

Industrial Property

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INTERNATIONAL UNION

(Translation)

FRANCE

Note

from the Swiss Federal Council (Political Department)
concerning the application of (a) the Arrangement of Madrid
(Trade Marks), Nice text, and (b) the Arrangement of Nice
(Classification) to all Territories of the French Republic
(29th March, 1962)

In accordance with the instructions of the Swiss Federal Political Department, dated 29th March, 1962, the Swiss Embassy has the honour to communicate herewith¹⁾ to the Ministry of Foreign Affairs a copy of the note which the French Embassy in Berne has addressed to the Federal Political Department on 25th January, 1962 and according to which, the following Agreements, already ratified by that State are applicable to all the Territories of the French Republic²⁾.

- (1) the Arrangement of Madrid concerning the International Registration of Trade Marks, as last revised at Nice on 15th June, 1957;
- (2) the Arrangement concerning the International Classification of Goods and Services to which Trade Marks Apply, as signed at Nice on the same date.

In compliance with Article 16^{bis}, paragraph (1) of the Convention of Paris for the Protection of Industrial Property, to which Article 10 of the Arrangement of Nice refers, the above mentioned declaration shall apply, in respect of the Arrangement of Nice, one month after the dispatch of the instructions of the Federal Political Department, i. e. on the 29th April, 1962. With regard to the Arrangement of Madrid, as revised at Nice, the declaration shall come into force in respect of those countries which have so far ratified it — and consequently also in respect of all the Territories of the French Republic — only when the provisions of Article 12, paragraph (2) of the said Arrangement have been fulfilled.

The Embassy recalls that the notifications relating to the ratification by France of the two above mentioned Arrangements were given:

- (1) by the Embassy itself on 2nd February, 1960 in respect of the Arrangement of Madrid, as revised at Nice³⁾;
- (2) by the French Ministry of Foreign Affairs soon after the 9th November, 1959 (probably on 14th December of that

¹⁾ Omitted. (Ed.)

²⁾ In accordance with the letter dated 25th January, 1962 addressed to the Federal Political Department by the French Embassy, the terms "all the Territories of the French Republic" should include: Metropolitan Departments, Algerian Departments, Departments of the Sahara, Departments of Guadeloupe, Guiana, Martinique and Reunion and Overseas Territories.

³⁾ See *Prop. ind.*, 1960, p. 22.

year, judging from the date of the note which the Swiss Embassy in Paris received from the Ministry in respect of the Arrangement of Nice⁴⁾.

The Swiss Embassy takes this opportunity of renewing to the Ministry of Foreign Affairs the assurance of its highest consideration.

(Translation)

ICELAND

Note

from the Swiss Federal Council (Political Department)
relating to the adhesion of Iceland to the Convention of Paris
for the Protection of Industrial Property (London text)
(5th April, 1962)

In compliance with the instructions dated 5th April, 1962, issued by the Swiss Federal Political Department, the Swiss Embassy has the honour to communicate herewith⁵⁾ to the Ministry of Foreign Affairs an English translation of the instrument of adhesion of Iceland to the Convention of Paris for the Protection of Industrial Property, as revised at London on 2nd June, 1934. The said instrument reached the Department on 31st January last, through the intermediary of the Legation of Iceland in Bad Godesberg (Germany) which is also accredited to Switzerland.

With regard to the contribution to the common expenses of the International Bureau for the Protection of Industrial Property, the Government of Iceland has chosen to be placed in the sixth class, as provided by Article 13 (8) of the Convention.

This latter information was contained in a communication received by the Federal Political Department at a subsequent date.

In compliance with Article 16 (3), the adhesion of Iceland takes effect one month after the date of dispatch of the instructions issued by the Political Department, that is to say, the 5th May, 1962.

The Swiss Embassy takes this opportunity of renewing to the Ministry of Foreign Affairs the assurance of its highest consideration.

⁴⁾ See *Prop. ind.*, 1960, p. 61.

⁵⁾ Omitted. (Ed.)

CONVENTIONS AND TREATIES

(Translation)

FRANCE—GERMANY (Federal Republic)

Accord

between the Government of the French Republic and the Government of the Federal Republic of Germany for the Mutual Safeguarding of the Secrecy of Inventions and Technical Information relevant to Defence

(of 28th September, 1961)¹⁾

The Government of the French Republic and the Government of the Federal Republic of Germany,

Anxious to encourage between the two countries the collaboration envisaged by the North Atlantic Treaty, concluded on the 4th April, 1949,

Desirous, with this end in view, to facilitate the reciprocal communication of inventions and technical information forming the subject of measures of secrecy in the interests of defence,

Considering that such communication is only possible if the safeguarding of the secrecy of the said inventions and technical information is assured in both countries,

Considering that, in particular, the authorisation to effect in either of the two countries, in accordance with their laws and regulations, the deposit of applications for patents in respect of the inventions which are the subject of measures of secrecy for the purposes of defence in the other country is, in all cases, subordinated to the mutual safeguarding of secrecy,

Have agreed as follows:

Article 1

The Government of the French Republic and the Government of the Federal Republic of Germany guarantee and cause to be guaranteed the safeguarding of the secrecy of inventions which, being the subject in either country of applications for patents or utility models are, in the interests of defence, subjected to secrecy in such country, hereinafter referred to as the country of origin, and which, in the other country, subsequently form the subject of applications for patents or utility models treated according to the procedure agreed between the two Governments.

The obligation of assuring the safeguarding of secrecy extends to inventions which, in the interests of defence, have been classified as secret in one of the two countries, likewise known as the country of origin, without having given rise within the said country to applications for patents or utility models, and which subsequently form the subject of such applications in the other country dealt with in accord-

ance with the procedure agreed between the two Governments.

Nevertheless, the provisions of this Article shall not prejudice the right of the Government of the country of origin to prohibit the deposit of applications for patents or utility models in the other country to the extent of the legislative and regulative provisions governing, within the two countries, the authorising of the deposit of applications for patents or utility models abroad.

Article 2

The obligation of assuring the safeguarding of secrecy extends to technical information which, being classified as secret in the interests of defence in one of the two countries, hereinafter equally referred to as the country of origin, is the subject of communications:

- (a) between the two Governments;
- (b) between the Government of one of the two countries and physical persons or legal entities having their domicile or place of business in the other country;
- (c) between physical persons or legal entities having their domicile or place of business in one and other of the two countries, respectively,

subject to the reservation that such information be transmitted in accordance with the procedure agreed between the two Governments.

Nevertheless, the provisions of this Article shall not prejudice the right of the Government of the country of origin to prohibit the communication of technical information to the extent of the legislative and regulative provisions governing, within the two countries, the communication abroad of technical information.

Article 3

Measures of secrecy undertaken in the application of the provisions of the present Accord can only be waived at the request of the Government of the country of origin; such country shall, six weeks in advance, make known to the other Government its intention to waive the said measures.

The Government of the country of origin shall, as far as possible, take account of such representations, if any, as may be made by the other Government within this period. The official waiving of secrecy by this latter Government shall operate as from the receipt of the copy of the statement of the waiving of secrecy drawn up by the Government of the country of origin.

Article 4

The implementing of the present Accord shall be regulated by the rules of procedure annexed hereto, which form an integral part of the said Accord.

Article 5

The two Governments undertake to communicate to one another any modification in their rules of domestic law which have or could have impact upon the application of the present Accord, and of any rules of procedure annexed thereto, in order to agree, if needs be, upon any necessary revisions.

