

# Industrial Property

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# INTERNATIONAL UNIONS

## The Hague Union

### Ratification of the Additional Act of Monaco

#### SPAIN

According to a communication from the Federal Political Department, dated July 31, 1969, the latter addressed, on July 31, 1969, the following notification to the Governments of the States which signed the Additional Act of Monaco to the Hague Agreement:

(Translation)

"On July 9, 1969, the Spanish State deposited, with the Government of the Principality of Monaco, an instrument effecting the ratification by Spain of the Hague Agreement Concerning the International Deposit of Industrial Designs of November 6, 1925, revised at London on June 2, 1934. . . . In conformity with Article 7(3) [of the aforesaid Additional Act], this ratification will take effect on August 31, 1969."

# LEGISLATION

## GERMANY (Federal Republic)

### I

### Regulations

#### Concerning Patent Applications

(Text of July 30, 1968) \*

In accordance with Article 26, paragraph (3), of the Patent Law in the version of January 2, 1968 [as amended]<sup>1</sup>, ... the following Regulations are hereby made:

#### Article 1

##### Application

Anyone wishing to obtain a patent shall file an application in writing with the German Patent Office (Articles 26, paragraph (1), sentence 1, and 45 of the Patent Law).

The application shall comprise (Article 26, paragraph (1), sentences 3 to 6, of the Patent Law):

1. the request (Article 2);
2. the description (Article 3);
3. the patent claims (Article 3a);
4. the necessary drawings (Article 4).

If it is requested that an invention should be entered in the Utility Model Register in the event that the patent application in respect of the same article is unsuccessful (auxiliary application in respect of utility model), the Regulations concerning utility model applications shall be valid for the said request.

#### Article 2

##### Request

The patent application shall be submitted in two identical copies on forms prescribed by the Patent Office.

The request shall contain:

1. the civil name, the trade name or any other designation of the applicant, the place of domicile or establishment, and the address (postal number, place, postal district if any, street, and number of building). The civil name comprises the given name and surname, as well as the maiden name in the case of women. In the case of foreign towns, the State and district shall also be indicated; foreign place names shall be underlined.

It shall be made clearly visible whether the patent is requested on behalf of one or more individuals or a company, or for the applicant under his trade name or under his civil name. Firms shall be designated in the manner in which they appear in the Commercial Register (column 2a).

The Office shall be immediately notified of any subsequent changes in name, trade name, place of domicile or establishment, or address; in the case of changes in name or trade name, written evidence shall be submitted;

2. A short, precise technical designation of the subject matter of the invention (no fancy designations);

3. a statement that a patent is requested for the invention. If a patent of addition is requested, the number of the parent patent or the file number of the parent patent application shall be given;

4. if an authorized representative is appointed, his name and address. Only a person able to sue and be sued in civil proceedings and designated by his or her civil name may be appointed authorized representative. More than one representative may be appointed. The power of attorney shall be appended to the request;

5. if several persons having no joint representative file an application or several representatives having different addresses are appointed, a statement indicating which of the said representatives is empowered to receive service of official communications;

6. the signature of the applicant or applicants or representative;

7. if the applicant's power to contract is limited by reason of his being under age (Article 106 of the Civil Code) or for any other reason (Article 114 of the Civil Code), the consent of the legal guardian in writing.

#### Article 3

##### Description

(1) The description shall explain the character of the invention in such a manner as to make its use by others skilled

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt I*, p. 1004.

<sup>1</sup> See *Industrial Property*, 1968, p. 134.

in the art possible (Article 26, paragraph (1), sentence 4, of the Patent Law).

(2) The description shall be submitted in two identical copies.

(3) The civil name, trade name or other designation of the applicant (Article 2, paragraph (2), No. 1) and the technical designation of the invention (Article 2, paragraph (2), No. 2) as title shall be placed at the head of the description.

(4) The description shall contain:

- (a) an indication of the area of application of the invention;
- (b) if the applicant either spontaneously or at the request of the Patent Office (Article 26, paragraph (4), of the Patent Law) states the prior art on which the invention is based, an indication of sources from which the prior art can be ascertained, to the extent known to the applicant;
- (c) an explanation of the invention as characterized in the claims, in such a manner that the technical problem and its solution can be clearly understood;
- (d) so far as necessary, an explanation of the invention, preferably by setting forth modes for carrying out the invention;
- (e) a statement of the advantages gained through the invention as compared with the prior art;
- (f) reference signs if the drawing is cited.

(5) Embodiments of the invention for which protection is sought by means of dependent claims shall be explained in the description to the extent necessary.

(6) The description shall include only such indications as are necessary in order to explain the character of the invention.

(7) The same technical designation shall always be used to describe the same technical concept. Where technical concepts in applications for patents of addition are identical to concepts in the parent application, the same designations shall be used as in the parent application.

(8) Units of measurement, for example, lengths and weights, shall be in accordance with the metric system, and temperatures shall be given in degrees Celsius (centigrade). In regard to electrical units of measurement, the rules agreed by international practice shall be observed. In regard to chemical formulae, the signs commonly used in Germany shall be used.

(9) Fancy designations, trademarks or other designations which do not clearly show the character of the subject matter may not be used in the description.

(10) No drawings may be included in the description. Chemical and mathematical formulae form exceptions to this rule.

#### Article 3a

##### Patent Claims

(1) Patent claims shall specify what is to be protected by patent (Article 26, paragraph (1), sentence 5, of the Patent Law).

(2) Every patent claim shall contain:

- (a) a statement containing the technical designation (Article 2, paragraph (2), No. 2) and the distinguishing features of the subject matter of the invention in so far as the said features are known or shall not be covered by the protection.
- (b) the characterizing part stating in summarized form what is to be protected by patent in connection with the statement (as defined in sub-paragraph 2(a), above). The characterizing part shall be introduced by such words as "characterized in that" or "characterized by."

Patent claims may be drafted in some other form if expedient.

(3) All of the features which are necessary for the solution of the problem in accordance with the invention shall be contained in the first patent claim, the principal claim.

(4) Provided that the principle of unity is maintained (Article 26, paragraph (1), sentence 2, of the Patent Law), a different solution to the same general technical problem, that is, independent of the solution characterized in the principal claim, may be stated in an independent claim. As a general rule, independent claims shall not refer to other patent claims but shall contain the same statement (as defined in sub-paragraph 2(a), above) as the principal claim. The independent claim shall contain all of the features needed for the other solution.

(5) Embodiments of the invention in accordance with the principal claim or an independent claim may form the subject of dependent claims. Dependent claims must contain a reference to a preceding patent claim. The statement (as defined in sub-paragraph 2(a), above) of the dependent claim may be replaced by a complete or partial reference to a preceding patent claim if this is sufficient to clarify the claim for protection.

(6) If several patent claims are filed they shall be numbered consecutively in Arabic numerals.

(7) The patent claims shall clearly characterize what is to be protected by the patent even without reference to the description or to drawings. If drawings are submitted, reference signs relating to the drawing figures shall be added in the patent claims in brackets (cf. Article 4, No. (4)). Wherever necessary for the purpose of understanding, reference signs shall be inserted. General references to the description or the drawing (for example, "as shown in the drawing" or "as described") shall not be included in the patent claims.

(8) The provisions of Article 3, Nos. (2) and (7)-(10), shall apply in regard to patent claims, *mutatis mutandis*.

#### Article 4

##### Drawings

(1) Drawings (Article 26, paragraph (1), sentence 6, of the Patent Law) shall be submitted in triplicate, of which two copies shall be for the files together with the application, while the third for printing purposes shall be supplied not later than the time at which a decision is issued with regard to publication.

(2) The prescribed size of sheet is DIN A4 ( $29.7 \times 21$  cm) lengthways or, in exceptional circumstances, sideways. Sheets of 29 to 34 cm length are also permissible.

