

Industrial Property

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INTERNATIONAL UNION

Union for the Protection of Industrial Property

State on 4th January, 1963

General Union⁽¹⁾

Founded by the Union Convention of Paris of 20th March, 1883, which entered into force on 7th July, 1884, revised at Brussels (1900), at Washington (1911), at The Hague (1925), at London (1934) and at Lisbon on 31st October, 1958, the *General Union* includes the following 51 countries:

Australia (2 VI 1958)	from 5 th August 1907
Territory of Papua and Territory under Mandate of New Guinea (5 I 1960)	12 th February 1933
Territory of Norfolk Island (5 I 1960)	29 th July 1936
Territory under Mandate of Nauru	29 th July 1936
Austria (19 VIII 1947)	1 st January 1909
Belgium (24 XI 1939)	commencement (7 th July 1884)
Brazil	commencement
Bulgaria	13 th June 1921
Canada (30 VII 1951)	1 st September 1923
Ceylon	29 th December 1952
Cuba	17 th November 1904
Czechoslovakia (4 I 1962)	5 th October 1919
Denmark and Faroe Islands (1 VIII 1938)	1 st October 1894
Dominican Republic	11 th July 1890
Finland (30 V 1953)	20 th September 1921
France (including Metropolitan Departments, Departments of the Sahara, Departments of Guadeloupe, Guiana, Martinique and Reunion and Overseas Territories) (4 I 1962)	commencement (15 th July 1892)
Germany (4 I 1962)	1 st May 1903
Great Britain and Northern Ireland (4 I 1962)	commencement
Greece (27 XI 1953)	2 nd October 1924
Haiti (4 I 1962)	1 st July 1958
Hungary (14 VII 1962)	1 st January 1909
Iceland	5 th May 1962
Indonesia (5 VIII 1948)	1 st October 1888
Iran (4 I 1962)	16 th December 1959
Ireland (14 V 1958)	4 th December 1925
Israel (State of —)	24 th March 1950
Italy (15 VII 1955)	commencement
Japan (1 VIII 1938)	15 th July 1899
Lebanon (30 IX 1947)	1 st September 1924
Liechtenstein (Principality of —) (28 I 1951)	14 th July 1933
Luxemburg (30 XII 1945)	30 th June 1922
Mexico (14 VII 1955)	7 th September 1903
Morocco (Principality of —) (4 I 1962)	29 th April 1956
Morocco (21 I 1941) (2)	30 th July 1917
Netherlands (5 VIII 1948)	commencement
Surinam (5 VIII 1948)	1 st July 1890
Netherlands Antilles (5 VIII 1948)	1 st July 1890
Dutch New Guinea (5 VIII 1948)	1 st October 1888
New Zealand (14 VII 1946)	7 th September 1891
Western Samoa (14 VII 1946)	29 th July 1931
Norway (1 VIII 1938)	1 st July 1885
Poland	10 th November 1919
Portugal with the Azores and Madeira (7 XI 1949)	commencement

Rhodesia and Nyasaland (Federation of —) from	1 st April 1958
Roumania	6 th October 1920
San Marino	4 th March 1960
South Africa (Republic of —)	1 st December 1947
Spain (2 III 1956)	commencement
Sweden (1 VII 1953)	1 st July 1885
Switzerland (24 XI 1939)	commencement
Syrian Arab Republic (30 IX 1947)	1 st September 1924
Tunisia (4 X 1942)	commencement
Turkey (27 VI 1957)	10 th October 1925
United Arab Republic	1 st July 1951
United States of America (4 I 1962)	30 th May 1887
Vatican (State of the City of the —)	29 th September 1960
Viel-Nam (25 VI 1939)	commencement
Yugoslavia	26 th February 1921

Restricted Unions

1. Restricted Union concerning

the prevention of false indications of source⁽¹⁾

Founded by the Arrangement of Madrid of 14th April, 1891, which entered into force on 15th July, 1892, revised at Washington (1911), at The Hague (1925), at London (1934) and at Lisbon on 31st October, 1958, this Restricted Union includes the following 29 countries:

Brazil	from 3 rd October 1896
Ceylon	29 th December 1952
Cuba	1 st January 1905
Czechoslovakia	30 th September 1921
Dominican Republic	6 th April 1951
France (including Metropolitan Departments, Departments of the Sahara, Departments of Guadeloupe, Guiana, Martinique and Reunion and Overseas Territories) (4 I 1962)	commencement (15 th July 1892)
Germany (1 VIII 1938)	12 th June 1925
Great Britain and Northern Ireland (1 VIII 1938)	commencement
Trinidad and Tobago	1 st September 1913
Hungary (14 VII 1962)	5 th June 1934
Ireland (14 V 1958)	4 th December 1925
Israel (State of —)	24 th March 1950
Italy	5 th March 1951
Japan	8 th July 1953
Lebanon (30 IX 1947)	1 st September 1924
Liechtenstein (Principality of —) (28 I 1951)	14 th July 1933
Monaco (Principality of —)	29 th April 1956
Morocco (21 I 1941)	30 th July 1917
New Zealand (17 V 1947)	20 th June 1913
Western Samoa	17 th May 1947
Poland	10 th December 1928
Portugal with the Azores and Madeira (7 XI 1949)	31 st October 1893
San Marino	25 th September 1960
Spain (2 III 1956)	from commencement

(1) The *Lisbon* text of the Union Convention came into force on 4th January 1962. It applies to the relations between those countries which have ratified or it adhered to it (*names in heavy italics*). However, there still remain in force:

The *London* texts of the Union Convention and the Arrangement of Madrid (Indications of Source) came into force on 1st August, 1938. The *London* texts of the Arrangements of Madrid (Trade Marks) and The Hague came into force on 13th June, 1939. They apply to relations between the countries which have ratified them or which have subsequently adhered to them (*names in heavy print*).

The *Hague* text in relations with countries where the *London* text is not yet in force (*names in ordinary print*);

The *Washington* text in relations with countries where neither the *London* nor The Hague texts are at present in force (*names printed in italics*).

(2) The Industrial Property Laws and the Offices of the three parts of this Unionist country (former French and Spanish Protectorates and Zone of Tangier) have not yet been coordinated.

Sweden (1 VII 1953)	from 1st January 1934
Switzerland (24 XI 1939)	commencement
Syrian Arab Republic (30 IX 1947)	1st September 1924
Tunisia (4 X 1942)	commencement
Turkey (27 VI 1957)	21st August 1930
United Arab Republic	1st July 1952
Viet-Nam (25 VI 1939)	commencement

(The text revised at Lisbon on 31st October, 1958, was signed by 18 countries [see *Prop. ind.*, 1958, p. 212]. This text has been ratified by France, Germany, Czechoslovakia, Monaco and Great Britain.)