¹⁾ Official Communication from the French Administration.

Article 6

For the purposes of the present Accord:

1. The term "*Geheimbehandlung*", which corresponds to the French expression "*sauvegarde du secret*" is utilised in the German text concurrently with the expression "*unter Geheimschutz stellen*", and in the same sense.

By these two terms must be understood, within the Federal Republic of Germany, the attribution of a degree of the classification of security to inventions which are the subject of applications for patents or utility models, or to technical information, as well as the application to the said inventions or technical information of security measures prescribed by the regulative measures in force.

2. The expression "*unter Geheimschutz gestellt*" corresponds equally to the expressions "*mise au secret*" and "*classée secrète*", defined in paragraphs 3 and 4 below.

3. The expression "*mise au secret*" when applied to an invention which is the subject of an application for patent signifies that the said invention has been the subject in France of an order forbidding disclosure, that there has been assigned to it a degree of security classification, and that it has been submitted to security measures prescribed by the regulative provisions in force.

4. The expression "*classée secrète*" applied to an invention which has not been the subject of an application for patent or of (communicated) technical information signifies that a degree of security classification has been attributed to the said invention or technical information, and that it has been submitted to the security measures prescribed by the regulative provisions in force.

Article 7

The present Accord shall come into force upon the date of its signature.

It may be denounced at any time by either of the two Governments and it shall cease to have effect one year after its denunciation. Nevertheless, denunciation shall not affect any obligations previously contracted and rights previously acquired by the two Governments by virtue of the provisions of this Accord.

Done at Bonn, the 28th September, 1961, in two copies, in the French and German languages, both texts having equal force.

For the Government of the French Republic:
F. SEYDOUX

For the Government
of the Federal Republic of Germany
G. von HAEFTEN

Rules of Procedure Drawn up for the Application of Article 4 of the Accord between the Government of the French Republic and the Government of the Federal Republic of Germany for the Mutual Safeguarding of the Secrecy of Inventions and Technical Information relevant to Defence

The Government of the French Republic and the Government of the Federal Republic of Germany undertake, for the purpose of carrying out the Accord between the Government

of the French Republic and the Government of the Federal Republic of Germany for the mutual safeguarding of secrecy of inventions and technical information relevant to defence, to observe and cause to be observed the following rules of procedure:

As regards applications for patents and technical information emanating from the Federal Republic of Germany

1. The competent authority for issuing authorisation to deposit in France, in application of the provisions of Article 1 of the Accord, an application for patent in respect of an invention subjected to secrecy (*mise au secret*) in the Federal Republic of Germany, or for issuing the authorisation to communicate in France, in application of the provisions of Article 2 of the Accord, technical information classified as secret (*classée secrète*) in the Federal Republic of Germany, is the Federal Minister of Defence.

2. The authorisation will only be issued when the applicant has separately subscribed, in two copies as specified at (a) and (b) below, declarations in the terms of which:

- (a) if he desires to deposit an application for patent in France, he undertakes to ensure that the agent in France communicates to the Minister of the Army (Department of Legal and Contentious Matters, Patents and Contracts Branch) *Ministre des Armées [Direction des affaires administratives, juridiques et contentieuses, service des marchés et brevets d'inventions]*, by way of information, and subject to the reservation of all his rights, a duplicate of the application for patent deposited at the National Institute of Industrial Property in Paris; in the case of the communication of technical information, if he indicates agreement to the Federal Minister of Defence communicating to the Minister of the Army (Arms Branch, Patents and Inventions Office) (*Ministre des armées [Délégation "Armement", bureau des brevets et inventions]*), through the intermediary of the Embassy of the Federal Republic of Germany in Paris, by way of information, and subject to the reservation of all his rights, a duplicate of the technical information which it is his responsibility to produce;
- (b) he undertakes to renounce all right to indemnity from the Government of the Federal Republic based upon the sole fact of the secrecy imposed in France upon the invention which is the subject of the application for patent, but reserving the right of instituting proceedings for indemnity by virtue of the French laws governing the utilisation by the French Government, or the unauthorised disclosure of the invention forming the subject of the application for patent;
- (c) he agrees that the sending of documents to the agent designated, or to the person designated to receive technical information, shall not be effected until after such person has been deemed suitable to have knowledge of applications for patents that have been subjected to secrecy or of inventions or technical information classified as secret, and recognised as fulfilling the conditions necessary for ensuring the safeguarding of secrecy.

3. The obligation to produce in duplicate copies of documents relating to inventions and technical information applies equally to cases where the applications for patents are deposited and technical information communicated by the Government of the Federal Republic of Germany.

4. The documents relating to inventions and technical information shall be transmitted by diplomatic courier and, in the case of applications for patents, together with a copy of each of the declarations by the applicant, specified at 2 (a) and (b) above, to the Embassy of the Federal Republic of Germany in Paris, by the Federal Minister of Defence who, in all cases, and in addition to the degree of German classification of security, shall indicate the corresponding degree of French classification of security, as defined under C 1 below.

A declaration in duplicate by the Federal Minister of Defence shall be annexed to the documents referred to above, indicating that

- (a) the invention has been subjected to secrecy or the technical information has been classified as secret in the interests of defence in the Federal Republic of Germany, specifying the degree of security classification that has been attributed to the said invention or the said technical information;
- (b) the deposit at the National Institute of Industrial Property of an application for patent in respect of the invention or the communication envisaged by Article 2 of the Accord has been authorised.

5. (a) The Embassy of the Federal Republic of Germany shall enquire of the General Staff of National Defence (Information Division) (*Etat-major général de la défense nationale [division du renseignement]*) whether the agent designated by the applicant for the purpose of lodging the application for patent and subsequently fulfilling the necessary formalities, or the recipient of technical information, has been deemed suitable to have knowledge of applications for patents which are the subject of secrecy, or of inventions or technical information classified as secret, and be satisfied as to the conditions requisite for assuring the safeguarding of secrecy. This enquiry must be renewed even in the case of an agent or recipient previously designated.

(b) In the case of the communication of technical information to an impersonal entity, it is necessary to designate a physical person qualified to receive such technical information; within the meaning of the present rules of procedure, such physical person will be deemed to be the "recipient". In any case where the necessary enquiry to determine whether such person satisfies the conditions specified at (a) has not been effected, the Government of the French Republic will not be obliged to proceed to such an enquiry unless the Federal Minister of Defence stresses that the communication of documents is effected in the interests of defence.

(c) If the designated agent does not satisfy the conditions specified at (a), or if the results of the enquiry necessary to determine whether these conditions have been fulfilled do not appear capable of being obtained in sufficient time, the Embassy will inform the applicant accordingly, either directly or through the intermediary of the Federal Minister of De-

fence, in order to enable him, if necessary, to select another agent.

(d) If the person designated to receive technical information does not satisfy the conditions specified at (a), the Embassy will return the file to the Federal Minister of Defence.

(e) If the designated agent or the recipient of technical information satisfies the conditions specified at (a), then:

In the case of applications for patents, the Embassy will forward to the agent the documents and declarations which have been addressed to them in accordance with the provisions of paragraph 4.

In the case of technical information, the Embassy will forward to the designated person one copy of the documents relating to the said technical information and one copy of the declaration which, in accordance with the provisions of paragraph 4, have been addressed to them, and will forward another copy of such documents and declaration to the Minister of the Army (Armament Branch, Patents and Inventions Office), specifying the name and description of the sender and of the person designated to receive the said technical information.