The area used for drawings may not exceed  $25.7 \times 17$  cm.

(3) Drawings shall be made in lines and strokes only; sections shall be clearly indicated by hatching. No coloring is permissible. The drawings shall be made throughout by means of dark (if possible, black) lines and strokes of equal intensity, clearly delineated, durable and indelible, covering the background properly. They must be suitable for reproduction by microfilming and photocopying.

The scale selected shall be such that photographic reproduction shall permit easy reading of all details even in the case of two-thirds reduction. If the scale of the drawing is shown in exceptional circumstances, it shall be drawn and not indicated in writing.

The figures shall be arranged on the sheet in such a way as to avoid wasting space while remaining clearly separated from one another. They shall be numbered consecutively.

(4) All written signs on the drawings shall be simple and clear; they shall not be smaller than 3.2 mm in height. For the various parts of figures, reference signs (if possible, Arabic numerals) shall be used in the description only to the extent that a reference to the relating part of the figure is necessary for the understanding of the invention.

The same parts shall be given the same reference signs in all figures, corresponding exactly to the reference signs in the description. The same reference signs may not be used for different parts, even if the figures are on different sheets.

(5) Explanatory matter shall not be included in drawings, with the exception of brief indications such as "water," "steam," "section AB (figure 3)," "open" or "shut," or key words needed in order to understand flow sheets, switch gear or diagrams. All indications in the form of words shall be in German.

(6) The indication of the application to which the drawing relates (Article 6, No. (1)) shall be placed in the margin.

(7) The drawing for printing purposes shall be made on transparent, flexible, resistant, matt material (for example, tracing canvas or tracing paper) and submitted unfolded, smooth and without wrinkles. It may also be produced by heliographic process. The material may not be either dark or spotted.

For the two drawings for the files strong, white, non-glossy paper shall be used. Positive photographic prints on durable paper may also be used. They must be identical to the printed drawing. Negative photographic prints may not be used.

#### Article 5

##### *Models and Samples*

(1) Models and samples shall be supplied to the Patent Office only upon request.

(2) Fragile models and samples shall be submitted in sturdy containers clearly so marked. Articles of small dimensions shall be fastened on stiff paper.

(3) Samples of poisonous, corrosive or inflammable materials shall be clearly designated as such on the packing and, if possible, on the actual article.

(4) Samples of chemical materials shall be submitted in glass containers closed by means of a firm seal and bearing a firmly affixed indication of the contents. A list following the same order as the description or the patent claim shall be attached to the samples.

(5) Dyeing and tanning samples shall be kept as flat as possible and shall be firmly fixed, preferably on stiff paper (of size DIN A4) and provided with a written indication corresponding exactly to the description. The said dyeing and tanning samples shall be accompanied by a precise description of the dyeing or tanning process followed.

#### Article 6

##### *Further Requirements Concerning Submissions*

(1) Items appended to the request shall clearly state the application to which they relate. Following notification of the official file number, this shall be quoted in full on all communications to the Patent Office, at the head of at least the first sheet of written submissions, and in the bottom right-hand corner of drawings beneath the drawing area.

(2) Written submissions for communication to other persons or referring to more than one application shall be supplied in the necessary number of copies.

(3) Strong white paper shall be used for all written submissions. The patent request, description and patent claims shall be submitted on paper of size DIN A4. Sheets of 29 to 34 cm  $\times$  20 to 22 cm may also be used.

(4) The sheets shall be typed or printed on one side only. Symbols not existing on the keyboard may be added by hand.

The print shall be easy to read and in black or some other dark color, indelible and durable. The type character and the form shall be such as to permit microfilming and photocopying. There shall be a distance of  $1\frac{1}{2}$  lines between the lines.

A margin of not less than 2.5 cm shall be kept free at the left-hand side of the sheet. An area of  $25.7 \times 17$  cm shall in no case be exceeded for the description and claims. The sheets making up each submission shall be numbered consecutively and shall be joined together in a manner permitting easy separation.

(5) The description and patent claims should not contain any parts which have been erased, altered or written over. If the original copy does, however, contain any parts which have been erased, altered or written over, such marks should be the same on all copies.

(6) If the description, the patent claims or the drawings are altered in the course of the proceedings, and if such alterations have not been suggested by the Patent Office, the applicant shall state in detail where the features of the invention described in the new documents are disclosed in the original documents submitted. Upon request by the Patent Office, any missing information shall be supplied.

If so requested by the Patent Office, the applicant shall submit clean copies incorporating any changes in the description or patent claims.

(7) New parts of descriptions and new patent claims shall in each instance be submitted on separate sheets.

## Article 7

*Translations*

If any written submission is not in German, it shall be accompanied by a German translation made by an officially authorized translator. Upon request, the translator's signature and the fact that he is officially authorized to perform such duties shall be officially certified (Article 129 of the Civil Code).

This shall not apply in the case of priority documents submitted in accordance with the revised Paris Convention for the Protection of Industrial Property in the Hague version of November 6, 1925, in the London version of June 2, 1934, or in the Lisbon version of October 31, 1958; these may also be submitted in English or French. The section competent for dealing with the application shall decide in each instance whether a translation of such documents is required.

## Article 8

*Berlin*

In accordance with Article 14 of the Third Transitional Law of January 4, 1952 (*Bundesgesetzblatt I*, p. 1), in conjunction with Article 7, paragraph (5), of the Law for the Amendment of the Patent Law, Trademark Law and Other Laws, of September 4, 1967 (*Bundesgesetzblatt I*, p. 953), these Regulations shall also be applicable in the *Land Berlin*.

## Article 9

*Entry into Force*

These Regulations shall supersede the Regulations concerning Patent Applications of March 30, 1965 (*Bundesanzeiger* No. 77, of April 24, 1965). They shall come into force on October 1, 1968.

## II

**Regulations**

## Concerning Utility Model Applications

(Text of July 30, 1968) \*

In accordance with Article 2, paragraph (4), of the Utility Model Law in the version of January 2, 1968<sup>1</sup>,... the following Regulations are hereby made:

## Article 1

*Application*

An application in writing shall be filed with the Patent Office in respect of any article for which protection as a utility model is sought (Article 2, paragraph (1), of the Utility Model Law).

A separate application is required in respect of each article.

The application shall consist of:

1. the request (Article 2);
2. the description (Article 3);
3. the claims for protection (Article 3a);
4. the drawings or models (Article 4 or 5).

If it is requested that registration in the Utility Model Register should not be effected until such time as the patent application in respect of the same article has been disposed of (auxiliary application in respect of utility model), two further copies of the request for granting the patent as attached to the patent application and a third copy each of the description of the patent application, the patent claims and the drawings accompanying the patent application shall further be supplied. If the patent application is not accompanied by either a drawing or a model, a drawing or a model shall be submitted together with the request.

## Article 2

*Request*

The request for registration in the Utility Model Register shall be made on the forms prescribed by the Patent Office in two identical copies.

The request shall contain:

1. the civil name, the trade name or any other designation of the applicant, his domicile or establishment, and the address (postal number, place, postal district if any, street, and number of building). The civil name comprises the given name and surname, as well as the maiden name in the case of women. In the case of foreign towns, the State and district shall also be indicated; foreign place names shall be underlined.

It shall be made clearly visible whether the utility model is requested on behalf of one or more individuals or a company, or for the applicant under his trade name or under his civil name. Firms shall be designated in the manner in which they appear in the Commercial Register (column 2a).