2. Restricted Union concerning the international registration of trade and commercial marks⁽¹⁾

Founded by the Arrangement of Madrid of 14th April, 1891, which came into force on 15th July, 1892, revised at Brussels (1900), at Washington (1911), at The Hague (1925), at London (1934) and at Nice on 15th June, 1957, this Restricted Union includes the following 21 countries⁽²⁾:

Austria (19 VIII 1947)	from 1st January 1909
Belgium (24 XI 1939)	commencement (15 th July 1892)
Czechoslovakia	5 th October 1919
France (including Metropolitan Departments, Departments of the Sahara, Departments of Guadeloupe, Guiana, Martinique and Reunion and Overseas Territories) (4 I 1962)	commencement
Germany (13 VI 1939)	1st December 1922
Hungary (14 VII 1962)	1st January 1909
Italy (15 VII 1955)	15 th October 1894
Liechtenstein (Principality of —) (28 I 1951)	14 th July 1933
Luxemburg (1 III 1946)	1st September 1924
Monaco (Principality of —) (3)	29 th April 1956
Morocco (21 I 1941)	30 th July 1917
Netherlands (5 VIII 1948)	1st March 1893
Portugal with the Azores and Madeira (7 XI 1949)	31 st October 1893
Roumania	6 th October 1920
San Marino	25 th September 1960
Spain (2 III 1956)	commencement
Switzerland (24 XI 1939)	commencement
Tunisia (4 X 1942)	commencement
United Arab Republic (3)	1st July 1952
Viet-Nam (25 VI 1939)	commencement
Yugoslavia	26 th February 1921

(The text revised at Nice on 15th June, 1957, has so far been ratified by the following countries: Belgium, Czechoslovakia, France, Italy, Principality of Monaco, Netherlands, Portugal, Spain and Switzerland and adhered to by Roumania [see Article 12 of the Nice text].)

3. Restricted Union concerning the international deposit of industrial designs or models⁽¹⁾

Founded by the Arrangement of The Hague of 6th November, 1925, which entered into force on 1st June, 1928, revised at London on 2nd June, 1934, and at the Hague on 28th November, 1960, this Restricted Union includes the following 14 countries:

⁽¹⁾ See footnote (1), page 1.

⁽²⁾ It should be noted that Cuba, Brazil, Indonesia, Mexico, the Dutch Antilles, Turkey and Surinam withdrew from the Restricted Union with effect from 22nd April, 1932, 8th December, 1934, 4th November, 1936, 10th March, 1943, 10th March, 1953, 10th September, 1956, and 21st April, 1959, respectively. However, these seven countries expressly declared that international marks protected before the date at which withdrawal took effect would continue to benefit from protection until expiry of the period of their international registration.

⁽³⁾ The United Arab Republic and the Principality of Monaco only recognise international trade marks registered as from the date of their respective adhesions to the Arrangement.

Belgium (24 XI 1939)	from 27 th July 1929
France (including Metropolitan Departments, Departments of the Sahara, Departments of Guadeloupe, Guiana, Martinique and Reunion and Overseas Territories) (4 I 1962)	20 th October 1930
Germany (13 VI 1939)	commencement (1 st June 1928)
Indonesia (5 VIII 1948)	commencement
Liechtenstein (Principality of —) (28 I 1951)	14 th July 1933
Monaco (Principality of —)	29 th April 1956
Morocco (21 I 1941)	20 th October 1930
Netherlands (5 VIII 1948)	commencement
Surinam (5 VIII 1948)	commencement
Netherlands Antilles (5 VIII 1948)	commencement
Dutch New Guinea (5 VIII 1948)	commencement
Spain (2 III 1956)	commencement
Switzerland (24 XI 1939)	commencement
Tunisia (4 X 1942)	20 th October 1930
United Arab Republic	1st July 1952
Vatican (State of the City of the —)	29 th September 1960
Viet-Nam (25 VI 1939)	commencement

(The text as revised at The Hague on 28th November, 1960, has been signed by the following countries: Belgium, France, Germany, Italy, Liechtenstein [Principality of], Luxemburg, Monaco [Principality of], Netherlands, Switzerland, Vatican and Yugoslavia.)

The additional Act of Monaco, of 18th November, 1961, to the Arrangement of The Hague concerning the international deposit of industrial designs or models of 6th November, 1925, revised at London on 2nd June, 1934, has been ratified by the following 3 countries:

France	from commencement
Germany	commencement
Switzerland	21 st December 1962

(The Additional Act of Monaco, which establishes additional fees for international deposits and for all other operations provided for by the Arrangement of The Hague, came into force on 1st December, 1962.)

4. Separate Union concerning the international classification of goods and services to which trade marks apply

Founded by the Arrangement of Nice of 15th June, 1957, this Restricted Union came into force on 8th April, 1961, and includes the following 17 countries:

Australia	from commencement (8 th April 1961)
Belgium	6 th June 1962
Czechoslovakia	commencement
Denmark	30 th October 1961
France	commencement
(Metropolitan Departments, Departments of the Sahara, Departments of Guadeloupe, Guiana, Martinique and Reunion and Overseas Territories)	29 th April 1962
Germany	29 th December 1961
Israel (State of —)	commencement
Italy	commencement
Lebanon	commencement
Monaco (Principality of —)	commencement
Netherlands	20 th August 1962
Norway	28 th June 1961
Poland	commencement
Portugal	commencement
Spain	commencement
Sweden	28 th June 1961
Switzerland	20 th August 1962

5. Separate Union concerning the protection of appellations of origin and their international registration

This separate Union has not yet come into force

Founded by the Arrangement of Lisbon of 31st October, 1958, this separate Arrangement has been signed by the following 12 countries:

Czechoslovakia	Italy
Cuba	Morocco
France	Portugal
Greece	Roumania
Hungary	Spain
Israel (State of —)	Turkey

(The Arrangement of Lisbon will come into force after ratification by five countries, one month after the deposit of the fifth ratification has been notified by the Government of the Swiss Confederation, and, in the case of countries ratifying later, one month after the notification of each of such ratifications. France and Czechoslovakia have *ratified* this separate Arrangement.)

CUBA — SWITZERLAND

Ratification

of the Convention of Paris for the Protection of Industrial Property (Lisbon Text)

In a Note dated 17th January, 1963, we have been informed by the Swiss Federal Political Department that Cuba and Switzerland have deposited their instruments of ratification in respect of the Convention of Paris for the Protection of Industrial Property of 20th March, 1883, as revised at Lisbon on 31st October, 1958.

In accordance with Article 18 (1) of the Convention, the ratifications of Cuba and Switzerland will take effect as from

the 17th February, 1963. The Lisbon Text of the Paris Convention has now been ratified by ten countries.