6. The agent in France shall append to the application for patent which he deposits with the National Institute of Industrial Property one of the two copies of the declaration specified at 4 (a) and (b), which have been sent to him.

7. As soon as he has effected the deposit of the application for patent, the agent in France shall address to the Minister of the Army (Department of Administrative, Legal and Contentious Matters, Patents and Contracts Branch), a duplicate of such application, indicating the serial number and date of filing at the National Institute of Industrial Property, as well as the reference number and the date of filing of any corresponding German application. He shall append to this document the declaration specified at 2 (b), and the second copy of the declaration specified at 4 (a) and (b).

The French competent authorities shall then take any measure provided for by French law, other than those specified in Section C 1 below.

8. The communication relating to the waiving of secrecy provided for by Article 3 of the Accord shall be addressed:

In the case of inventions which are the subject of applications for patents in France, to the Minister of the Army, (Department of Administrative, Legal and Contentious Matters, Patents and Contracts Branch);

In the case of technical information, to the Minister of the Army (Armament Branch, Patents and Inventions Office).

The same shall apply in the case of the waiving of secrecy, when this is pronounced.

B. As regards applications for patents and utility models, and technical information emanating from the French Republic

1. The Minister of the Army is the competent authority for issuing the authorisation to deposit, within the Federal Republic of Germany, in application of the provisions of Article 1 of the Accord, an application for patent or utility

model in respect of an invention subject to secrecy or classified as secret in France, or for issuing the authorisation to communicate within the Federal Republic of Germany, in application of the provisions of Article 2 of the Accord, technical information classified as secret in France.

2. When the authorisation to deposit an application for patent or utility model, or to communicate technical information in the Federal Republic of Germany is granted, the applicant shall be required to produce:

(a) in the case of an application for patent or utility model, a note addressed to the agent charged with effecting the deposit, requiring him to forward, for the purposes of information and subject to the reservation of all his rights, to the Federal Minister of Defense, a duplicate copy of the application for patent or utility model deposited at the German Patent Office at Munich;

in the case of the communication of the technical information, two copies of the documents relating to the said information, of which one shall be retained by the Federal Minister of Defense, in the course of its transmission, for purposes of information and subject to the reservation of all the rights of the applicant;

(b) in the case of the deposit of an application for patent or utility model, a renunciation of all rights to indemnity from the Government of the Federal Republic of Germany based upon the sole fact of the subjection to secrecy within the Federal Republic of Germany of the invention forming the subject of the application for patent or utility model, but reserving all rights of taking action for indemnity in accordance with the laws of the Federal Republic of Germany in respect of the utilisation by the Government of the Federal Republic of Germany, or of any unauthorised disclosure of the invention forming the subject of the application for patent or utility model;

in the case of the communication of technical information, a renunciation of all rights of indemnity from the Government of the Federal Republic of Germany by reason of the sole fact of the measures of secrecy to which such information is subject in the Federal Republic of Germany, in the case where the communication is not made on the occasion of the preparation or execution of contracts for the study, or of manufacture for defence purposes, concluded after agreement between the Governments of the two countries, but reserving all rights of taking action for indemnity in accordance with the laws of the Federal Republic of Germany in respect of the utilisation by the Government of the Federal Republic of Germany or of any unauthorised disclosure of the said information,

it being understood that the sending of documents to the designated agent or to the person designated to receive technical information shall only take place after such person has been deemed qualified to have knowledge of applications for patents which are subject to secrecy or of inventions or technical information classified as secret, and recognised as ful-

filling the conditions requisite for assuring the safeguarding of secrecy.

3. The obligation of producing, in duplicate, the documents relating to inventions and technical information applies equally in cases where the applications for patents or utility models are deposited and technical information communicated by the Government of the French Republic.

4. The documents relating to inventions and technical information shall be transmitted by diplomatic courier to the French Embassy at Bonn by the Minister of the Army (Technical Branch) with one copy of the renunciation specified at 2 (b) and, further, in the case of an application for patent or utility model, by the note specified at 2 (a).

A declaration, in duplicate, by the Minister for the Army shall be annexed to the above documents and shall indicate that:

(a) the invention has been subjected to secrecy or classified as secret, or that the technical information has been classified as secret, in France in the interests of defence, specifying the degree of the classification of security that has been attributed to the said invention or to the said technical information;

(b) the deposit at the German Patent Office of an application for patent or utility model in respect of this invention, or the communication provided for by Article 2 of the Accord is authorised.

5. (a) The French Embassy will enquire of the Federal Minister of Defence whether the agent designated by the applicant to effect the deposit of the application for patent or utility model and subsequently to accomplish the necessary formalities, or the person designated to receive technical information, is deemed qualified to have knowledge of applications for patents or utility models subjected to secrecy, or of technical inventions classified as secret, and satisfies the conditions requisite to assure the safeguarding of secrecy. This enquiry shall be renewed even in the case of an agent or recipient previously designated.

(b) In the case of the communication of technical information to an impersonal entity, it is necessary to designate a physical person qualified to receive the said technical information. Within the meaning of the present rules of procedure, such physical person will be deemed to be the "recipient". In any case where the necessary enquiry to determine whether such person satisfies the conditions specified at (a) has not been effected, the Government of the Federal Republic of Germany will not be obliged to proceed to such an enquiry unless the Minister of the Army stresses that the communication of documents is effected in the interests of defence.

(c) If the agent designated does not satisfy the conditions specified at (a), or if the results of the enquiry necessary to determine whether these conditions have been fulfilled do not appear capable of being obtained in sufficient time, the Embassy shall inform the applicant accordingly, through the intermediary of the Minister of the Army, under the stamp of the Technical Branch concerned, in order to enable him, if necessary, to select another agent.

(d) If the person designated to receive technical information does not satisfy the conditions specified at (a), the Embassy will return the file to the Minister of the Army, under the stamp of the Technical Branch concerned.

(e) If the designated agent or the person designated to receive technical information satisfies the conditions specified at (a), the Embassy shall forward the documents, the note, the renunciation and the two copies of the declaration specified at 4 (a) and (b), which have been forwarded to them in accordance with the provisions of paragraph 4, to the Federal Minister of Defence, who shall attribute to the documents a degree of the classification of German security in accordance with the provisions of Section C 1.

If the deposit of an application for patent or utility model in the Federal Republic of Germany is envisaged, the Federal Minister of Defence, after having retained the renunciation specified at 2 (b) and one copy of the declaration specified at 4 (a) and (b), shall transmit the documents together with the note specified at 2 (a) and the second copy of the declaration specified at 4 (a) and (b) to the Federal Minister of Justice, upon whom devolves the duty of forwarding the said documents, note and declaration to the agent designated by the applicant, and who shall impose upon the agent the express obligation of assuring secrecy of the documents.

In the case of the communication of technical information in the Federal Republic of Germany, the Federal Minister of Defence, after having retained one copy of the documents, the renunciation specified at 2 (b) and one copy of the declaration specified at 4 (a) and (b), shall forward direct to the person designated the other copy of the documents, and of the said declaration, and shall impose upon such person the express obligation of assuring secrecy of the documents.

If the recipient of technical information has designated an agent to receive the said technical information, and if this agent satisfies the conditions specified at (a), the Federal Minister of Defence will transmit the documents envisaged in the above paragraph to the Federal Minister of Justice, upon whom devolves the duty of sending them to the said agent, and who shall impose upon the agent the express obligation of assuring secrecy of the documents.