The Office shall be immediately notified of any subsequent changes in name, trade name, domicile or establishment, or address; in the case of changes in name or trade name, written evidence shall be submitted;

2. a short, precise technical designation of the article to which the invention relates (no fancy designations);

3. a statement to the effect that registration of a utility model is requested in respect of the article;

4. if an authorized representative is appointed, his name and address. Only a person able to sue or be sued in legal proceedings and designated by his or her civil name may be appointed authorized representative. More than one representative may be appointed. The power of attorney shall be appended to the request;

5. if several persons having no joint representative file an application or several representatives having different addresses are appointed, a statement indicating which of the said representatives is empowered to receive service of official communications;

6. the signature of the applicant or applicants or of the representative.

Only one copy of the request need be thus signed;

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt I*, p. 1008.

<sup>1</sup> See *Industrial Property*, 1969, p. 19.

7. if the applicant's power to contract is limited by reason of his being under age (Article 106 of the Civil Code) or for any other reason (Article 114 of the Civil Code), the consent of the legal guardian in writing.

### Article 3

#### Description

(1) The description of the article shall be submitted in a single copy.

(2) The description shall state what new configuration, arrangement or device is to serve the purpose of work or use (Article 2, paragraph (2) of the Utility Model Law). The article to which the application refers shall be described in such a manner as to make its reproduction by others skilled in the art possible. The description shall include only such indications as are needed in order to explain the character of the article.

The civil name, trade name or other designation of the applicant (Article 2, paragraph (2), No. 1) and the technical designation of the invention (Article 2, paragraph (2), No. 2) as title shall be placed at the head of the description.

(3) Units of measurement, for example, lengths and weights, shall be in accordance with the metric system, and temperatures shall be given in degrees Celsius (centigrade). In regard to electrical units of measurement, the rules agreed by international practice shall be observed. In regard to chemical formulae, the signs commonly used in Germany shall be used.

(4) No drawings may be included in the description. Chemical and mathematical formulae form exceptions to this rule.

(5) Fancy designations, trademarks or other designations which do not clearly show the character of an article may not be used in the description.

(6) The same technical designation shall always be used to describe the same technical concept.

(7) If the description refers to drawings, reference signs (numbers or letters) shall be used.

### Article 3a

#### Claims for Protection

(1) Claims for protection shall indicate what new configuration, arrangement or device is to be protected. If reference is made to drawings, reference signs relating to the drawing figures shall be added in brackets (see Article 4, paragraph (4)). General references to the description or the drawing (for example, "as shown in the drawing" or "as described") shall not be included in the claims for protection.

(2) If more than one claim for protection is made, each claim shall be numbered consecutively in Arabic numerals.

(3) The provisions of Article 3, Nos. (1), (3) and (6), shall apply to claims for protection, *mutatis mutandis*.

### Article 4

#### Drawings

(1) Drawings shall be submitted in a single copy.

The drawings shall show the new technical configuration,

arrangement or device of the article of everyday use, working tool or implement, or part thereof.

(2) The prescribed size of sheets is DIN A4 ( $29.7 \times 21$  cm) lengthways or, in exceptional circumstances, sideways. Sheets of 29 to 34 cm length are also permissible.

The area used for drawings may not exceed  $25.7 \times 17$  cm.

(3) Drawings shall be made in lines and strokes only; sections shall be clearly indicated by hatching. No coloring is permissible. The drawings shall be made throughout by means of dark (if possible, black) lines and strokes of equal intensity, clearly delineated and indelible, covering the background properly. They must be suitable for reproduction by microfilming and photocopying.

The scale selected shall be such that photographic reproduction shall permit easy reading of all details even in the case of two-thirds reduction. If the scale of the drawing is shown in exceptional circumstances, it shall be drawn and not indicated in writing.

The figures shall be arranged on the sheet in such a way as to avoid wasting space while remaining clearly separated from one another. They shall be numbered consecutively.

(4) All written signs on the drawings shall be simple and clear and may not be smaller than 3.2 mm in height. For the various parts of the figures, reference signs (if possible, Arabic numerals) shall be used if a reference to the passage in the description relating to that part makes it easier to understand the invention.

The same parts shall be given the same reference signs in all figures, corresponding exactly to the reference signs in the description. The same reference signs may not be used for different parts, even if the figures are on separate sheets.

(5) Explanatory matter shall not be included in drawings, with the exception of brief indications such as "water," "steam," "section AB (figure 3)," "open" or "shut," or key words needed in order to understand flow sheets or diagrams. All indications in the form of words shall be in German.

(6) The indication of the application to which the drawing relates (Article 6, No. (1)) shall be placed in the margin.

(7) Strong, white, non-glossy paper shall be used for drawings. Positive photographic prints on strong paper may also be used. Negative photographic prints may not be used.

### Article 5

#### Models

(1) If models are submitted instead of drawings (Article 2, paragraph (3), of the Utility Model Law), two identical copies are required. Models shall be made of durable materials and shall not exceed 50 cm in height, breadth or depth.

(2) It is unlawful to submit models which by reason of their nature are liable to cause damage to person, articles or premises.

Models consisting of materials constituting a danger to health (for example, materials that are poisonous, corrosive, inflammable) shall be submitted in a safe container. They shall be designated as such by means of a clear inscription on the packaging and, if possible, on the actual model.

(3) In the case of models designed to contain perishable goods, such as foodstuffs, alcoholic beverages or tobacco, the said goods shall not be added in their normal state.

(4) Models which are perishable by nature shall be submitted in a form suitable for preservation.

(5) Fragile models shall be submitted in sturdy containers clearly so marked. Articles of small dimensions shall be fastened on stiff paper.

#### Article 6

##### *Further Requirements Concerning Submissions*

(1) Items appended to the request shall clearly state the application to which they relate. The same shall apply in regard to models. Following notification of the official file number, this shall be quoted in full on all communications to the Patent Office, at the head of at least the first sheet of written submissions, and in the bottom right-hand corner of drawings beneath the drawing area.

(2) Written submissions for communication to other persons or referring to more than one application shall be supplied in the necessary number of copies. The request, description, claims for protection and drawings shall not contain any communications referring to other applications.

(3) Strong, non-transparent, white paper shall be used for all written submissions. The request, description and claims for protection shall be submitted on paper of size DIN A4. Sheets of 29 to 34 cm × 20 to 22 cm may also be used.

(4) The sheets shall be typed or printed on one side only. Symbols not existing on the keyboard may be added by hand.

The print shall be easy to read and in black or some other dark color, durable and indelible. The type character and the form shall be such as to permit microfilming and photocopying. There shall be a distance of 1½ lines between the lines.

A margin of not less than 2.5 cm shall be kept free at the left-hand side of the sheet. The sheets making up each submission shall be numbered consecutively and shall be joined together in a manner permitting easy separation.

(5) The description and claims for protection shall not contain any parts which have been erased, altered or written over.

(6) If so requested by the Patent Office, the applicant shall submit clean copies incorporating any changes in the description or claims for protection.

(7) New parts of descriptions and new claims for protection shall in each instance be submitted on separate sheets.

#### Article 7

##### *Translations*

If any written submission is not in German, it shall be accompanied by a German translation made by an officially authorized translator. Upon request, the translator's signature and the fact that he is officially authorized to perform such duties shall be officially certified (Article 129 of the Civil Code). This shall not apply in the case of priority documents submitted in accordance with the revised Paris Convention

for the Protection of Industrial Property in the Hague version of November 6, 1925, the London version of June 2, 1934, or the Lisbon version of October 31, 1958; these may also be submitted in English or French. The section competent for dealing with the application shall decide in each instance whether a translation of such documents is required.

#### Article 8

##### *Berlin*

In accordance with Article 14 of the Third Transitional Law of January 4, 1952 (*Bundesgesetzblatt I*, p. 1), in conjunction with Article 7, paragraph (5), of the Law for the Amendment of the Patent Law, Trademark Law and Other Laws, of September 4, 1967 (*Bundesgesetzblatt I*, p. 953), these Regulations shall also be applicable in the *Land Berlin*.