SWITZERLAND

Entry into force of the Lisbon Text of the Arrangement of Madrid for the Prevention of False or Misleading Indications of Source on 17th February, 1963

Ratification by Switzerland

(17th January, 1963)

In a Note dated 17th January, 1963, we have been informed by the Swiss Federal Political Department that Switzerland has deposited its instrument of ratification in respect of the Arrangement of Madrid for the Prevention of False or Misleading Indications of Source of 14th April, 1891, as revised at Lisbon on 31st October, 1958.

Six instruments of ratification having now been deposited in respect of this Arrangement, in accordance with Article 6 (1) the new text will come into force one month after the sixth ratification has been notified by the Swiss Government, that is to say on the 17th February, 1963.

The Arrangement of Madrid, as revised at Lisbon, has been ratified by the following six countries: France, Federal Republic of Germany, Czechoslovak Socialist Republic, Principality of Monaco, United Kingdom of Great Britain and Northern Ireland and Switzerland.

An Important Period

(Translation)

It is traditional to render homage to the Director of BIRPI on his retirement from office.

You will be aware that this is the case of Professor Jacques Secretan who has just retired after over 9 years of service.

In my capacity as Chairman of the Permanent Bureau and co-Chairman of the Joint Meeting held last October¹⁾, it naturally falls to me to express to Professor Secretan our common gratitude for the distinguished services which he has rendered at the head of the United International Bureaux for the Protection of Intellectual Property.

Far from being irksome and formal, this task is, on the contrary, very agreeable to me. It is a fact that during these years when I have had frequent contact with him, I have been able to appreciate, perhaps more than anyone, Professor Secretan's high intelligence, his vast experience in the international field, his well-known courtesy and the great professional conscientiousness with which he has exercised his duties.

It would be no news to anybody to say that Professor Secretan's permanent anxiety was, in spite of all prevailing

difficulties and obstacles, to lead the United International Bureaux progressively to the same level as the other international and intergovernmental organisations with headquarters in Switzerland.

In order to understand the results obtained up to the present day, one must look back to the state of the Bureaux before 1952.

We should remember that at that time the Bureaux grouped around the Director a very small staff (a little more than 20) in old premises in Berne. In spite of the great individual value of the Director and of his assistants at that time, their effectiveness was very limited. In fact, the legal structure of BIRPI was nearly as decrepit and dusty as was its premises.

As Professor Robert Plaisant so rightly said, and Professor Secretan has since repeated, the first thing that struck an observer was the antiquity of the international organs for the protection of industrial, literary and artistic property.

At the time the International Bureau for the Protection of Industrial Property (1883), the Bureau of the International Union for the Protection of Literary and Artistic Works (1886) and the amalgamation of these two Bureaux under one di-

¹⁾ See *Industrial Property*, 1962, p. 234.

rectorship were set up, they no doubt constituted a novelty, as international organisations were non-existent in those days.

Since then, however, many other intergovernmental organisations have made their appearance, especially after the First World War (the League of Nations and the International Labour Office), and more especially after the Second World War (the United Nations and its Specialised Agencies).

These new intergovernmental organisations enjoy autonomous management and have general competence to take all necessary initiative, within the terms provided by treaties, in order to satisfy the needs of international society in their own fields. Moreover, these new intergovernmental organisations are provided with organs which are capable of taking all useful action in the name of the organisation as a whole and of binding the Member States.

The appearance of new international structures has consequently had the effect of leading the unions and organisations of the "dependent" type, symbols of the past, to transform themselves completely, as have the Universal Postal Union or the International Telecommunications Union, when they have not been simply absorbed by new organisations.

In a world of continual movement there is no place for a static international organisation.

That is why the first anxiety of Professor Secretan, when taking over the Directorship of BIRPI in 1952, was to adapt BIRPI, step by step, to the necessities and requirements of the modern world.

I will not relate in detail the measures which he has taken or proposed with this objective in mind during his 9 years in office. His work is, moreover, not completed, and I reveal no secret in saying that often he showed some impatience and regret at being unable to achieve this result as quickly and as perfectly as he would have liked. In spite of everything, Professor Secretan was never disheartened and rightly so. The result is far from negative. On the contrary, an important step has been taken.

In the first place, BIRPI possesses admirable premises perfectly adapted to its needs; it is sufficient to cast an eye over the elegant building, the construction of which was finished in 1960, and which is in harmony with the locality of the United Nations in Geneva.

To-day it also now employs considerably more staff (52 officials) who are far better accommodated. Even the Staff Pension Fund has been reorganised since 1953. No doubt there is yet much to be done, in particular in the field of social welfare (insurance against sickness and accidents), remuneration, eventual reclassification and recruitment of new personnel, etc. During 1962, new Staff Regulations and new Financial Regulations were prepared on my initiative and in liaison with the Swiss Government. We can legitimately hope that, once they are promulgated and applied, these Regulations will permit BIRPI to operate in conditions comparable with those prevailing in the other international organisations.

But, if staff and material problems are the first to present themselves to a Director, they are not the only ones.

Professor Secretan has endeavoured, during 9 years, to solve many other problems. It is thus, for example, that he reinforced the ties and has completed real working agree-

ments between BIRPI and the International Patent Institute, the International Association for the Protection of Industrial Property, the World Health Organisation, the Council of Europe, the "Office International du Vin", etc.

It is clearly evident that in order that the legal principles which are the basis of the International Unions for the Protection of Industrial, Literary and Artistic Property should triumph, these Unions and their Bureaux should be able to make their competence recognised not only by interested intergovernmental organisations but also by the United Nations Organisation. This recognition has become all the more urgent since Resolution 1713 (XVI) was passed by the General Assembly of the United Nations on the 19th December, 1961. The Permanent Bureau of the Paris Union thus, during its meeting on 29th and 30th March, 1962, requested that the problem of relations with the United Nations be studied with very particular care. This problem had a predominant place on the list of discussions of the Joint Meeting of the consultative bodies of the Paris and Berne Unions in October 1962. It cannot, however, be permanently resolved so long as the Unions administered by BIRPI have not been provided with representative bodies of the States, a transformation which must be effected by way of an intergovernmental agreement negotiated through diplomatic channels.

I arrive here at a crucial problem which has constantly preoccupied Professor Secretan and myself, that of the participation of States Members in the operation and development of the Unions and of BIRPI.

I have recalled above that when the Unions were created at the end of the 19th Century, they were provided with no representative body of the States. Their management was confided to a Member State, i.e., the Government of the Swiss Confederation.

Since then, Professor Secretan and I have constantly endeavoured to fill this gap. Thus, during the Diplomatic Conference of Revision of the Paris Convention (Lisbon, 1958), it was decided to create a Conference of Representatives of all the countries of the Union. This Conference should meet periodically (every 3 years) and it will have relatively large powers as it will be concerned with all the "questions relating to the safeguard and development of the Union" and it will decide on the financing of the policy it will have defined. But its representative character is not sufficiently emphasized.