6. The German agent shall append to the application for patent or utility model which he deposits at the German Patent Office the copy of the declaration specified at 4 (a) and (b) which has been sent to him.

7. The German agent, when effecting deposit of the application at the German Patent Office, shall send simultaneously to the Federal Minister of Defence a duplicate of the application for patent or utility model, indicating the number and date of deposit of any corresponding French application.

8. The communication relating to the waiving of secrecy provided for in Article 3 of the Accord shall be addressed to the Federal Minister of Defence. The same shall apply to the notification of the waiving of secrecy when this has been pronounced.

C. Common Provisions

1. A degree of security classification corresponding to that attributed in the country of origin shall be assigned in the other country to inventions which are the subject of applications for patents or utility models, or to technical information. The security measures prescribed by the regulative provisions in force in such other country are applicable to the said inventions or technical information. The degrees of security classification applicable in the two countries are as follows:

| | |
|--|-------------------------------------|
| In the French Republic: | In the Federal Republic of Germany: |
| Très secret (Top secret) | Streng geheim |
| Secret (Secret) | Gehcim |
| Secret-confidentiel (Secret-confidential) | Vs-Vertraulich |
| Diffusion restreinte (Restricted circulation) | Vs-Nur für den Dienstgebrauch |

For the purposes of the present Accord, only the first three degrees set out above are employed.

2. The documents envisaged in the present rules of procedure must be transmitted within each of the two countries in accordance with the security provisions in force in such country.

3. All subsequent correspondence between the applicant in one of the two countries and the Patent Office or agent in the other country, or between the parties in the case of technical information communicated in the application of the provisions of Article 2 of the Accord, must be routed through the same channels as those specified for the transmission of documents envisaged in the present rules of procedure, and transmitted within each of the two countries in accordance with the security provisions in force in the said country.

Nevertheless, correspondence relating to the payment of taxes, renewal fees, honoraria, extensions of time, or other formalities, insofar as they contain no element relating to the invention which is the subject of the application for patent or utility model, or to technical information, may be routed through normal channels.

Done at Bonn, the 28th September, 1961, in two copies, in the French and German languages, both texts having equal force.

For the Government of the French Republic:
F. SEYDOUX

For the Government
of the Federal Republic of Germany
G. von HAEFTEN

LEGISLATION

ITALY

Decrees

concerning the temporary protection of industrial property rights at seven exhibitions

(10th, 12th, 13th, 14th, 15th, 21st and 22nd March, 1962)¹⁾

Single Article

Industrial inventions, utility models, designs or models and trade marks relating to objects appearing at the following exhibitions:

Salone-mercato internazionale dell'abbigliamento (Turin, 7th to 15th April, 1962);

X^a Fiera di Roma — campionaria nazionale (Rome, 26th May to 10th June, 1962);

XL^a Fiera di Padova — campionaria internazionale (Padoue, 29th May to 13th June, 1962);

XXVI^a Mostra-mercato internazionale dell'artigianato (Florence, 28th April to 20th May, 1962);

XL^a Fiera di Milano — Campionaria internazionale (Milan, 12th to 27th April, 1962);

XXVI^a Fiera di Bologna — Campionaria con settori internazionali specializzati (Bologne, 18th to 22nd May, 1962);

XVII^a Fiera del Mediterraneo — campionaria internazionale (Palerm, 26th May to 10th June, 1962)

shall enjoy the temporary protection provided by laws No. 1127 of 29th June, 1939²⁾, No. 1411 of 25th August, 1940³⁾, No. 929 of 21st June, 1942⁴⁾, and No. 514 of 1st July, 1959⁵⁾.

YUGOSLAVIA

(Translation)

Law on Trade Marks and Trade Names

(4th November, 1961)⁶⁾

CHAPTER I

Basic Provisions

1. General

Article 1

A trade mark is a mark used in economic transaction or intended for those transactions, for the purpose of identification of the goods of one economic organisation, establish-

ment or any other corporate body (organisation) from the goods of the same or similar kind of another organisation, and this is protected in accordance with the provisions of this Law.

A trade name is a sign which an organisation for performance of services uses in economic transactions, for the purpose of identification of its servicing activities from the same or similar servicing activities of another organisation, and this is protected in accordance with the provisions of this Law.

Article 2

As a mark may be protected any sign suitable for identification in economic transactions of goods or services, such as: pictures, expressions, vignettes, titles, figures and combinations of these signs.

In judging whether a certain sign is suitable for identification of goods or services in economic transactions, all circumstances shall be taken into consideration, and if the sign had been used for that purpose before, then the time and previous usage of such a sign shall be especially taken into consideration.

Article 3

It shall not be possible to protect as a mark, within the meaning of this Law, a sign:

- (1) which is not suitable for identification of goods or services in economic transactions;
- (2) which exclusively indicates a kind of goods or services, the purpose for which they serve, the time and method of production, the quality, price, quantity, the name of the place and the geographic origin;
- (3) which is usual for identification of the specific kind of goods or services in economic transactions;
- (4) which contains matter or data which may create confusion in economic transaction, and especially confuse the consumers or users of services with respect to the origin or qualities of the goods or services;
- (5) which conflicts with law or morals;
- (6) which represents official signs and hall-marks for control or guarantee or their imitation;
- (7) which represents the title, abbreviation of title or sign of the Red Cross organisation;
- (8) which is identical with a previously protected mark of another person for the same kind of goods or services.

An image or name of a person, a State or other public coat-of-arms, a flag or an emblem or their imitation, the title or abbreviation of title of a certain country or international intergovernmental organisation, may be protected as a mark only with the agreement of that person or the responsible authority of that country or organisation, and if it is a question of the image or name of a deceased person, then with the agreement of his spouse, child or parent.

Article 4

If a mark consists of words, then protection embraces those words, written in any type of letters, in whatever colour, or presented in some other way.

¹⁾ Official communications from the Italian Administration.

²⁾ See *Prop. ind.*, 1939, p. 124; 1940, p. 84.

³⁾ *Ibid.*, 1940, p. 196.

⁴⁾ *Ibid.*, 1942, p. 168.

⁵⁾ *Ibid.*, 1960, p. 23.

⁶⁾ Official communication from the Yugoslav Administration.

Article 5

The right to a mark which contains inscriptions or words does not exclude the right of someone else to put on the market his goods or services under the same inscriptions or words, if those inscriptions or words represent his name, the firm name or title, which are not acquired *mala fide*.

He who had at the time of registration of a mark the name, the firm name or title identical with the protected mark, may contest the right of utilization of such a mark for the same or similar kind of goods or services, unless the holder of the right to the mark had had the same name, firm name or title.

Article 6

The right to a mark does not exclude the right of another organisation to use in economic transaction an identical or similar sign for identification of goods or services of a different kind.

Article 7

One organisation may seek protection of the same sign for several kinds of goods or services or protection of several different signs for the same kind of goods or services.

Article 8

A Yugoslav organisation may seek in a foreign country protection of a sign as its mark only after having filed an application in Yugoslavia for protection of that sign.

Article 9

Foreign nationals shall have with respect to recognition of the right to a mark and its protection the same rights as domestic organisations have under this Law, if that stems from international treaties or conventions or from the principle of reciprocity.

In case of doubt, the party which refers to reciprocity must prove the existence of reciprocity.

Article 10

The provisions of this Law shall apply to individual citizens with respect to signs and marks which pertain to their authorized economic activities.