#### Article 9

##### *Entry into Force*

These Regulations shall supersede the Regulations concerning Utility Model Applications of October 16, 1954 (*Bundesanzeiger* No. 217 of November 10, 1954). They shall come into force on October 1, 1968.

### III

#### Order

##### **Amending the Second Order for the Application of the Law Concerning Employees' Inventions**

(Text of August 22, 1968) \*

In accordance with Article 45 of the Law Concerning Employees' Inventions of July 25, 1957<sup>1</sup>,... the following Order is hereby made in agreement with the Minister of Labor and Social Affairs:

#### Article 1

The Second Order for the Application of the Law Concerning Employees' Inventions, dated October 1, 1957 (*Bundesgesetzblatt I*, p. 1680)<sup>2</sup>, is hereby amended as follows:

In Article 2, paragraph (2), No. 2, the words "... are not subject to compulsory coverage by the salaried employees' insurance scheme and" shall be deleted.

#### Article 2

In accordance with Article 14 of the Third Transitional Law of January 4, 1952 (*Bundesgesetzblatt I*, p. 1), in conjunction with Article 47, paragraph (1), of the Law Concerning Employees' Inventions, this Law shall also be applicable in the *Land Berlin*.

#### Article 3

This Order shall come into force on the day following its publication.

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt I*, p. 994.

<sup>1</sup> See *La Propriété industrielle*, 1958, p. 21.

<sup>2</sup> See *La Propriété industrielle*, 1958, p. 42.

## IV

## Order

Concerning the International Registration  
of Trademarks

(Text of September 5, 1968) \*

In accordance with Article 4 of the Law of July 12, 1922<sup>1</sup>, concerning the accession of the German *Reich* to the Arrangement of Madrid for the International Registration of Trade Marks<sup>2</sup>,... the following Order is hereby made:

## Article 1

The regulations governing the processing of, and procedure relating to, trademark questions shall be applied, *mutatis mutandis*, in regard to the international registration of trademarks unless otherwise provided in this Order.

## Article 2

(1) Publication in accordance with Article 5, paragraph (2), of the Trademark Law shall be replaced, in the case of internationally registered foreign marks, by publication in *Les Marques internationales*, as published by the International Bureau for the Protection of Industrial Property (Article 3 (4) of the Agreement in the version signed at Nice on June 15, 1957 — *Bundesgesetzblatt* 1962 II, p. 125).

(2) The time limit for lodging opposition (Article 5, paragraph (4), of the Trademark Law shall begin, in the case of foreign marks published in *Les Marques internationales*, on the first day of the month following the month indicated as the month of publication in the number containing the said publication.

(3) If opposition is lodged on the basis of an internationally registered foreign mark, Article 5, paragraph (7), of the Trademark Law shall apply, provided that registration in the Trademark Register shall be superseded by expiry of the time limit laid down in Article 5 (2) of the Agreement, or, if examination has not been completed at the expiry of that time limit, service of the notification that protection is granted.

(4) With regard to the calculation of the period specified in Articles 11, paragraph (1), No. 4, sentence 1, and 11, paragraph (5) of the Trademark Law, paragraph (3) above shall be applied, *mutatis mutandis*.

## Article 3

(1) Any person requesting the Patent Office to effect international registration of his mark shall provide evidence that the international fee (Article 8 (2) of the Agreement) has been paid to the International Bureau. Payment of the said fee to the Patent Office shall not be valid.

(2) The national fee (Article 8 (1) of the Agreement; Article 2, paragraph (2), of the Law of July 12, 1922) is

payable at the time of the filing of the request. If the trademark has not been registered at the time of the filing of the request, the fee shall become payable only upon such registration.

## Article 4

The date and number of international registration shall be recorded in the Register. These indications will not be published.

## Article 5

If the Patent Office is requested to renew an international registration, the national fee is again payable. Evidence of this further payment of the international fee shall be provided.

## Article 6

In the owner of an internationally registered mark renounces protection in one or more countries of the Union, the fact shall not be recorded in the Trademark Register. The same shall apply in regard to extension of the protection of an internationally registered mark (Article 3<sup>ter</sup> of the Agreement).

## Article 7

(1) International registration of a foreign mark shall have the same effect as if an application had been made for registration of the mark in the Trademark Register in respect of the goods specified and such registration had been effected. Such effect shall begin, in the case of marks registered internationally before December 1, 1922, on the day of collective notification (Article 11 of the Agreement), but not earlier than the calendar day named, or, in the case of marks registered subsequently, on the day of registration. Effect shall be null and void, also retrospectively, if the mark is refused trademark protection.

(2) These marks shall not be registered in the Trademark Register.

## Article 8

(1) Trademark protection acquired through the intermediary of the International Bureau may be put into effect only by a representative appointed within the country. If no such representative is appointed, a declaration may, however, be made at the time of examination of the mark (Article 3 of the Law of July 12, 1922) whereby an objection to the granting of trademark protection is refuted.

(2) Protection shall not be refused on the ground that the business enterprise is not specified.

## Article 9

(1) The consent provided for in Article 9<sup>bis</sup> (1) of the Agreement shall be communicated to the International Bureau irrespective of whether the new owner had made an application to the Patent Office in respect of the mark and it has been registered in the Trademark Register.

(2) If the country of origin of the mark is a country which has acceded to the version of the Agreement signed in London on June 2, 1934 (*Reichsgesetzblatt* 1937 II, pp. 583 and 608), the consent provided for in Article 9<sup>bis</sup> (1) of that version shall be communicated only if and in so far as the

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt* I, page 1001.

<sup>1</sup> See *La Propriété industrielle*, 1922, p. 137.

<sup>2</sup> This instrument is now known as the Madrid Agreement for the International Registration of Marks.

new owner had made an application to the Patent Office in respect of the mark and it has been registered in the Trade-mark Register.

#### Article 10

If the provisions of Articles 10 and 11 of the Trademark Law are used against an internationally registered foreign mark, cancellation shall be replaced by withdrawal of protection. With regard to the calculation of the period specified in Articles 11, paragraph (1), No. 4, sentence 1, and 11, paragraph (5), of the Trademark Law, Article 2, paragraph (3), shall be applied, *mutatis mutandis*.

#### Article 11

The Order Concerning the International Registration of Trademarks in the version of July 17, 1953 (*Bundesgesetzblatt I*, p. 656), is hereby repealed.

#### Article 12

This Order shall also be applicable in the *Land Berlin*, in so far as it is put into effect in the *Land Berlin*.

#### Article 13

This Order shall come into force on October 1, 1968.

### V

## Order

### Concerning the German Patent Office

(Text of September 5, 1968) \*

In accordance with Articles 18, paragraph (5), 22, 26, paragraph (3), and 36, paragraph (4), of the Patent Law in the version of January 2, 1968<sup>1</sup>,... most recently amended by the Law of June 25, 1968,... with Articles 2, paragraph (4), 4, paragraph (2), and 21 of the Utility Model Law in the version of January 2, 1968<sup>2</sup>,... with Articles 2, paragraph (2), 5, paragraph (9), 12, paragraph (5), and 36 of the Trademark Law in the version of January 2, 1968<sup>3</sup>,... and with Article 4, paragraph (2), of the Fifth Law for the Amendment of Provisions in the Field of Industrial Property and Transitional Measures Relating Thereto of July 18, 1953,... in the version of the Sixth Law for the Amendment of Provisions in the Field of Industrial Property and Transitional Measures Relating Thereto of March 23, 1961,... the following Order is hereby made:

#### PART ONE

#### Patent Divisions and Patent Examining Sections

##### Article 1

(1) The President shall determine the area of competence of the Patent Divisions and the Patent Examining Sections.

(2) The President shall decide all matters relating to the assignment of each case to the appropriate patent class and subclass.