In other respects, it was felt necessary to complete this Conference of Representatives with a restricted body able to meet far more often and at less expense. Thus the "Consultative Committee", created by the Lisbon Conference, set up, through its internal regulations, a restricted council named "Permanent Bureau", composed of representatives of 15 States and able to meet as often as necessary.

On their side, the Restricted Unions (Classification of Trade Marks, International Registration of Trade Marks, Deposit of Industrial Designs and Models, Protection of Appellations of Origin) followed the movement. In 1957 and 1958 the Conferences of Nice and of Lisbon provided the Union relating to trade marks and that relating to appellations of origin respectively with "councils" grouping representatives

of all the States Members and charged with the administration of those Unions. Also, in 1960, the Conference of The Hague created, within the Restricted Union of Industrial Designs and Models, an "international committee" charged with the technical, administrative and financial management of that Union.

In another field, very close to industrial property, the International Conference which was held in Paris in November/December, 1961, to set up an International Convention for the Protection of New Varieties of Plants, proceeded in this sense and provided explicitly for a representative council which will operate as soon as this Convention comes into force.

It is probable that the evolution outlined above will continue in the framework of the Berne Union for the Protection of Literary and Artistic Works, which was the first International Union to provide itself with an intergovernmental "Permanent Committee", even though this Committee has purely consultative functions. It is therefore to be foreseen that the Diplomatic Conference of Revision which should, in principle, be held in Stockholm in 1965, will provide the Berne Union with useful representative organs.

In the meantime, we took the initiative, on the 15th-20th October last, to hold a Joint Meeting of the Permanent Bureau of the Paris Union and the Permanent Committee of the Berne Union. It was the first time, since their creation, that these two consultative bodies were called together.

The exchange of views between the representatives of the Berne and Paris Unions was far-reaching, interesting and profitable. If concerned not only questions relating to the administrative and financial reorganisation of BIRPI mentioned above, but also to all the mutual problems of the two Unions (territorial expansion, co-operation with the United Nations, technical and legal assistance to less industrially developed countries, African seminars, preparation of the future Diplomatic Conference or Conferences of Revision, etc.). The result of this exchange of views was to lead the two General Unions to express the "vœu" that such joint meetings should henceforth be held regularly and established in the form of an Interunion Co-ordinating Committee.

No doubt the Interunion Co-ordinating Committee will, in the immediate future, have purely consultative powers, but one can already see the outline of what will later, through Diplomatic Conferences of Revision, become a truly representative body of the Unionist States.

Furthermore, I should like to emphasize that the Swiss Government has gladly accepted the principle of this reorganisation and transformation. In their letter of the 24th May, 1962, the Federal authorities indicated very explicitly that they were not concerned to preserve their present role of supervisory authority and declared themselves very much in favour of the idea of a more active participation of the States in the management, the operation and the modernisation of the Unions and of BIRPI. In the circumstances, I am pleased to acknowledge that the Swiss Government has shown proof of the best spirit of international co-operation in declaring in advance its intention to take into account the opinions and "vœux" expressed by the existing consultative bodies.

It was in these circumstances that, for the first time, the Swiss Government decided to consult the Unionist States concerning the replacement of the Director of BIRPI. From the 12th June, 1962, an invitation for candidates was made through diplomatic channels to all the Member States²⁾. The list of candidates and their references were communicated later by the Swiss Government to the Members of the Permanent Bureau of the Paris Union and the Permanent Committee of the Berne Union.

During their Joint Meeting from the 15th to 20th October last, the Permanent Bureau and the Permanent Committee unanimously chose Professor Bodenhausen, and, paying regard to this choice, the Swiss Government nominated him, on the 13th December, 1962, as successor to Professor Secretan.

I will not try to introduce Professor Bodenhausen to you. Everybody knows the dominant part he has taken for many years in the development of international industrial, literary and artistic property laws, as much in his country of origin as by numerous and important publications which he has written and by his notable participation in various diplomatic conferences during these past years. I would, however, like to welcome him warmly and greet with the greatest cordiality his arrival at the head of BIRPI.

I am sure that, thanks to his great culture, his energy and his devotion, he will well know how to follow the effort which has been begun and, in collaboration with all the Unionist States, lead the work already started to a successful conclusion. A first important step has been made. Another must be made. Professor Bodenhausen can count on us to help him in the heavy task which awaits him.

Guillaume FINNISS

Chairman of the Consultative Committee
of the Paris Union
and of its Permanent Bureau

* * *

Since taking up his duties, Professor G. H. C. Bodenhausen, Director of the United International Bureaux for the Protection of Intellectual Property, has received many messages of congratulations and good wishes from readers of *Industrial Property*.

He regrets that he is unable to reply personally to all those who have been kind enough to write to him but he would like to express here his sincere thanks.

²⁾ See *Industrial Property*, 1962, p. 110.

LEGISLATION

NORWAY

(Translation)

Regulations ¹⁾

relating to the filing of applications for registration etc., of trade marks and joint marks as provided for by the Act of 3rd March, 1961, which came into force on 1st October, 1961

(Royal Decree of 4th August, 1961)

Article 1

What is provided in these regulations for trade marks applies also to joint marks, unless the contrary is expressly stated. The provisions of these regulations relating to goods and classes of goods apply also to services and classes of services, where nothing to the contrary is stated or appears from the context, cf. the Trade Marks Act, Article 1, third paragraph.

Registration requirements and appendices

Article 2

Application for registration of a trade mark shall have the form of a letter addressed to the Directorate for Protection of Industrial Property (hereinafter called the Patent Directorate) in Oslo, dated and signed by the applicant or a person acting on his behalf. The letter must be drawn up in the Norwegian language unless the Patent Directorate in the individual case finds itself able to accept some other language. The letter must, besides a specimen of the trade mark and a request for registration, contain information concerning:

- (1) the applicant's firm or full name and permanent business address, also full name and permanent business address or residence of his agent, if any. In the case of a joint trade mark, the place where the applicant's board has its seat shall be stated;
- (2) the nature of the commercial activity in which the trade mark will be used. In the case of joint trade marks the other regulations which have been laid down for use of the mark shall be stated;
- (3) the goods or classes of goods for which the mark is to be registered;
- (4) a list of the appendices.

If the registration of several trade marks is requested at the same time, a separate application for registration must be filed for each individual mark.

