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ATTORNEY DOCKET: 92169.66001
TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In re: Trademark application of
Westlake Plastics Company

Serial No: 76/281,005

Filed: July 6, 2001

Mark: IMIDEX



02-17-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Charles N. Quinn
Reg. No. 27,223
Fox Rothschild LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103
Tel: 215-299-2135
Fax: 215-299-2150
Email: cquinn@foxrothschild.com
Deposit Account: 50-1943

**MOTION FOR CONTINUED SUSPENSION OF APPEAL
AND REMAND OF APPLICATION FILED TO EXAMINING ATTORNEY**

BOX TTAB

Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:

Applicant, through its undersigned counsel, hereby moves this Board for an order continuing suspension of the instant appeal, and accordingly suspending the requirement for applicant to submit an appeal brief, and further for an Order remanding the application file to the examining attorney for consideration of materials submitted herewith.

This Motion is submitted and the grant of the same is requested in lieu of the requirements set forth in the Communication of Trademark Information System

Specialist Johnson dated 3 October, 2003 for submission of a brief or remand of the application accompanied by a consent agreement.

The instant application for registration of the mark IMIDEX had been refused based on a finding of likelihood of confusion as between the mark IMIDEX which is the subject of the instant application and the identical mark, IMIDEX, which is the subject of U.S. Registration 843,945.

Submitted herewith please find a photocopy of an assignment of trademark rights pursuant to which the owner of U.S. Registration 843,945 for the mark IMIDEX has assigned the mark IMIDEX and U.S. Registration 843,945, together with the good will associated with the trademark IMIDEX which is the subject of U.S. Registration 843,945, to Westlake Plastics Company, the owner of the instant application.

Applicant's undersigned counsel respectfully notes that upon submission of these materials, the instant refusal of registration would appear to be moot. Remand of the application to the examining attorney, together with the materials submitted herewith is respectfully requested in order for the examining attorney to make such a determination of mootness of the instant appeal and the outstanding refusal of registration.

Applicant's counsel does note that there is further attached to the assignment a paper entitled "Partial Release of Security Interest" pursuant to which Chase Manhattan Bank, for itself and as agent for others, agrees that any and all security interests granted to it by Von Roll Isola USA, Inc. respecting the trademark IMIDEX as owned by Von Roll Isola USA, Inc., were released effective 11 May, 2001.

Applicant's undersigned counsel has interrogated the assignment records of the United States Patent and Trademark Office with respect to U.S. Registration 843,945

for the mark IMIDEX and notes that there does appear to be a security interest recorded against the mark and registration, where the owner of the security interest, according to the assignment records of the United States Patent and Trademark Office, is Northstar Bank of Upstate New York, with such Bank having an address of 69 State Street, Albany, New York, 12201. Undersigned counsel for the applicant is in the process of contacting that institution and contacting Chase Manhattan Bank in order to establish whether such security interest as held by Northstar Bank of Upstate New York, as indicated on the records of the United States Patent and Trademark Office, was in fact acquired by Chase Manhattan Bank pursuant to an acquisition of Northstar Bank of Upstate New York or some other financial transaction such that the partial release of the security interest attached to the assignment and trademark rights, a copy of which is submitted herewith, is effective to clear the title to the trademark IMIDEX as now owned by Westlake Plastics Company. As soon as undersigned counsel for the applicant has resolved that issue, an appropriate document will be submitted for recordation in the United States Patent and Trademark Office to fully clear Westlake Plastic Company's ownership of and title to U.S. Registration 843,945 for the mark IMIDEX.

In light of all of the foregoing, we respectfully solicit notification that the appeal remains suspended and that the application file has been remanded to the examining attorney for consideration of the foregoing.

The assignment will be submitted for recording in the United States Patent and Trademark Office within the next day or two in order that the assignment records of the

United States Patent and Trademark Office may be quickly updated to reflect Westlake
Plastics Company as the current record owner of U.S. Registration 843,945 for the mark
IMIDEX.

To the extent there is any fee required in connection with the receipt, acceptance
and/or consideration of this Motion and/or any accompanying papers submitted
herewith, please charge all such fees to deposit account 50 -1943.

Respectfully submitted,



Charles N. Quinn
Attorney for Applicant

Date: February 17, 2004

FOX ROTHSCHILD LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291
Tel: 215-299-2135
Fax: 215-299-2150
email: cquinn@foxrothschild.com

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Certificate of Mailing Under 37 C.F.R. 1.10

EXPRESS MAIL NO.: EL 927014039 U.S.

I hereby certify that this paper, along with any paper referred to as being attached or enclosed and/or fee is being deposited with the United States Postal Service. "Express Mail - Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated below, and is addressed to the Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513.

February 17, 2004
Date of Deposit


Signature
CHARLES N. QUINN
Type or print name of person

ASSIGNMENT OF TRADEMARK RIGHTS

Whereas, Von Roll Isola USA, Inc., a New York corporation having a place of business at and a mailing address of 1 West Campbell Road, Schenectady, New York, 12306, hereinafter referred to as "VRI" is the owner of record of U.S. Trademark Registration No. 843,945 registered 13 February 1968 and renewed 27 September 1998, and

Whereas, Westlake Plastics Company, a Pennsylvania corporation having a place of business at Lenni, Pennsylvania and a mailing address of P.O. Box 127, Lenni, Pennsylvania 19052, hereinafter referred to as "Westlake" is desirous of obtaining whatever right, title and interest VRI may have in the subject registration, but understanding that VRI is not willing to make any warranties or representations whatsoever with respect to its ownership of the subject mark IMIDEX or the registration therefor or the validity or enforceability of said mark or registration;

NOW, THEREFORE,

In consideration of the payment by Westlake of the sum of \$5,000.00 to an escrow agent of VRI, which escrow agent shall retain such payment of \$5,000.00 until such time as VRI has provided Westlake with an executed release of the outstanding security interest recorded at Reel 803, Frame 0150, on 23 July 1991 in the United States Patent and Trademark Office, with such release being executed and in form ready for recordation in the United States Patent and Trademark Office and acceptable to Westlake's trademark counsel, VRI hereby assigns whatever right, title and interest it may have in and to the trademark IMIDEX and said U.S. Registration No. 843,945, together with any goodwill which may be associated with such trademark IMIDEX.

It is expressly understood and agreed that this Assignment is in the nature of a quitclaim assignment and that VRI makes no representations or warranties whatsoever with respect to the mark IMIDEX or the said registration therefor.

This Assignment shall be construed according to the laws of the State of New York and shall be effective as of the latter of the two dates appearing below adjacent to the names of their duly authorized officers.

Witness *Lucia Bellusi*

VON ROLL ISOLA USA, INC.

By: *J. Brunner*

Name: *MARG BRUNNER*

Title: *CFO / VP Finance*

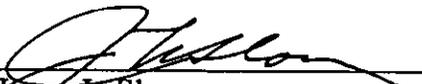
Date: *05/01/01*

PARTIAL RELEASE OF SECURITY INTEREST

The Chase Manhattan Bank, for itself and as Agent for others, agrees that any and all security interests granted to it by Von Roll Isola USA, Inc. covering the IMIDEX trademark owned by Von Roll Isola USA, Inc. are hereby released.

Dated: 5-11-01

THE CHASE MANHATTAN BANK

By: 
James L. Sloan
Its: Vice President