#### Article 2

The Chairman shall rule on the conduct of business in proceedings before a Patent Division.

#### Article 3

Unless otherwise ordered by the Chairman, the examiner shall serve as reporter in proceedings before a Patent Division. The reporter shall state the facts of the case and draft decisions and opinions. The Chairman shall examine the said drafts and approve them. In the event of any difference of opinion regarding substance, the Patent Division shall decide the matter.

#### Article 4

(1) No decision may be given in proceedings before a Patent Division without discussion and voting at a meeting, in the case of:

1. decisions concerning the grant or restriction of a patent;
2. opinions and decisions rejecting a request for the delivery of an opinion.

In exceptional circumstances, no meeting need be held if the Chairman deems that it is not necessary.

(2) In the cases covered by paragraph (1), No. 2, a legal member of the Patent Division shall participate in the discussions and voting if none of the other persons participating is a legal member.

#### Article 5

The decisions of a Patent Division shall be by a majority vote; in the event of the votes being equal, the Chairman shall have the casting vote.

### PART TWO

#### Utility Model Divisions and Utility Model Section

##### Article 6

Articles 1 to 3 and 5 shall apply, *mutatis mutandis*, to the Utility Model Divisions and the Utility Model Section and to proceedings before a Utility Model Division.

##### Article 7

No decision may be given in proceedings before a Utility Model Division without discussion and voting at a meeting, in the case of:

1. decisions concerning a request for cancellation;
2. opinions and decisions rejecting a request for the delivery of an opinion.

In exceptional circumstances, no meeting need be held if the Chairman deems that it is not necessary.

##### Article 8

A certificate of entry in the register shall be issued to the owner of the utility model.

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt I*, page 997.

<sup>1</sup> See *Industrial Property*, 1968, p. 134.

<sup>2</sup> See *Industrial Property*, 1969, p. 19.

<sup>3</sup> See *Industrial Property*, 1969, p. 23.

## PART THREE

## Trademark Divisions and Trademark Examining Sections

## Article 9

Articles 1 to 3 and 5 shall apply, *mutatis mutandis*, to the Trademark Divisions and the Trademark Examining Sections and to proceedings before a Trademark Division.

## Article 10

No decision may be given in proceedings before a Trademark Division without discussion and voting at a meeting, in the case of:

1. decisions to cancel a trademark or to reject a request for cancellation of a trademark;
2. opinions and decisions rejecting a request for the delivery of an opinion.

In exceptional circumstances, no meeting need be held if the Chairman deems that it is not necessary.

## Article 11

A certificate of entry in the register shall be issued to the owner of the trademark.

## PART FOUR

## General Provisions

## Article 12

The President shall conduct and supervise the affairs of the Patent Office. He shall ensure that all cases are dealt with in the same manner and that the same principles are applied in all instances.

## Article 13

(1) The date of receipt shall be recorded on all documents.

(2) No documents shall be received on Sundays or on public holidays.

## Article 14

(1) If more than one person is involved in proceedings before the Patent Office, all written submissions shall be accompanied by copies for the other persons involved. If a party to proceedings fails to comply with this requirement despite a request by the Patent Office, the necessary number of copies shall be prepared by the Patent Office at the expense of that party.

(2) Written submissions containing a request or notice of withdrawal of a request shall be served *ex officio* on the other parties involved; all other written submissions shall be communicated to them by the ordinary means, unless it is ordered that they should be served on them.

## Article 15

(1) With regard to a request to inspect the files and models and samples relating thereto, in accordance with Article 24, paragraph (3), sentence 1, of the Patent Law, Article 3, paragraph (5), sentence 2, of the Utility Model Law and Article 3, paragraph (2), sentence 2, of the Trademark Law, the decision shall lie with the branch of the Patent Office

which is competent for the case to which the files relate or, if the treatment of the case has been completed, which was most recently competent for the case, unless competence is otherwise determined by the President.

(2) In cases covered by paragraph (1) above and in cases where anyone is free to inspect the files, inspection of the files shall, to the extent that the Patent Office's files have been recorded on microfilm, be permitted by making the said microfilm available.

## Article 16

(1) Copies of decisions and notices shall be headed "*Deutsches Patentamt*," with the designation of the Examining Section or Division at the end.

(2) Notices of the Patent Office shall bear the signature, the impression or stamp of the name of the person empowered to sign, or the impression of the seal of the Patent Office.

## Article 17

The President shall have discretionary power regarding the disposal of models, samples and similar items attached to the application if no request has been made for their return:

1. where the application in respect of the patent, utility model or trademark has been rejected or withdrawn, one year after final rejection or withdrawal;
2. where the patent has been granted or refused, one year after the decision to grant or refuse the patent becomes final;
3. where the utility model has been registered, three years after the end of the period of protection;
4. where the trademark has been registered or registration has been refused, one year after its registration or notification of such refusal, but not until one year has elapsed after the completion of the opposition proceedings in the cases described in Article 6a, paragraph (4), of the Trademark Law.

## Article 18

(1) Authorized representatives shall submit a power of attorney to the Patent Office.

(2) Such power of attorney shall be made out in the civil names of persons able to sue or be sued in legal proceedings, unless merely containing authority to receive service of notices.

## Article 19

Witnesses and experts shall be entitled to receive compensation in accordance with the Law on the Compensation of Witnesses and Experts in the version of September 26, 1963 (*Bundesgesetzblatt I*, pp. 757-758), as amended by the Law of December 20, 1967 (*Bundesgesetzblatt I*, p. 1246).

## PART FIVE

## Transfer of Powers

## Article 20

The powers laid down in Article 18, paragraph (5), 26, paragraph (3), and 36, paragraph (4), of the Patent Law, in Articles 2, paragraph (4), and 4, paragraph (2), of the Utility

Model Law, in Articles 2, paragraph (2), 5, paragraph (9) and 12, paragraph (5), of the Trademark Law, and in Article 4, paragraph (2), of the Fifth Law for the Amendment of Provisions in the Field of Industrial Property and Transitional Measures Relating Thereto of July 18, 1953 (*Bundesgesetzblatt I*, p. 615), in the version of the Sixth Law for the Amendment of Provisions in the Field of Industrial Property and Transitional Measures Relating Thereto of March 23, 1961 (*Bundesgesetzblatt I*, pp. 274 and 316), shall be transferred to the President of the Patent Office.

#### PART SIX

#### Final Provisions

##### Article 21

The Order of May 9, 1961, concerning the German Patent Office (*Bundesgesetzblatt I*, p. 585) is hereby repealed.

##### Article 22

In accordance with Article 14 of the Third Transitional Law of January 4, 1952 (*Bundesgesetzblatt I*, p. 1), in conjunction with Article 7, paragraph (5), of the Law for the Amendment of the Patent Law, Trademark Law and Other Laws, of September 4, 1967 (*Bundesgesetzblatt I*, p. 953), this Order shall also be applicable in the *Land Berlin*.

##### Article 23

This Order shall come into force on October 1, 1968.

### VI

#### Order

##### Concerning Article 28a of the Patent Law

(Text of October 1, 1968) \*

In accordance with Article 28a, paragraph 8, Nos. 1 and 2, of the Patent Law in the version of January 2, 1968 [as amended]<sup>1</sup>,... the following Order is hereby made:

##### Article 1

The search for publications which are to be considered in connection with the determination of patentability of an invention in respect of which an application has been filed, as provided for in Article 28a, paragraph (1), of the Patent Law, shall be undertaken by the Technical Department of the Berlin Branch Office of the German Patent Office.

##### Article 2

The German Patent Office may communicate information taken from the files relating to patent applications to foreign or international authorities for the purpose of reciprocal cognizance of the results of the examination procedure or of investigations concerning the state of the art, in the case of applications in respect of inventions for which a patent has also been requested from the said foreign or international authorities.