Article 3

Application for registration of a trade mark shall be accompanied by:

- (1) a reproduction in two copies of the mark, if it is a figurative mark or a mark containing letter, number or word

¹⁾ This English text was kindly supplied by the Norwegian Administration.

in a particular form. The height and width of the reproduction must not exceed 7,5 cm. If the mark is in colour, reproductions in these colours must be sent in. If special difficulty or expense is involved in procuring reproductions in colour, the Patent Directorate may, until the mark is laid out for general inspection (cf. Art. 10 in these regulations and Art. 20 in the Trade Marks Act) accept an illustration in black and white accompanied by an exact indication of the colours. In other cases the reproductions shall not be accompanied by any explanation of the mark. If the equipment of an article is to be registered as a trade mark, as many reproductions, maximum 6, each in two copies, as are needed for showing the whole, equipment, shall be sent in. Further, if the Patent Directorate finds it necessary, there shall be sent in for the custody of the Directorate a specimen, or a reduced model, of the object so furnished. The specimen or the model shall not on any side be longer than 40 cm and not weigh more than 10 kg. If there are such divergences between the reproduced equipment, with description of colour, if any, and the equipment which the specimen shows, that doubt may arise about the exact appearance of the registered equipment, the Patent Directorate shall demand that the reproductions and the specimen be brought into agreement with each other;

- (2) power of attorney, if the applicant himself has not signed the registration application or he has no permanent business address in Norway, or if the board of the applicant, when it relates to a joint mark, does not have its seat in Norway. It must appear from the power of attorney that the agent is empowered to represent the applicant in all matters relating to the trade mark, and that in civil suits he can be summoned on behalf of the applicant. Consequently the agent must be an adult, and in addition to his name and permanent business address or residence, his civilian position must be stated in the power of attorney. If the agent is also empowered to withdraw the application, the power of attorney must contain a special provision to that effect. The agent shall by his signature on the letter of attorney accept this. If the power of attorney is undated, it is considered to bear the date of the day on which it is received by the Patent Directorate.

Applicants who have a permanent business address in this Kingdom, and, in the case of joint marks, applicants whose board has its seat in this Kingdom, can make use of an agent in the same manner as provided for applicants who have no permanent business address in this Kingdom, or limit the power of attorney in any way desired;

- (3) the stipulated fee (cf. Art. 4);
- (4) if the applicant does not carry on commercial activity in Norway, the application for registration shall be accompanied by an excerpt from the trade marks register in the applicant's home country, which shows that the trade mark has been registered for him there for the goods or classes of goods for which the mark in this Kingdom has been notified for registration (home country certificate).

Article 4

When an application for registration of a trade mark is filed, a fee is payable for the handling, announcement and registration of the mark for a period of 10 years, reckoned from the day of registration, cf. the Trade Marks Act, Article 22, first paragraph.

The fee is Kr. 100.— (basic fee) when the goods for which registration is requested are comprised in only one class. If the mark is to be registered in more than one class, the fee for each additional class is Kr. 50.— (additional fee). For a joint trade mark the corresponding fees are Kr. 200.— and Kr. 100.— respectively.

If the notified mark is not registered in any class, the applicant receives back Kr. 50.— of the basic fee and Kr. 25.— of the fee for each additional class. If the mark is registered in fewer classes than those for which registration is requested, the applicant receives back Kr. 25.— for each class which is omitted. In the case of applications for registration of a joint trade mark there is refunded, under the same conditions, Kr. 100.— and Kr. 50.— respectively. According to the same rules refundment is effected when the applicant withdraws or restricts an application for registration which is under consideration.

If in connection with an application for registration of equipment several reproductions are sent in, an additional fee of Kr. 30.— per reproduction, in excess of one, is payable. This additional fee is refunded as a whole if publication of the said reproduction, conformably with the Trade Marks Act, Article 20, does not take place.

Right of priority and special rights relating to certain applications for registration

Article 5

Anyone who wishes a priority right (priority), pursuant to the Trade Marks Act, Article 30, must, before the application for registration is laid out for general inspection, conformably with the Trade Marks Act, Article 20, notify this to the Patent Directorate in writing, with indication of the foreign State in which application for registration was first filed, and the date when the application was filed. The Patent Directorate may demand that the applicant shall within a certain grace, which does not expire before 3 months have elapsed since filing of the application, send in evidence of priority. If this is demanded, and the applicant fails to send in such evidence within the stipulated grace, the application is decided without regard to the request for priority. As evidence of priority is considered a copy of the application for registration in the foreign State concerned, when this copy has been furnished by the registration authorities of the State concerned with a certificate to the effect that the duplicate is in conformity with the application first filed, and with information as to when this was received.

The grace within which an application for registration with priority, conformably with the Trade Marks Act, Article 30, must be filed, is in relation to most States 6 months (cf. the Paris Convention, Art. 4 and 18).

Article 6

Anyone who wishes to assert a priority, pursuant to the Trade Marks Act, Article 18 (cf. the Paris Convention, Art. 11), shall notify this in writing to the Patent Directorate before the application for registration is laid out for public inspection, conformably with the Trade Marks Act, Article 20. Within the same grace he shall state at which international exhibition the trade mark was first used for displayed goods, the date of the opening of the exhibition and of the first display of the goods at the exhibition, and send evidence of the priority right. As evidence is accepted a certificate from the responsible management of the exhibition to the effect that the exhibition was international, with particulars as to the date of the opening of the exhibition and of the first display of the goods at the exhibition.

Article 7

The time-limits stipulated in the Trade Marks Act, Articles 18 and 30, expire at the end of the office hours on the day which by its number in the month corresponds to the day of the commencement of the time-limit's run. If no corresponding number occurs in the month in question, the last day of the month is considered as the expiry day of the time-limit. If the last day of grace falls on a day when the Patent Directorate is closed for filing of applications, the time-limit is prolonged to the first day thereafter when the Directorate is open for such filing.

Article 8

Anyone who, pursuant to the Trade Marks Act, Article 29, requests registration of a mark in the same manner as it has been registered in a foreign State ("Telle quelle"-registration, cf. the Paris Convention, Art. 6), shall notify this in writing to the Patent Directorate in the application or in the course of the Directorate's consideration of the application. At the same time evidence shall be sent in of the registration of the mark in the foreign State. As evidence is accepted a copy of the register page for the mark in the foreign State, when the correctness of the copy has been certified by the registration authorities of the State concerned.

Exceptions from the protection

Article 9

If the Patent Directorate finds that at the time of registration annotation should be made of exceptions from the legal protection, cf. the Trade Marks Act, Article 15, second paragraph, the wording of the annotation shall be notified to the applicant with a time-limit for a statement on his part.

If the applicant protests against such annotation, the Patent Directorate may refuse the application.

Printing blocks and illustrations

Article 10

Before the mark is laid out for public inspection, the Patent Directorate must have received a block for printing of the mark in black and white, together with 10 illustrations (in the case of get-up marks, 10 sets of illustrations, see Art. 3),

in colours, as the case may be, of the mark, in size as mentioned in Article 3, item (1).