2. Substance of the right to a mark

Article 11

The holder of the right to a mark has the right to use that mark in economic transactions on his goods or for his services.

The right referred to in Paragraph 1 embraces the right of the holder of the right to the mark to use the mark on the means for packing and on other means in connection with the marketing of goods or services, such as advertisements, prospectuses, catalogues, instructions, guarantees, invoices and correspondence.

Article 12

Use of a mark is not compulsory.

The federal agency of administration in charge of commercial affairs may, in agreement with the corresponding federal agency of administration, rule that certain kinds of

goods or services may be put on the market only if they are furnished with a mark.

Article 13

The right to a mark is acquired on the date of entry in the register of protected marks, and is valid as of the date of the filing of the application for recognition of that right.

The right to a mark lasts until it terminates on one or more of the bases specified by this Law.

3. Transfer of right to a mark

Article 14

The right to a mark may pass to another organisation only if the enterprise or shop or a part thereof from which the goods or the service for which that mark is protected are also transferred to it.

The organisation to which the right to a mark is transferred acquires that right by registration of the transfer of the right to the mark in the register of protected marks.

4. License

Article 15

The holder of right to a mark may by contract cede to another organisation the right of use of that mark (contractual license).

A license contract is valid only if it is made in a written form, and it should contain in particular: stipulation as to compensation for use of the mark and the amount of the compensation, the duration of the license, its extent, and an indication as to whether the license is exclusive.

The organisation which obtains a license to a mark may use that mark only if it ensures the same quality of goods or services and if it visibly and clearly indicates on the goods their origin or, in the case of performance of services, the performer of services.

5. Termination of right to a mark

Article 16

The right to a mark terminates:

- (1) if the holder of the right renounces in writing his right to the mark — on the day following the date of submission of the written renunciation;
- (2) if the prescribed tax is not paid within the prescribed time — on the day following the date of expiry of the time-limit for payment of the tax;
- (3) if the organisation or private handicraft workshop which is the holder of the right to the mark ceases to exist — on the date of its striking out from the register of the respective organisations or private handicraft workshops.

If the right to a mark is cancelled (Art. 39), it shall be considered that it never existed.

When the right to a mark terminates on the basis of Item 1 or 2, Paragraph 1, the former holder of the right to the mark shall have exclusive right to demand, within three years following the date of termination of the right to the mark, that his right to that mark, for the same kind of goods or services, be again protected.

6. Collective Mark

Article 17

An organisation whose members are interconnected by common business interests, may protect a certain mark as a collective mark for the purpose of safeguarding for its members the right of use of that mark on their goods or in their services in economic transactions.

The provision of Paragraph 1 shall apply to a foreign organisation regardless of whether or not it has an enterprise or shop from which the goods or services derive.

Article 18

An organisation which seeks protection of a collective mark must have rules governing the collective mark.

The rules governing a collective mark must contain: the name, the firm name or title of the organisation; the purpose which the organisation serves; the name or title of the organs empowered to represent it; provisions on what members of the organisation have the right to use the mark and under what conditions, and especially provisions on the conditions with respect to the quality of the goods or services; provisions regarding the rights and obligations of the members in case of infringement of the mark, and regarding the measures and consequences in case of misuse of the mark by the members.

Article 19

A collective mark may not be transferred.

Article 20

A collective mark may also be cancelled, besides the reasons stated in Article 39 of this Law, if it is used contrary to the basic aims of the organisation or contrary to the rules governing the collective mark.

A petition for cancellation of a collective mark for the reason that the mark is being used contrary to the basic aims of the organisation or contrary to the rules governing the collective mark, may be filed by any person, as well as by the Federal Public Prosecutor.

Article 21

An organisation which is the holder of the right to a collective mark may demand in its own name also indemnification for damage caused by a third person to one of its members by unauthorized use of the collective mark, if indemnification of damage had not been claimed by that member of the organisation.

CHAPTER II

Procedure

1. Jurisdiction

Article 22

The Patent Office (*Uprava za patente*) shall have jurisdiction to decide on applications for recognition of the right to a mark and on other administrative matters in connection with protection of the mark, unless otherwise determined by this Law.

In the proceedings referred to in Paragraph 1, the provisions of the Law on General Administrative Procedure shall apply, unless otherwise determined by this Law.

A complaint against a decision of the Patent Office (*Uprava za patente*) may not be filed, but an administrative suit may be conducted.

The Supreme Economic Court shall have jurisdiction to deal with an administrative suit started in accordance with Paragraph 3, and it shall deliberate in a council composed of 2 Judges and 3 assessors in accordance with the provisions of the Law on Administrative Procedure.

By a decision of the Supreme Economic Court rendered in accordance with Paragraph 4, a decision of the Patent Office (*Uprava za patente*) may be reversed.

A decision of the Supreme Economic Court by which a decision of the Patent Office (*Uprava za patente*) is reversed, shall in every way replace that decision.

Article 23

Disputes and other questions which by this Law are brought within the jurisdiction of courts of law, shall be dealt with in the first instance by the Higher Economic Court, unless otherwise determined by this Law.

2. Application for recognition of right to a mark

Article 24

Action for recognition of right to a mark is started on the basis of a written application submitted to the Patent Office (*Uprava za patente*).

For every sign a separate application for recognition of the right to the mark has to be filed.

Article 25

An application for recognition of the right to a mark must, among other things, contain: the name; the firm name or title of the applicant; his headquarters or place of residence and address; kind of enterprise or shop which is filing the application — according to the type of business; kind of goods or services for which recognition of the right to the mark is being claimed; and indication of colour or combination of colours if protection of a mark in colour is being claimed.

Together with the application must be submitted an example of the sign for which protection is being claimed in the form in which it will be used or is being used, as well as the electro of that sign.

Together with an application for recognition of the right to a collective mark, the rules governing the collective mark must also be submitted.

Article 26

The date and the hour of receipt of an application must be noted on it.

At the request of an applicant, a confirmation must be issued to him to the effect that his application has been received on a specific date and at a specific hour.

3. Priority Right

Article 27

As of the day and hour of receipt of a proper application for recognition of the right to a mark, the applicant in whom right to the mark is recognised on the basis of that application shall have priority right to the registered mark over any person who submits later an application for recognition of a right to the mark for the same or a similar sign for the same or a similar kind of goods or services.

If the goods or services for which protection of a sign is being claimed are not indicated in the application itself, or an example of that sign is not submitted, the priority right shall be counted as of the day on which the indication of the goods or services for which protection of the sign is being claimed has been communicated to the Patent Office (*Uprava za patente*), or as of the day on which an example of that sign has been submitted to it.

If the kind of goods or services to which the registered sign pertains: is subsequently changed or supplemented, or if the registered sign is essentially changed later, priority right shall be counted as of the day of submission of the change or supplementation of the kind of goods or services to the Patent Office (*Uprava za patente*), or as of the day of submission of an example of the essentially changed sign.

Article 28

Whoever uses a specific sign as a mark or exhibits goods bearing a specific sign or mark at an official or officially-recognised exhibition (fair) of an international character in Yugoslavia or in some other country adhering to the International Union for the Protection of Industrial Property, may, within three months following the date of closing of the exhibition, file an application for recognition of the right to that mark, with priority as of the first day of exhibiting that sign or those goods at that exhibition.