##### Article 3

If the Technical Department of the Berlin Branch Office of the German Patent Office remains for the time being unable to undertake the search for publications provided for in Article 28a, paragraph (1), of the Patent Law, the Examining Sections of the German Patent Office shall remain competent.

##### Article 4

In accordance with Article 14 of the Third Transitional Law of January 4, 1952 (*Bundesgesetzblatt I*, p. 1), in conjunction with Article 7, paragraph (5), of the Law for the Amendment of the Patent Law, Trademark Law and Other Laws, of September 4, 1967 (*Bundesgesetzblatt I*, p. 953), this Order shall also be applicable in the *Land Berlin*.

##### Article 5

This Order shall come into force on the day following its publication.

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt I*, p. 1042.

<sup>1</sup> See *Industrial Property*, 1968, p. 134.

### ITALY

#### Decrees

##### Concerning the Temporary Protection of Industrial Property Rights at Six Exhibitions

(of May 29, June 10 and July 1, 1969) <sup>1</sup>

##### Single Article

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

*SAMIA* — *Salone mercato internazionale dell'abbigliamento* (Turin, September 5 to 8, 1969)

*VII<sup>a</sup> Mostra internazionale del marmo e delle macchine per l'industria marmifera* (S. Ambrogio di Valpolicella, September 6 to 15, 1969)

*XXII<sup>a</sup> Fiera di Bolzano campionari internazionale* (Bolzano, September 12 to 22, 1969)

*Salone della attività zootecniche — Mercati concorso del bestiame e delle carni* (Verona, October 5 to 12, 1969)

*MODA SELEZIONE* — *Salone mercato dell'abbigliamento* (Turin, October 24 to 27, 1969)

*IV<sup>o</sup> SIMEI* — *Salone internazionale macchine per l'enologia e l'imbottigliamento* (Milan, November 8 to 16, 1969)

shall enjoy the temporary protection provided by Laws No. 1127 of June 29, 1939<sup>2</sup>, No. 1411 of August 25, 1940<sup>3</sup>, No. 929 of June 21, 1942<sup>4</sup>, and No. 514 of July 1, 1959<sup>5</sup>.

<sup>1</sup> Official communications from the Italian Administration.

<sup>2</sup> See *La Propriété industrielle*, 1939, p. 124; 1940, p. 84.

<sup>3</sup> *Ibid.*, 1940, p. 196.

<sup>4</sup> *Ibid.*, 1942, p. 168.

<sup>5</sup> *Ibid.*, 1960, p. 23.

# GENERAL STUDIES

## **The New Italian Law on Compulsory Licenses**

By Professor Raffaele NOBILI, Lawyer, Milan, and Lecturer  
at the Catholic University of Milan









**LETTERS FROM CORRESPONDENTS****Letter from the USSR****E. ARTEMIEV**

Deputy Chairman of the Committee for Inventions and Discoveries  
attached to the Council of Ministers of the USSR







## NEWS CONCERNING NATIONAL PATENT OFFICES

### The Activities of the United Kingdom Patent Office in 1968

By I. J. G. DAVIS

The Comptroller-General's annual report to Parliament for 1968 was published on May 22, 1969. The report covers the work of the Office in patents, designs and trademarks.

In the corresponding report on the activities of the Office in 1967, Edward Armitage mentioned that one of the aims of the Patent Office is to be self-supporting in all three branches. The Office again fell slightly short of this target in 1968 and, with a view to overcoming the tendency of costs to rise ahead of fees, fee increases have been made to balance income and expenditure over a three-year period.

The staffing position of the patent examiners improved somewhat during the year. Fifty-three new examiners joined the staff, forty-five of them in the second half of the year. Losses from retirement and other causes were thirty-three giving a net gain of twenty. There are signs that this improvement may be continued throughout 1969, although it seems likely that the Office will have to accept as normal considerable movements of staff. Perhaps this interchange with industry is on the whole useful but, when young examiners barely out of their training period leave, it represents a considerable loss of the investment which the Office has made in training them.

As was explained in the previous report, the number of applications made in the United Kingdom, including as it does those filed with provisional specifications many of which are not proceeded with, is not a true representation of the work-load of the Office. Only "complete" specifications are examined and the number filed annually has risen from

nearly 34,000 in 1959 to nearly 49,000 in 1968. Oddly, filings of complete specifications in 1967 showed a small decrease from the previous year, but in 1968 were two thousand (4.3%) up on 1967, dashing hopes that input might be levelling out. Moreover, although the output of the examiners was sustained at a high level, the backlog of unexamined complete specifications rose by some 2,800. Of course, the improvement in recruitment of examiners can have had little effect in 1968. It might, however, if continued in 1969, help to hold the backlog. The actual period before a complete specification is examined is still less than one year but this is two years from the filing date in the case of a Convention application and, if the input continues to rise, seems likely to increase. Clearly, there must be some limit to the number of skilled personnel engaged on the examination of patent specifications and the United Kingdom Office, in common with all other major offices, is looking for long-term solutions.

For this reason, the United Kingdom has actively supported the work leading toward the Patent Cooperation Treaty. Over seventy per cent of United Kingdom applications originate abroad and, if the treaty became operative, it could save the Patent Office a considerable amount of work. In 1968, the Office participated in a number of drafting meetings and the Comptroller-General and other members of the Office attended the December meeting of the Committee of Experts, in Geneva.

The Comptroller's report refers to "signs of a revival of interest in the European Patent" and the events of 1969 have shown that this reference was fully justified. It now seems likely that work on the European Patent will be pressed forward with all possible speed, but we believe that this new initiative should not be allowed to interfere with the successful conclusion of the work on the Patent Cooperation Treaty. There is a real difficulty here. In common with most other offices the Patent Office has difficulty in finding sufficient qualified personnel to negotiate numerous major projects at once. There is also the need to reconcile these projects one with another if they are to result in economical and efficient protection of inventions.

Apart from the international work, the Committee set up in 1967 under the chairmanship of Mr. Maurice Banks (formerly Deputy Chairman of British Petroleum, Ltd.) to examine and report on the British patent system continued its work during the year, considering evidence from numerous interested bodies. It is hoped that this Committee will report towards the end of this year. In the meantime, the Standing Advisory Committee under the chairmanship of Mr. H. R. Mathys (Deputy Chairman of Courtaulds, Ltd.) has been able to give the Government advice on matters which required urgent consideration.

In patents then, this was very much a "wait and see" year. We have our difficulties but we are still in a better position than most other major offices. Nevertheless we look to the report of the "Banks Committee," and to the successful completion of the work on the Patent Cooperation Treaty and on the European Patent to put our house in order for the years ahead.

In trademarks as in patents the number of applications has risen steadily — from 14,160 in 1959 to a record 16,820 in 1968. This rise reflects the increasing tendency of traders to seek, as an aspect of marketing technique, the registration of separate marks for use in respect of individual products. The number of marks registered was 10,907, a 4.5 per cent increase on 1967.

In the Designs Branch, however, there was a fall of 14.5 per cent to 7,096 in the matter of applications received; those in respect of textile articles fell by 43.9 per cent as a result of a sharp decline in applications from Nigeria. This is accounted for by the war in Nigeria and by Nigerian law which makes registration there dependent on previous registration in the United Kingdom. The Comptroller's report refers also to the Designs Copyright Act 1968 which became law in October. This law, which was described by William Wallace in an article in *Copyright* for November 1968, could have an effect on the number of design applications filed in that it will provide automatic protection under United Kingdom Copyright Law for works of applied art. It will also enable United Kingdom industry to claim protection for works of applied art in those countries which protect such works under their copyright law and will of course offer protection here to foreign works.