Block and illustrations are not required for marks which exclusively contain letters, numerals or words, unless it is desired to protect the mark in a particular form.

Announcements

Article 11

Announcements pursuant to the Trade Marks Act and the Joint Marks Act are made in *Norsk Tidende for det Industrielle Rettsvern, Afdeling II - Varemerker*, which is published by the Patent Directorate.

Article 12

Announcements pursuant to the Trade Marks Act, Article 20, shall contain:

- (1) number of the application for registration;
- (2) description of the trade mark, or an illustration of this, unless it consists of mere letters or numerals without any figurative design. If the mark is in colour or it is an equipment mark, of which specimens or models have been delivered to the Patent Directorate, it shall be stated in the announcement that the trade mark is in colour or that a specimen or model of the equipment is in the possession of the Patent Directorate;
- (3) annotation of exception from the protection, if any, conformably with the Trade Marks Act, Article 15, second paragraph;
- (4) statement of the date when the application was received by the Patent Directorate;
- (5) the information mentioned in Article 2, items (1)–(3);
- (6) information concerning priority right, if any, conformably with the Trade Marks Act, Article 30, with statement of the priority state and priority date;
- (7) information concerning the priority right, if any, conformably with the Trade Marks Act, Article 18, with particulars of the exhibition and priority date;
- (8) information that registration is requested, conformably with the Trade Marks Act, Article 29, in the same manner as it has been registered in a foreign State, with statement of the name of the foreign State concerned.

Objection

Article 13

Objection pursuant to the Trade Marks Act, Article 20, shall be made in writing in triplicate to the Patent Directorate. The objection shall state the number of the application, name and address of the person who has made the objection, also of the name and address of his agent, if any, and the facts on which it is based.

Unless the Patent Directorate finds that the objection is manifestly devoid of significance, it shall send a copy thereof to the person who has applied for registration, with request for a statement within a time-limit stipulated by the Patent Directorate.

Registration certificate, trade marks register, renewals etc.

Article 14

The registration certificate shall contain the number of the registration and the date of the final decision for registration of the mark, with particulars as mentioned in Article 12.

The certificate shall be sent to the owner of the mark or his agent (if the power of attorney is in conformity with Art. 3, item [2]).

Article 15

The register mentioned in the Trade Marks Act, Article 12, shall have a separate page for each registered mark. The pages shall be arranged in numerical succession according to the registration number.

For joint marks there shall be kept a separate section of the trade marks register, with separate current registration numbers.

When a registration ceases, this shall be noted in the register.

Article 16

When it has been finally decided that the mark shall be registered, it shall be entered in the trade marks register with the same particulars as in the registration certificate, cf. Article 14.

At the same time the registration shall be announced, with statement of the registration number, the number and filing date of the application, the name of the applicant (cf. Art. 2, item [1]), and reference to the announcement which has previously been made pursuant to Article 12. The other particulars which are mentioned in Article 12 shall be included, if they have been altered since the earlier announcement.

Article 17

Application for an alteration, pursuant to the Trade Marks Act, Article 24, in the registered trade mark must be submitted in writing to the Patent Directorate. It must be signed by the owner of the mark or his agent, and state the following:

- (1) the registered owner and his agent, if any, conformably with Article 2, item (1);
- (2) the registration number;
- (3) the alteration of the mark which it is desired to have effected, with a reproduction of the mark in its changed form.

The application shall be accompanied by a fee of Kr. 50.—.

If the Patent Directorate accepts the alteration, the registered owner must — if the mark is a figurative one — send in a printing block of the altered mark in black and white, and 10 illustrations of the altered mark, if necessary in colour. The block and the illustrations must not exceed $7,5 \times 7,5$ cm.

When the alteration has been accepted, the altered mark shall be entered in the register and announced, together with a statement of the day when the final decision relating to the alteration was made. The announcement shall also contain the information mentioned in items (1) and (2).

Article 18

Application pursuant to the Trade Marks Act, Article 35, for annotation in the register of transfer of a registered mark

must be submitted in writing to the Patent Directorate. It must be signed by the new owner or his agent, and either be countersigned by the former owner or be accompanied by a declaration signed by him to the effect that the mark has been transferred. If the new owner establishes that he is prevented from obtaining such a declaration, other evidence of the transfer may be accepted. The application shall give particulars, signed by the former owner, as to whether the mark has been transferred in connection with the activity in which it has been used.

The application shall state the registration number of the mark and contain information concerning the new owner and his agent, conformably with the Trade Marks Act, Article 2, items (1) and (2), and be accompanied, if necessary, by a power of attorney conformably with Article 3, item (2).

The application must be accompanied by a home country certificate, if the mark has been registered conformably with the Trade Marks Act, Article 29, or if the State where the new owner carries on his commercial activity requires a home country certificate from applicants for registration who carry on commercial activity in Norway. cf. the Trade Marks Act, Article 28.

The application shall, further, be accompanied by a fee of Kr. 30.—.

If the Patent Directorate finds that the transfer can be entered in the register (cf. Art. 33, second para.), entry shall be effected at once and the annotation announced.

Article 19

Application conformably with the Trade Marks Act, Article 34, for annotation in the register concerning the grant of licence for a registered trade mark must be submitted in writing to the Patent Directorate. It shall be signed by the licensee and/or by the owner of the mark or his agent. If only one party signs, a declaration shall be enclosed from the other party to the effect that a licence as set forth in the application has been granted. If the person who signs establishes that he is prevented from obtaining such a declaration, other evidence may be accepted.

The application shall state the number of the registration, the day when the licence was granted, the name of the licensee and the nature of the commercial activity in which he will use the mark. The application shall also state the limitations in the right of the licensee which may have been laid down.

The application shall be accompanied by a fee of Kr. 30.—.

If the Patent Directorate finds that annotation of the licence can be entered in the register, entry shall be effected at once and the annotation announced.

Article 20

Application for annotation in the register of alteration of the name of the registered owner or the licensee must be submitted in writing to the Patent Directorate, and shall be signed by the registered owner or the licensee. If the Patent Directorate deems it necessary, it may demand a certified excerpt from the register of firms or other evidence of the alteration of name.

The application shall be accompanied by a fee of Kr. 30.—.

In the register shall be entered the new name of the registered owner or licensee, and the date when the application for registration of the annotation was received by the Patent Directorate. The alteration of name shall be announced, together with the number of the registration.

Article 21

Alteration of the permanent business address or residence of the registered owner, licensee or agent shall be entered in the register after written application to this effect has been sent to the Patent Directorate by the owner of the right or his agent. If the registered owner moves his place of business to another State, where home country certificate is demanded of applicants for registration who carry on commercial activity in Norway, such certificate shall be enclosed, cf. Article 3, item (4), and the Trade Marks Act, Article 28.

