1971

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, were presented by WARNER-LAMBERT PHARMACEUTICAL COMPANY and WARNER-LAMBERT LTD. in the amounts of \$861,690.81 and \$10,434.80 respectively, and are based on debts assertedly owing claimants by an enterprise known as Warner-Lambert, S.A.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba, or by enterprises which have been nationalized,

expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 505 of the Act provides:

(a) A claim under Section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

These claims are asserted by the claimants on the basis of various debts assertedly owing by an affiliated company, Warner-Lambert, S.A., which has filed Claim No. CU-2126 with the Commission. The records in these claims indicate that all three claimants are corporations organized and existing under the laws of the State of Delaware. Therefore the claims based on debts owing by Warner-Lambert, S.A. can be considered only if the claimed debts are a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba. (See Claim of Anaconda American Brass Company, Claim No. CU-0112.)

WARNER-LAMBERT PHARMACEUTICAL COMPANY asserts Claim No. CU-2091 in the amount of \$861,690.81 which is computed as:

1. Accounts receivable from merchandise shipments	\$767,956.52
2. Miscellaneous receivables	\$ 8,928.13
3. Land transferred to books of Warner-Lambert, S.A.	\$ 41,760.12
4. Amount held by Royal Bank of Canada, Cuban branch	\$ 43,046.04
Total	<u>\$861,690.81</u>

However, by letter of May 8, 1968, claimant confirmed that the entire amount of \$861,690.81 was an unsecured debt owing by Warner-Lambert, S.A.

In submitting Claim No. CU-2091, claimant WARNER-LAMBERT PHARMACEUTICAL COMPANY made reference to a possible loss sustained in connection with certain trademarks. Subsequently, the Commission was advised ". . . that the only value which may be assigned to the loss of use of these trademarks must be tied to the prevention of doing business and loss of good will suffered by Warner-Lambert, S.A., the authorized user of the trademarks, . . ."

WARNER -LAMBERT LTD. asserts Claim No. CU-2092 in the amount of \$10,434.80, based upon the loss of payment for goods shipped to the Cuban branch of Warner-Lambert, S.A. By letter of May 8, 1968, the Commission was advised that, to the best of claimant's knowledge, no portion of the asserted debt was secured by property taken by the Government of Cuba.

Claimants have neither alleged nor have they submitted evidence to establish that the debts, which form the basis of these claims, were charges upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba. Therefore, the Commission is without authority to consider these claims, and they are hereby denied.

The Commission makes no determinations which respect to any portion of Claim No. CU-2126, filed by Warner-Lambert, S.A. which will be decided in a separate decision.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JUN 13 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg. 412-13 (1967).)