## Moscow Jubilee Symposium, 1969

### Note \*

In order to commemorate the 50<sup>th</sup> anniversary of the promulgation of the first decree of the Soviet Union providing for the protection of inventions (June 30, 1919), the USSR State Committee for Inventions and Discoveries attached to the Council of Ministers of the Soviet Union organized a scientific symposium in Moscow. The theme of the Symposium was described as "Inventive activity and scientific and technical progress. Problems of patent information retrieval." It took place from July 1 to July 5, 1969, at Moscow University.

The Jubilee Symposium was opened by Mr. V. N. Novikov, Deputy Chairman of the Council of Ministers of the Soviet Union. He welcomed some one thousand participants, including 330 foreigners coming from 33 countries. Among the participants from the Soviet Union itself were some 100 officers of the USSR State Committee for Inventions and Discoveries. This team was headed by Mr. Y. Maksarev, Chairman of the said Committee.

Mr. Maksarev and the Director of BIRPI, Professor G. H. C. Bodenhausen, were the two other featured speakers at the opening ceremony. Several foreign patent office chiefs and the Director General of the International Patent Institute addressed the opening meeting as well.

The participants included the heads of the industrial property offices of Algeria, Bulgaria, Czechoslovakia, Cuba, Fin-

\* This Note has been prepared by BIRPI on the basis of information received from the Organizing Committee of the Symposium.

land, France, Federal Republic of Germany, German Democratic Republic, Hungary, India, Mongolia, Poland, Rumania, United Arab Republic, United States of America, Yugoslavia. The International Association for the Protection of Industrial Property was represented by its Secretary General and by its Rapporteur général.

In addition to its Director, BIRPI was represented by Dr. Arpad Bogsch, First Deputy Director, and Mr. I. Morozov, Counsellor, Industrial Property Division.

The working meetings of the Symposium took place in two sections, one dealing with "inventive activity and scientific and technical progress," the other with "problems of patent information retrieval." In these two sections, 46 papers in all were read and discussed by the participants. It is planned that these papers will be published in English and Russian by the organizers of the Committee towards the end of 1969.

In the plenary meeting, Mr. Maksarev read a paper entitled "Lenin's Decree of 1919 and its role in the promotion of inventive activity in the USSR." This paper, too, will be among those published.

The Symposium was excellently organized from every point of view. It was a useful exercise, for most of the papers conveyed interesting new information. It was also a pleasant occasion thanks to the generous hospitality of the Russian hosts.

## NEWS CONCERNING INTERNATIONAL ORGANIZATIONS OTHER THAN BIRPI

### International League Against Unfair Competition (International Association for the Study of Competition)

(21<sup>st</sup> Congress, Vienna, May 25 to 29, 1969)

### Note \*

The 21<sup>st</sup> Congress of the International League Against Unfair Competition (LICCD) was held in Vienna under the presidency of Dr. Forster, Vice-President of the Austrian Federal Chamber of Commerce. It was attended by participants from 14 countries and different international bodies, both public and private.

BIRPI was represented by Mr. J. Voyame, Deputy Director.

The agenda of the Congress included informational reports as well as various other reports, followed by discussion, relating to questions carried over from an earlier Congress and to new questions.

\* This Note was kindly supplied by the Rapporteur général of the LICCD.

The informational reports concerned the following problems:

- The evolution, since the 1967 Nice Congress, of legislation and case law on unfair competition and anti-competitive practices;
- The protection of indications of source and appellations of origin;
- The professional rules and practices followed in trade and industry where matters of competition are concerned;
- The violation of industrial and trade secrets in matters of competition;
- Credit cards;
- The study of dumping as a means of restricting competition on the international level.

Questions carried over and new questions pertained to the following matters:

- Free competition and recommended usage;
- The comparative study of competition in the so-called socialist and capitalist countries;
- Specific problems, in the field of competition, relating to the so-called developing and industrializing countries;
- Retailers' voluntary chains and purchasing groups;
- Consumer groups, their services and their responsibilities;
- Comparative advertising;
- Subliminal advertising.

At the close of a thorough discussion of the problems appearing on the agenda in connection with questions carried over and new questions, the following motions were adopted:

#### QUESTION No. 1 (carried over)

##### *Free Competition and Recommended Usage*

The Congress,

Notes that recommended usage is any action whereby a certain product of a given origin (as indicated by the mark, trade name, etc.) is promoted for use in the maintenance or operation of another product (a machine, material, etc.);

Considers that such recommended usage is not in conformity with fair business practices:

- where it is a condition for the giving of a guarantee, without there being any technical necessity for such condition,
- where it includes a disparagement directed toward competitors or contains fallacious appraisals and, in particular, if it wrongly appears in the guise of disinterested advice;

Is of the opinion that, if necessary, it can be deemed to fall within the provisions of legislation repressing restrictive agreements and practices.

#### QUESTION No. 2 (new)

##### *Retailers' Voluntary Chains and Purchasing Groups*

The Congress,

Notes that voluntary chains and purchasing groups constitute a means of adapting traditional trade to the new structural situation of the market;

Decides that, in view of its importance, the study of this question will be continued.

#### QUESTION No. 3 (new)

##### *Consumer Groups, Their Services and Their Responsibilities*

The Congress,

Emphasizes the necessity for consumers to have true and objective information and for them to be represented;

Considers that associations of consumers can help to carry out this twofold task;

Is of the opinion that satisfactory accomplishment of this mission requires that such organizations should be independent of any competitive interests and that the information they supply should be objective;

Expresses the opinion that, if the associations carry out comparative tests, the latter must be made seriously and the results expressed in such a way as to avoid any misinterpretation.

#### QUESTION No. 4 (new)

##### *Comparative Advertising*

The Congress,

Noting that several participants felt that comparative advertising should henceforth be allowed in cases where the author thereof is in a position to prove the veracity of his allegations;

Decides that the principle contained in the third sentence of the resolution adopted in Brussels in 1952, "competitors should not be named, and allusions to a competitor which are out of place should be avoided," will be re-examined at a future Congress of the League.

\* \* \*

At the close of the Congress, Professor Martin-Achard (Switzerland) was named President of the LICCD, in succession to Dr. Forster.

# CALENDAR OF MEETINGS

## BIRPI Meetings

**August 29, 1969 (Geneva) — Information Meeting of International Non-Governmental Organizations**

*Object:* To appoint observers to the International Copyright Joint Study Group — *Invitations:* Interested Organizations — *Note:* Meeting convened jointly with Unesco

**September 17, 1969 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) — Technical Coordination Committee (2<sup>nd</sup> Session)**

**September 18 and 19, 1969 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) — First Ordinary Session**

**September 22 to 26, 1969 (Geneva) — Interunion Coordination Committee (7<sup>th</sup> Session)**

*Object:* Program and Budget of BIRPI for 1970 — *Invitations:* Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Denmark, France, Germany (Fed. Rep.), Hungary, India, Iran, Italy, Japan, Kenya, Morocco, Mexico, Netherlands, Poland, Portugal, Rumania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America

**September 22 to 26, 1969 (Geneva) — Executive Committee of the Conference of Representatives of the Paris Union (5<sup>th</sup> Session)**

*Object:* Program and Budget (Paris Union) for 1970 — *Invitations:* Argentina, Australia, Austria, Cameroon, France, Germany (Fed. Rep.), Hungary, Iran, Japan, Kenya, Morocco, Mexico, Netherlands, Poland, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America — *Observers:* All the other member States of the Paris Union; United Nations; International Patent Institute

**September 22 to 26, 1969 (Geneva) — Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration (4<sup>th</sup> Session)**

*Object:* Annual Meeting — *Invitations:* All member States of the Lisbon Union — *Observers:* All other member States of the Paris Union