Article 22

Notification of alteration in the agent relationship must be accompanied by a power of attorney conformably with Article 3, item (2), and by a fee of Kr. 30.—. The new power of attorney is entered in the register and announced.

Article 23

With regard to application for renewal of a trade mark registration, what is prescribed in Article 2 applies as regards form and content. The application shall in addition state the registration number of the trade mark. Statement of goods and classes of goods is only necessary if it is desired to lay down limitations in connection with the renewal.

The application must be accompanied by:

- (1) power of attorney as prescribed in Article 3, item (2), if the applicant is represented by a non-registered agent;
- (2) home country certificate, if the mark has been registered conformably with the Trade Marks Act, Article 29;
- (3) fee as prescribed in Article 4 for registration of trade marks, with addition of Kr. 30.—, and for a joint mark, Kr. 60.— (respite fee), if the application for renewal is filed within the 6 months' grace prescribed in the Trade Marks Act, Article 23, first paragraph.

With regard to refundment of the fee in the event of refusal of renewal, the same applies as is prescribed in Article 4 concerning refundment of registration fee. The respite fee is not refunded.

It shall without delay be noted in the register that an application for renewal has been received by the Patent Directorate. When the application has been finally decided, the decision shall be entered in the register with statement of the date of the final decision and the registration number. If the registration is renewed for a party other than the one entered in the register, particulars shall be entered in the register concerning the new owner, conformably with Article 2, items (1) and (2), cf. Article 18. The same procedure shall be followed when in connection with a renewal a new agent is introduced or alteration is made in a name or address, cf. Articles 20, 21 and 22.

The 6 months grace which is stipulated in the Trade Marks Act, Article 23, first paragraph, expires on the day which by its number in the month corresponds to the date of registration, or if no corresponding number is found in the month in question, on its last day.

Article 24

The renewal certificate shall state:

- (1) the registration number of the mark;
- (2) the date of registration and the date when it was finally decided that renewal was to be effected;
- (3) the information mentioned in Article 2, item (1);
- (4) the mark, if this has been altered in connection with the renewal, cf. Article 17;
- (5) the goods or classes of goods to which the registration relates, if the goods or the classes or goods have been restricted in connection with the renewal.

The renewal certificate is sent to the registered owner when it has been finally decided that the registration shall be renewed.

Article 25

Application for deletion of a trade mark from the register shall be submitted in writing to the Patent Directorate. It shall state the number of the registration which it is desired to have deleted, and be signed by the owner of the mark or by an agent who is specially empowered to apply for the deletion.

The deletion is entered in the register and announced, with statement of the date when the application for deletion was received by the Patent Directorate, and the registration number.

The same procedure shall be followed when it relates to an application for restriction of the goods for which the mark has been registered.

Article 26

The signature of the registered owner on a notification of transfer or of a licence agreement, and on an application for deletion, or on a power of attorney relating to such petition, shall, when the document has been drawn up in this Kingdom, be certified by a person who by virtue of his position has public credibility (for example notary public, solicitor, county sheriff). If the document has been drawn up abroad, the signature shall be certified by a Norwegian embassy, legation or consular representative, or by the foreign authority which has the right to issue such certificate. The certificate shall, if the signer is a body corporate, also state that the signer is entitled by his signature to obligate the registered owner.

The same certification of a signature may be demanded also in other cases where the Patent Directorate finds it necessary.

Article 27

If a document which is submitted pursuant to these regulations has not been drawn up in the Norwegian language, the Patent Directorate may, when it finds this necessary, require that a translation shall be submitted, which is certified by an officially authorized translator.

Article 28

The procedure prescribed in the Trade Marks Act, Article 19, shall in so far as this is convenient, also apply to the handling of an application for deletion of a registered mark, application for alteration of a registered mark, application for annotation in the register of transfer and licensing of a registered mark, cf. the Trade Marks Act, Articles 24, 33 and 34, as well as alteration of the name of the registered owner or the licensee. No time-limit applies, however, for resumption of the application.

If the owner of the mark applies for deletion from the register of the registration, and a licence has been noted in the register, the licensee shall be notified of the application for deletion and he given a reasonable time in which to make a statement.

Article 29

Written request for an investigation, pursuant to the Trade Marks Act, Article 42, second paragraph, shall be addressed to the Patent Directorate, and shall state name and address, contain a reproduction of the mark to which the request relates, and state the goods or classes of goods which should be comprehended in the investigation. The request shall be accompanied by a fee of Kr. 10.—.

Special provisions relating to fees etc.

Article 30

The following fees are payable:

For certified excerpt from the register of trade marks:

Kr. 15.—.

For certified copy of the application for registration of a trade mark, with published appendices (cf. Trade Marks Act, Art. 42), per page: Kr. 15.—.

In case of request for time or prolongation of a time-limit for rectifying defects, making a statement, giving further grounds etc.: Kr. 10.—.

When request is made that the question of the validity of the registration be finally settled by the second division of the Patent Directorate (cf. the Trade Marks Act, Art. 26): Kr. 150.—.

Article 31

In case of appeal to the second division of the Patent Directorate, cf. the Trade Marks Act, Articles 19, 20, 23, 33 and 34, the fee is Kr. 150.—. If there are several appellants, each of them shall pay this fee. The time-limit for appeal is 2 months from the date when notification of the decision was sent by the Patent Directorate to the party entitled to appeal. Unless the contrary is established, the date of dispatch is deemed to be the date which is written on the notification. The appeal shall be presented in writing, and be in 4 copies, if an objection is made in the case, cf. the Trade Marks Act, Article 20, third paragraph. The appeal shall be addressed to the second division of the Patent Directorate. It shall contain a statement of those parts of the decision which are thought to be incorrect, and the grounds for this. If there are two or more parties in the case, the Patent Directorate shall send a copy of the appeal writ with enclosures to the other party.

with request for a statement within the time-limit which is stipulated by the Patent Directorate.

Article 32

The Patent Directorate is open for delivery from 10.00 to 14.00 hours on all working days except Saturdays and other days before holidays, when the hours are from 10.00 to 13.00. Applications, written answers and other documents, for which there is a grace, which are received by the Patent Directorate after the close of the hours for delivery, are deemed to be delivered at 10.00 hours on the next following working day. This hour shall be entered on the document in question as the time of delivery.

A document which after the hours of delivery is delivered by anyone who was standing at the counter before the lapse of the hours of delivery, is deemed to have been delivered during the hours of delivery.

Fees are payable to the Patent Directorate during the stipulated hours of delivery.