The application referred to in Paragraph 1, must be accompanied with a written confirmation issued by the authorities of the exhibition regarding the kind of exhibition, the place at which it was held, the date of opening, the date of closing, and the first day on which the sign was used or the goods were exhibited bearing the sign for which protection is being claimed.

A decision of recognition of an exhibition held in Yugoslavia is rendered and published by the Patent Office (*Uprava za patente*) on the proposal of the exhibition authorities.

Article 29

The national of a country adhering to the International Union for the Protection of Industrial Property who has filed in some country adhering to the Union a proper original application for recognition of the right to a mark, shall be recognised in Yugoslavia priority right to that mark as of the date of the filing of that application, if he claims that in an application filed in Yugoslavia for recognition of the right to the same mark within six months following the date of the filing of the original application.

For recognition of priority right under Paragraph 1, the applicant must submit a copy of the original application, in-

dicating the date of its filing with the responsible authority of the country adhering to the Union, authenticated by that authority.

An authenticated copy of an original application need not be legalized.

If an application filed in Yugoslavia by an applicant pursuant to Paragraph 1, is not accompanied by an authenticated copy of the original application, the Patent Office (*Uprava za patente*) shall invite him to submit such a copy within a specified time, which may not be shorter than three months counting from the date of delivery of the invitation.

4. Examination of applications

Article 30

On receipt of an application, first of all it must be seen whether it and its annexes are in proper order.

If it is ascertained that the application or its annexes are not in proper order, the applicant shall be invited to make the necessary corrections or supplements within a specified time.

It shall be considered that an application or its annexes are not in proper order when the revenue tax prescribed for applications or annexes is not paid.

Article 31

If, after examination of a proper application, it finds that the right to the mark cannot be recognised, the Patent Office (*Uprava za patente*) shall invite the applicant to declare himself within a specified time on the facts because of which it considers that the claimed right cannot be recognised.

Article 32

If an applicant does not correct or supplement the application within the specified time or does not pay the prescribed tax (Art. 30), or if he does not declare himself within the specified time on the facts because of which the Patent Office (*Uprava za patente*) considers that the right to the mark cannot be recognised (Art. 31), it shall be considered that he was withdrawn his application.

Article 33

If, by examination of a proper application, it is ascertained that the registered sign is similar to a previously protected mark of another person for the same or similar goods or services, the Patent Office (*Uprava za patente*) shall notify that to the applicant and invite him to declare himself within a specified time on whether he keeps to his claim for protection, whether he will alter the registered sign or withdraw his application.

If the applicant declares himself within the time left to him that he keeps to the application, or if he does not at all declare himself and the conditions prescribed by this Law for protection of the sign have been fulfilled, the registered sign shall be protected.

Article 34

After examination of a proper application, a decision shall be rendered by which the application for recognition of right to the mark is accepted or rejected, fully or partially.

5. Entry in the register of protected marks

Article 35

On the basis of the decision by which right to a mark is recognised, that right shall be entered in the register of protected marks.

After entry of the right to a mark in the register, a certificate on the mark shall be issued to the applicant.

The register of protected marks shall be kept by the Patent Office (*Uprava za patente*).

Article 36

In the register shall be entered the necessary data, and especially: the number of the mark, the kind of the goods or services to which right to the mark is recognised, the kind of the enterprise or shop which holds the right to the mark — according to the type of business, the name, the firm name or the title of the holder of the right to the mark, his headquarters or place of residence and address, the date of filing of the application and the date as of which priority right is counted.

The register must also contain the mark itself which is protected.

In the register must also be entered all the subsequent changes with respect to the right to the mark, the holder of the right to the mark, and individual rights in connection with the mark, such as: cancellation, revocation, transfer, international registration, record of starting of suit, etc.

Article 37

The register of protected marks shall be public.

Any person shall be permitted to search the register and the documents on the basis of which the entries in the register have been made.

Article 38

Registered marks and other data stated in Article 36, of this Law, shall be announced in the official bulletin of the Patent Office (*Uprava za patente*).

CHAPTER III

Cancellation and Revocation of Right to a Mark

Article 39

The right to a mark shall be cancelled:

- (1) if a sign which under this Law could not be protected has been protected (Art. 3);
- (2) if a mark is similar to a previously protected mark of another person for the same or similar kind of goods or services (Art. 33).

A petition for cancellation of the right to a mark for reasons stated in Article 3, Paragraph 1, of this Law, and in Paragraph 1, Item 2, of this Article, as well as a petition for cancellation of right to a mark which represents a State coat-of-arms or some other public coat-of-arms, a flag or a public emblem or their imitation, the title or abbreviation of the title of a certain country or of an international inter-

state organisation (Art. 3, Para. 2), may be filed by any person.

If a mark represents the image or name of a person, and agreement has not been given in accordance with Article 3, Paragraph 2, of this Law, the right to that mark shall be cancelled on the basis of a petition filed by the person whose agreement had been necessary.

The petition for cancellation of right to a mark which any person may file (Para. 2), and the petition for cancellation of right to a mark which represents the image or name of a prominent living public worker or of a historical personality, may also be filed by the Federal Public Prosecutor.

A petition for cancellation of the right to a mark filed against a person who does not have his fixed place of residence or headquarters on the territory of Yugoslavia, shall be acted on by the Higher Economic Court on whose territory entry of that right in the register of protected marks has been effected.

The Court must transmit to the Patent Office (*Uprava za patente*) its final decision rendered in connection with the petition for cancellation of the right to the mark.

Article 40

The right to a mark shall be revoked on the basis of a petition filed by a person who proves that he is using a sign identical with or similar to the registered mark belonging to another person in his economic transactions or marking the same or a similar kind of goods or services to which the registered mark pertains, and that that mark had been known in economic transactions as an indication of the plaintiff's goods or services already at the time of filing of the application for the registered mark.

There shall be no revocation if the holder of the right to the mark proves that that mark, before the filing of the application for protection, for the same or similar goods or services, had been used by him for the same length of time or for a longer time than the person who seeks revocation of his right to the mark.

A petition for revocation of the right to a mark against a *bona fide* holder of the right to the mark, shall fall within the statutes of limitation in three years following the date of entry of the right to the mark in the register of protected marks.

On the basis of a legally valid verdict by which his demand has been accepted, the filer of the petition referred to in Paragraph 1, may, within three months following the date of communication of that verdict, demand that he be entered as the holder of the right to the mark and that a certificate on the mark be issued to him.

A petition for revocation of right to a mark which is filed against a person who does not have his fixed place or residence or his headquarters on the territory of Yugoslavia, shall be acted on by the Higher Economic Court on whose territory the entry of that right in the register of protected marks had been effected.

A final decision rendered in connection with a petition for revocation of right to a mark, must be transmitted by the Court to the Patent Office (*Uprava za patente*).

Article 41

Within the meaning of this Law, it is considered that a sign is similar to a mark or that a mark is similar to another mark:

- (1) if an average purchaser of goods, regardless of the kind of goods, or the user of services, is able to notice a difference between them only if he pays special attention;
- (2) if the sign or mark represents a translation or a transcription of the protected mark.

CHAPTER IV

Restoration to status quo ante

Article 42

A petition for restoration to *status quo ante* in administrative procedure may be filed within two months following the date of removal of the obstacle, and at the latest within one year following the date of expiry of the period with which the loss of right is connected.

If the petition for restoration to *status quo ante* is accepted, then the period within which the filer of the petition must perform the operation which he had left unperformed or pay the unpaid tax, shall also be fixed in the decision.