**September 29 to October 3, 1969 (Washington) — International Copyright Joint Study Group**

*Object:* To examine all questions concerning international copyright relations — *Invitations:* Argentina, Australia, Brazil, Canada, Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), India, Italy, Ivory Coast, Japan, Kenya, Mexico, Netherlands, Nigeria, Peru, Philippines, Rumania, Senegal, Spain, Sweden, Tunisia, United Kingdom, United States of America, Yugoslavia — *Observers:* Organizations to be designated — *Note:* Meeting convened jointly with Unesco

**September 30 to October 2, 1969 (Geneva) — Committee of Experts on the Establishment of a "Priority Fee" (Paris Convention)**

*Object:* Implementation of the Recommendation adopted by the Stockholm Conference — *Invitations:* Algeria, Argentina, Austria, France, Germany (Fed. Rep.), Iran, Italy, Japan, Kenya, Netherlands, Rumania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, Yugoslavia — *Observers:* Intergovernmental and international non-governmental Organizations concerned

**October 6 to 10, 1969 (Vienna) — Expert Group Meeting on the Organization and Administration of Industrial Property Offices**

*Object:* Discussion of various aspects of the organization and administration of Industrial Property Offices in developing countries — *Invitations:* To be announced later — *Note:* Meeting convened jointly with the United Nations Industrial Development Organization (UNIDO)

**October 21 to 24, 1969 (Munich) — Joint ad hoc Committee on the International Classification of Patents (2<sup>nd</sup> Session)**

*Object:* Practical application of the Classification — *Invitations:* Czechoslovakia, France, Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Spain, Switzerland, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe

**October 27 to 31, 1969 (Geneva) — Committee of Experts on a Model Law for Developing Countries on Industrial Designs**

*Object:* To study a Draft Model Law — *Invitations:* Developing countries members of the United Nations — *Observers:* Intergovernmental and international non-governmental Organizations concerned

**November 3 to 8, 1969 (Cairo) — Arab Seminar on Industrial Property**

*Object:* Exchange of views on industrial property questions and on their importance for developing countries — *Invitations:* Algeria, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Republic of Yemen, Saudi Arabia, South Yemen People's Republic, Sudan, Syria, Tunisia, United Arab Republic; Sheikdoms of Abu Djabia, Bahrain, Dubai, Qatar, and Sharyja — *Observers:* Intergovernmental and international non-governmental Organizations concerned

**December 10 to 12, 1969 (Paris) — Intergovernmental Committee Rome Convention (Neighboring Rights), convened jointly by BIRPI, ILO and Unesco (2<sup>nd</sup> Session)**

**December 15 to 19, 1969 (Paris) — Permanent Committee of the Berne Union (14<sup>th</sup> Ordinary Session)**

**January 19 to 23, 1970 (Geneva) — Committee of Directors of National Industrial Property Offices of the Madrid Union (Marks)**

*Object:* Administrative questions — *Invitations:* All member States of the Madrid Agreement (Marks)

**January 26 to 30, 1970 (Geneva) — Committee of Experts for the Revision of the Madrid Agreement (Marks)**

**March 9 to 20, 1970 (Geneva) — Preparatory Study Group on PCT Regulations**

*Object:* Study of Draft PCT Regulations — *Invitations:* All member States of the Paris Union — *Observers:* Intergovernmental and international non-governmental Organizations concerned

**May 25 to June 19, 1970 — Diplomatic Conference for the adoption of the Patent Cooperation Treaty (PCT)**

*Invitations:* All member States of the Paris Union — *Observers:* Other States; Intergovernmental and international non-governmental Organizations concerned — *Note:* The exact place of the Conference will be announced later

## Meetings of Other International Organizations Concerned with Intellectual Property

September 8 to 12, 1969 (Nuremberg) — International Federation of Musicians (FIM) — 7<sup>th</sup> Ordinary Congress

October 14 to 17, 1969 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — Working Group

November 12 to 14, 1969 (Strasbourg) — Committee of Experts on Patents of the Council of Europe

November 25 to 28, 1969 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — Working Group

December 8 to 11, 1969 (The Hague) — International Association for the Protection of Industrial Property (IAPIP) — Council of Presidents

January 12 to 16, 1970 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents

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## ANNOUNCEMENT OF A VACANCY FOR A POST

**Office of the International Union  
for the Protection of New Varieties of Plants  
(UPOV), to be established in Geneva,  
Switzerland**

*Terms and Conditions of Appointment of  
VICE SECRETARY-GENERAL*

*Category and Grade*

D.1 on the BIRPI/UN scale, with entry at a step to be determined having regard to the qualifications and experience of the person appointed.

*Principal responsibilities and duties*

Subject to the responsibilities of the Secretary-General, the incumbent will direct the Plant Varieties Department of the Bureau of UPOV which Department will be responsible for all questions concerning the substantive provisions of the Convention for the Protection of New Varieties of Plants and for all activities concerning international cooperation in the field of plant breeders' rights.

Subject to the general directives of the Council of UPOV and the overall responsibility of the Secretary-General, the duties of the incumbent will include in particular:

- i) study and preparation of measures to safeguard the interests and encourage the development of UPOV;
- ii) preparation and presentation of reports, working papers, meetings, programmes, plans and publications on plant breeders' rights and related matters;
- iii) execution of programmes approved by the Council of UPOV;
- iv) maintenance of contacts with and provision of advice and assistance to plant breeders' rights' offices of member and other States;
- v) contacts with international and other organizations, and participation in their meetings;
- vi) cooperation with the appropriate sections of BIRPI in relation to the preparation of budgets and generally in the use of BIRPI common services.

*Qualifications and Experience*

- (a) University degree in a relevant field of agricultural science, economics, administration or law, or an equivalent academic qualification;
- (b) Wide experience in the field of plant breeders' rights including its international aspects;
- (c) Excellent knowledge of one of the official languages (English, French and German) and preferably a good knowledge of the two others.

The incumbent must have the national and international standing and specialised experience necessary to carry out the duties successfully.

*Nationality*

Candidates must be nationals of one of the member States of UPOV, or of one of the States which have signed but have not yet ratified the Convention for the Protection of New Varieties of Plants.

*Age limit*

Normally, less than 55 years of age at date of appointment.

*Date of entry on duty*

As mutually agreed.

*Conditions of employment*

The conditions governing employment are substantially the same as those defined in the Staff Regulations and Rules of BIRPI. They follow generally those of the United Nations "common system."

- Duration of appointment: probationary period of two years, after satisfactory completion of which a permanent appointment will be offered.
- Medical examination: the appointment is subject to a satisfactory medical examination.
- Annual salary (present rates): from 69,440 Swiss francs (step 1) to 81,026 Swiss francs (highest step), by annual or biennial increments.
- About 9% of the salary is deducted as a contribution to the pension scheme.
- Annual post adjustment (present rates): — with dependants: from 5,858 Swiss francs (amount corresponding to the starting salary) to 6,506 Swiss francs; — without dependants: from 3,905 Swiss francs (amount corresponding to the starting salary) to 4,337 Swiss francs.
- Dependency allowances: 1,728 Swiss francs per year for dependent spouse; 1,296 Swiss francs per year for each dependent child.
- Education grant: 75% of the cost of attendance up to a maximum of 4,320 Swiss francs for each dependent child (under the age of twenty-one).
- Salary, post adjustment and allowances are tax free.
- Conditions also include: payment of travel and removal expenses (including installation grant); five-day week; annual leave of 30 working days; home leave; pension scheme and medical benefit scheme.

*Applications*

Persons wishing to apply should write to the Head, Administrative Division, BIRPI, 32, chemin des Colombettes, Geneva, Switzerland, for application forms. These forms, duly completed, should be returned, *not later than September 15, 1969*, to the Division of International Organisations of the Federal Political Department, 3000 Berne (the Swiss Federal Council being the supervisory authority of UPOV).