Restoration to *status quo ante* may not be sought for exceeding the time-limit set in Article 28, Paragraph 1, and in Article 29, Paragraph 1. of this Law.

A petition for restoration to *status quo ante* has to be filed with the Patent Office (*Uprava za patente*).

CHAPTER V

Representation

Article 43

Lawyers and patent agents may practice as a profession representation in matters of obtaining and maintaining of the right to a mark.

For representation in matters referred to in Paragraph 1, special bureaux may be opened as independent establishments.

These bureaux may represent parties involved in disputes before courts of competent jurisdiction and before organs of administration if they have the necessary professional personnel.

Article 44

Nationals of foreign countries who seek rights in accordance with the provisions of this Law in Yugoslavia, or who appear as parties involved in a dispute before a court of law or before an organ of administration in Yugoslavia, must have an attorney who is a Yugoslav citizen and who practices law as a profession.

Article 45

The Federal Executive Council will issue more detailed regulations on the bureaux referred to in Article 43, of this law, and on patent agents.

CHAPTER VI

Common Law Protection of Right to a Mark

Article 46

As an infringement of the right to a mark, shall be considered any illegal use of the mark or imitation of such a mark in economic transactions.

Article 47

In case of infringement of the right to a mark, the holder of the right may seek that the perpetrator be forbidden to commit further infringements, that the verdict by which the infringement was confirmed be published at the expense of the perpetrator; and he may also seek, under the general rules of property rights, damages.

CHAPTER VII

Penal Provisions

Article 48

An organisation which in economic transactions illegally uses a protected mark or imitates a protected mark or puts on the market without a mark goods or services for which it is prescribed that they must be furnished with a mark (Art. 12, Para. 2), or used on the basis of a license a mark although it has not ensured a corresponding quality of goods or services or has not visibly and clearly indicated on the goods their origin and in the case of performance of services the performer of the services (Art. 15, Para. 3), shall be fined for economic violation up to 2.000.000.— dinars.

For the act referred to in Paragraph 1, there shall also be a fine of up to 100.000.— dinars against the responsible person in the organisation.

A Higher Economic Court shall have jurisdiction over such a case.

CHAPTER VIII

Transitional and Concluding Provisions

Article 49

A right to a mark acquired up to the date of the entry into force of this Law, shall continue to be valid, and the basic provisions of this Law shall apply to that right.

If an application for recognition of the right to a mark has been filed, and up to the date of the entry into force of this Law a decision has not been rendered or a decision had been rendered but had been cancelled, action shall be continued in accordance with the provisions of this Law.

Disputes in connection with cancellation or revocation of the right to a mark which are in course on the date of the entry into force of this Law, but the Patent Office (*Uprava za patente*) has not rendered a final decision on them by that date, shall be settled by the court of competent jurisdiction in accordance with the provisions of this Law.

Action on administrative disputes against decisions of the Patent Office (*Uprava za Patente*) which are in course on the date of the entry into force of this Law, shall be continued by the Federal Supreme Court.

Article 50

This Law enters into force on the thirtieth day following the date of its publication in the *Official Gazette of the FPRY*¹⁾.

¹⁾ This Law came into force in 15th December, 1961.

CORRESPONDENCE

Letter from South Africa

By V. G. CHOWLES B. A., LL. B., Pretoria ¹⁾

Some Aspects of Industrial Property Legislation

BOOK REVIEW

Grundzüge des gewerblichen Rechtsschutzes und des Erfinderrechts, by Dr. *Walter Beil*. One volume, 50 pages, 24 × 17 cm. Published by Carl Hanser Verlag, Munich, 1961.

(Translation)

As indicated by its title, Dr. Beil's work covers the elements of German law on industrial property and of the inventor.

In effect, Dr. Beil explains as concisely as possible but exhaustively the laws on patents, designs and models, trade marks and the rights of the inventor, whether free or employed. Conceived as a useful guide for persons directly connected with industrial property, it explains in detail the procedure for obtaining a patent, the object of the patent, its effects and its infringements.

By its clarity, presentation and conciseness, this book will no doubt render valuable service to German industrialists and inventors.

G. R. W.

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Das schweizerische Patentrecht - Kommentar zum Bundesgesetz betreffend die Erfindungspatente vom 25. Juni 1954 (Swiss Patent Law - A Commentary on the Federal Patent Law of 25th June, 1954), by *Rudolf E. Blum* and *Mario Pedrazzini*. Volume III covering Articles 49 to 86 and 109 to 118. Published in Berne, 1961, 792 pages, price Sfr. 124.—

(Translation)

With the recent publication of their third large volume, R. E. Blum and M. Pedrazzini have, for the time being, completed their extensive commentary of the Swiss Law on Patents, the first volume of which was published in 1957 and the second in 1959. The third volume covers Articles 49 to 86 and 109 to 118. The commentary on Articles 87 to 108, which deal with the prior examination of patents, will be contained in a fourth volume. This latter volume will be published when case law has clarified certain somewhat obscure provisions and will thus fill the existing gap; the authors will then be in possession of discursive material which will enable them to complete their scientific work. The first decisions of the Appeal's Section have only been taken recently and have not yet been published.

More than half the third volume which contains some 792 pages, is devoted to the procedure relating to the patent application and the patent grant. The text of the European Convention Relating to the Formalities Required for Patent Applications is also included. It is clear from the commentary that the authors were able, by virtue of their profession of patent agents, to dispose of a wealth of experience, the importance of which the reader will not fail to appreciate; such experience is proof of a most complete and exhaustive knowledge with regard to questions of detail which would certainly have escaped the attention of authors not fully conversant with this field.

It is not so much a question of formal procedure but rather a question of problems relating to the manner in which patent claims and patent specifications should be drafted in order to ensure effective protection for the invention. According to Article 51 of the Patent Law, the claim which defines the invention, is conclusive with regard to the extent of the protection granted by the patent; on the other hand, it is rarely possible to give in the patent claims, an exhaustive definition of the invention, and, in most cases, it is necessary to have recourse to explanations contained in the patent specification itself.

In these circumstances, the role assigned to the claim on the one hand and to the specification on the other and the combination of both determine the effectiveness of the protection granted to the invention. The detailed examination of these problems rightly takes into consideration their cardinal importance. However, a certain measure of prudence is required with respect to this subject; certain recent decisions of the Federal Tribunal not yet published give the impression that the claim may, according to the Tribunal, be interpreted with the aid of the specification, but that the latter is not itself subject to interpretation or at

the most only within strict limits; thus only the text of the claims is reliable and not the interpretations which the professional may give to it.

Articles 66 to 86 of the Patent Law deal with the protection of the civil and criminal law i.e. infringement of the patent, injured party's rights and remedies, competence of the tribunals, provisional measures, penal sanctions. In this domain, the authors abandoned the special field of patents and collated a wealth of important information on general questions of civil and criminal law including civil and criminal procedures, without however losing sight of those specifically relating to patent rights. Because of a lack of sufficient information pertaining to other legal sectors, this special field of law is often somewhat neglected in commentaries covering a specialised field.

Blum and Pedrazzini were in no way dismayed by these difficulties and in this field as in others, remained faithful to their ambitious plan, pursuing their very thorough and detailed documentary research. We would draw attention here to the particularly difficult problem of the tort on the subject of which the authors have also quoted cases taken from other industrial property sectors. It should, however, be noted here that the obligation of interested parties to inform themselves of the possible existence of third party rights is more serious with regard to trade marks than with regard to patents.

Detailed commentaries are also provided with regard to the proceedings available (damages, compensation for moral wrongs, restitution of profits made, destruction of objects manufactured unlawfully, publication of judgement, etc.); the same applies with regard to provisional measures.

The authors were able to limit their comments on the subject of executory and transitory provisions (Articles 109 to 118).

The essential parts of a truly far-reaching study have thus been completed in a surprisingly short time. Volumes I and II are already in the hands of judges, lawyers, patent agents and of all those persons who deal with patent rights, and their contents have already made their contribution to legal discussion. It may be added further that their publication has not gone unnoticed in foreign countries. Volume III now comes to complete the first two. Many years will pass before professional men will have exhausted the wealth of knowledge contained in this study or will have finished discussing with the authors the many problems raised therein. In fact, the present commentary is by no means a mere compilation; throughout the study the authors have shown proof of a spirit of independence and are often very critical, both of the Law itself and the Federal Council's Message. Their study will no doubt greatly contribute to the recognition and analysis of problems connected with patent rights.

It will also help to dispel the fear of laying open to discussion the law and the case law considered as an intangible basis. It will prove most interesting to observe the repercussions which this dynamic commentary will have on the future because there is certainly no fear that the study will be forgotten before the edition is sold out. A. TROLLER

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"Grundfragen einer europäischen Gerichtsbarkeit in Patentsachen", by *M. Otto Bossung*. 176 pages, 23 × 16 cm, published by Wila Verlag für Wirtschaftswerbung Wilhelm Lampl, Munich, 1959.

(Translation)

M. Bossung's work represents a study of comparative law on the rules of procedure applied in different Western European countries and those applied in the United States of America with regard to the granting of patents, the invalidation of patents, compulsory licences and all the infringements to patents rights; the essential aim of this comparative study is to contribute to the Europeanisation of patent laws.

In the opinion of M. Bossung, it is essential to establish an European Patent Community (*Europäische Patentgemeinschaft*), and with an aim to laying down future rules, he analyses the laws and regulations of Western European countries.

By reason of the very detailed comparative study which it contains and the solutions proposed — for instance the setting up of an European Patent Tribunal or the adoption of a common procedure in respect of infringements to patent rights — M. Bossung's book is a valuable contribution to the movement towards the unification of industrial property law in Europe. G. R. W.

“Wettbewerbsrecht und internationales Privatrecht”, by Dr. *Helmut Wirner*. 142 pages, 21 × 15 cm, published by Carl Heymanns Verlag KG., Munich, Cologne, Berlin and Bonn, 1960.

(Translation)

As indicated by the title, M. Wirner deals with the problem of the right of competition in the framework of private international law. M. Wirner ascertains that in spite of the existence of international conventions, the right to competition is very different from one State to another, which, in turn, gives rise to the problem of the legislation applicable; generally speaking therefore, the question of the applicability of national laws is only rarely solved in international law which makes doctrine and case law all the more important. Thus M. Wirner's book is a valuable contribution to the solution of this problem.

The analysis and the proposal of M. Wirner will be, without doubt, of considerable value to those persons interested in the necessary harmonization of national legislations and to the coordination of their applicability. This book will therefore find its natural place in the library not only of specialists in the field of industrial property but also of internationalists.

G. R. W.

OBITUARY

Eugen Blum

On 15th March, 1962, two months before completing his seventieth year, Eugen Blum was summoned from this life to his eternal rest. Six months earlier, his failing health had driven him to lay down his office as Secretary-General of the International Association for the Protection of Industrial Property. The Association's Executive Committee, assembled in Ottawa in September 1961, was obliged, with deep regret, to accept this decision, but appointed Eugen Blum Honorary President of the Association, in which capacity he was still able to take part in the meeting of the Chairmen of National Groups held in Zurich in February 1962.

For more than half his life, Eugen Blum, who as a patent agent had become his father's partner in Zurich in his early years, served as Secretary-General of the International Association for the Protection of Industrial Property. When he took up his appointment in 1925, the work of the Association, which had been founded in 1897, had been interrupted for more than ten years by the first World War. Albert Osterreith, the Association's first Secretary-General, had relinquished his charge for obvious reasons. The reforging of the links which the war had thus shorn apart was at first a slow process, made possible only by the desire and need for international collaboration provoked by the impending Conference of Revision at The Hague. In the rebuilding of the Association, and in its development into a firmly established and universally recognised organization, Eugen Blum rendered devoted and decisive services. The creation of National Groups, which had proved impossible before the War, but which had begun in different States before the resumption of international activity, called at that time for a fundamental reshaping of the organisation. It is thanks to Eugen Blum that the International Association did not become simply a union of National Groups, but took on the character of a well-founded international organization.

The following facts bring home the results of those efforts: during Eugen Blum's work as Secretary-General the membership of the Association increased from 900 from 23 States to more than 2,600 from 45 States, and the number of National

Groups from 11 to 19. The success of the Association's work revealed by these figures led to a permanent expansion of the Organisation's tasks and activity.

Eugen Blum was very conscious of the significance of *order*, in whose establishment he had himself played a decisive part, in this development, and steadfastly regarded it as the indispensable prerequisite for effective substantive work. In this respect, he was not merely the Association's Secretary-General: he was at once its General and its Secretary, without at any time exceeding the powers vested in him by virtue of his office. As the guardian of *order* he was General, so that he could do justice to his duties as Secretary. As General, his Alamannic temperament made him thorough and tenacious, and hence not always easy; but generals seldom are. Yet, despite the vigour with which he discharged his functions, Eugen Blum never forgot that the ultimate aim was to create the most effective conditions for the sound day-to-day work of the Association, and to promote and further that work by all means at hand. He did not shut his eyes to the need, in the further development of the burgeoning tradition, to adapt the administrative aspects of operations to the conditions brought about by the growing number of National Groups and Members on the one hand and by the inherent difficulty of the substantive tasks on the other.

This sound administration was not only extremely beneficial to the quality of the Association's work and for the smoothness of its Congresses; it was also an important asset that enabled the Association to resume its activities after the second World War as early as 1946, and that made it possible a few years later to establish afresh in an atmosphere of mutual confidence and trust the international relations that had inevitably been disrupted by the War.

But Eugen Blum could never have carried out his tasks in the way he did had he been merely the organizer of the activities of the International Association for the Protection of Industrial Property. His vast professional experience also gave him an outstanding grasp of the substantive issues, in which field, with his unerring instinct for truth and for the practical possibilities of day-to-day activity, he was no less experienced and no less thorough than in administrative matters. His flair for precise thinking on the one hand, and for the realities of the situation on the other, proved particularly valuable in international work, where the spirit of Roman Law, Anglo-Saxon legal ideas, and every conceivable intermediate form, all meet. Thus Eugen Blum was not only the Secretary-General of the Association, but at the same time, and quite apart from the services he rendered in his own country, an effective protagonist of the steady development of the international protection of industrial property.

Beneath Eugen Blum's clear head, and behind his sometimes rather gruff exterior, there always beat a warm heart that, sustained by his outstanding sense of humour, engendered and kept alive a spirit of comradely affection in the common task, where substantial differences of opinion were once inevitable.

The International Association has suffered a grievous bereavement in the death of an outstanding Secretary-General; its members, some of whom had known Eugen Blum for many years, themselves deplore the loss of one with whom they were closely connected and whom they will never forget.

R. MOSER v. FILSECK