Fees which are paid per letter, telegram or post office order, are considered to have been paid within the stipulated grace if they before 12 midnight on the last day of grace have reached an inland post office for dispatch to the Patent Directorate. Fees which are paid over post giro are considered to have been paid within the stipulated grace if on the last day of grace they are entered at an inland post giro office for payment to the Patent Directorate.

If the last day of grace falls on a day when the Patent Directorate is closed for receipt of fees, the last day of grace is postponed until the first day when the Directorate is open for such payments.

Article 33

For payment of fees to the Patent Directorate receipt is given, bearing the stamp of the cash control apparatus. For amounts which arrive per post or telegram, the Patent Directorate shall send receipt to the address stated. If this is outside the Kingdom, the Patent Directorate may claim to have the postage expenses covered. Postage stamps or other postal marks (reply-paid stamps) are not accepted as payment in respect of fees and charges etc.

Article 34

Stipulated fees which are paid to the Patent Directorate are not refunded, except in the cases when the refundments are authorised by Articles 9 and 23 and in the Trade Marks Act, Article 42.

GENERAL STUDIES

The International Union for the Protection of Industrial Property in 1962 ¹⁾

By Roland WALTHER

**The USSR and the International Protection
of Industrial Property**

By Dr. János TÓTH, Geneva

BOOK REVIEWS

Lizenzverträge (Licencing contracts), by W. Lüdecke and E. Fischer.

First part: The interpretation and drafting of licencing contracts.

Second part: The restrictions imposed upon competition by licencing contracts. One volume of 791 pages, 23 × 16 cm. Published by "Verlag Chemie" GmbH., Weinheim/Bergstrasse, 1957. Price: DM 39.40.

The first part which comprises 662 pages deals with the interpretation and the drafting of licencing contracts. As the author points out in the preface, his intention was not to create a set of formulas. As licencing contracts are not expressly regulated by law, the work aims at "exposing, in the light of theory and case law, the different problems of interpretation which are raised by licencing contracts and to show how the clauses of a contract can guard against legal uncertainty". It should be noted however that the views of the author are based on the legal rights and conceptions in force in the Federal Republic of Germany and that the solutions proposed therefore cannot automatically be applied to other States.

The second part, by E. Fischer, comprises 129 pages and deals with the restrictions imposed on competition by licencing contracts. Though written before the coming into force of the law against restrictive practices on 1st January, 1958, the views of the author are still valid; indeed, they represent a detailed analysis of the solutions advocated or adopted for those questions which are likely to be raised by theory and case law.

To facilitate consultation of their work, the authors have added a detailed and logical table of contents as well as an exhaustive alphabetical index. This is certainly a well-informed study which will be a valuable instrument for those persons in practice and specialists. R. W.

* * *

Die Vergütung für Erfindungen von Arbeitnehmern im privaten Dienst

(Compensation due for employees' inventions of private enterprises),

by Hans-Gerhard Heine and Helmut Rebitzki. One volume, 407 pages, 22 × 16 cm. Published by "Verlag Chemie" GmbH., Weinheim/Bergstrasse, 1960. Price: DM 26.80.

Whereas, formerly, inventions were made mainly by individuals, today, they are increasingly the result of research by workers or research teams employed by enterprises. It follows that we should ask, now, more than ever, what are the criteria for fixing the compensation due in respect of employees' inventions. The answer to this question is one of the most difficult ones which business concerns must face.

It is for this reason that the Ministry of Labour and Social Affairs of the Federal Republic of Germany published on 20th July, 1959, "Instructions relating to compensations due for employees' inventions in private enterprises". These "Instructions", which are in no manner obligatory, have been commented on by the authors. The latter have acquired considerable personal experience over a number of years mainly owing to their work in the commission responsible for drafting these "Instructions". The study also refers to the existing situation and to Court decisions prior to the publication of the "Instructions".

The latter also give some indication as to the compensation due for inventions relating to utility models and for proposals for improvements of a technical nature.

The study reproduces a series of scales and formulae to serve as a basis for calculating, in each particular case, the amount due by the employer. It should be noted however that the compensation due is not necessarily to be paid in cash. It can also consist of allowances of a different kind and which cannot always be determined by formulae; for instance, there are recognition, promotion or even a share in the profits made because of the invention. In principle, the type and value

of the compensation should be equitable and proportionate to the invention. Neither the Law on Employees' Inventions of 25th July, 1957¹⁾ nor the "Instructions" can or should fix the exact terms of these conditions. It is ultimately up to the arbitral organ established within the Patent Office or the ordinary Courts to decide whether or not the compensation paid to the employee is equitable. Consideration should be given to the possibilities of exploiting the benefits of the invention on a commercial basis. It should also be examined whether the value of the invention in itself goes beyond the obligations stipulated in the working contract and to what extent the enterprise participated in bringing about the invention.

The work of Heine-Rebitzki is an indispensable manual for all persons who have to deal with problems relating to employees' inventions. Though written essentially in relation to conditions existing in Germany, it will also serve as a useful indication for those countries which, unlike the Federal Republic of Germany, do not possess such detailed — and perhaps not always quite so complicated — rules. R. W.,

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Esthétique industrielle (Art in Industry). French monthly review. Published by the "Editions de Clermont", 38, Boulevard Raspail, Paris 7. Price for the double number: 10 Fr.

This excellent French review deals, in the combined number for the years 1956/57, with the problem of the graphic representation of trade marks. It shows, in a series of examples, how old well-known trade marks have been adapted to modern tastes. Two studies are devoted to the legal problems which are raised by the protection granted by trade mark legislation. R. W.

OBITUARY

Homage to President Herbert Kühnemann

Mr. Herbert Kühnemann, President of the German Patent Office, passed away suddenly on the 12th December, 1962.

A few days prior to this we had had the opportunity of meeting him in a number of international meetings in which he participated actively. Before parting, we spoke of the meeting to be held in Paris in the middle of January. I remember with emotion Mr. Kühnemann's pleasure at the prospect of returning to the French capital, a city he knew so well and which he loved as a true "parisien".

And now we have had the news of his death — news so tragic and unexpected that we find it hard to believe. His passing leaves a great gap amongst us.

Before recalling his career, I would like to render homage to Mr. Kühnemann as a charming man. Each one of us has had the opportunity to appreciate his intelligence, his finesse, his courage and also his courtesy, good nature and humane attitude which made of him one of the most likeable colleagues and one of the most agreeable speakers I have ever met.

Mr. Kühnemann, Doctor *honoris causa*, was born in Berlin on the 23rd June, 1899, where he completed his secondary and advanced studies. On the 30th July, 1921, he passed the first State law examination and was attached to the Court of Appeal (*Kammergericht*) of Berlin. After passing the higher State law examination on the 2nd August, 1924, he entered, as "*Gerichtsassessor*", the Legal Administration of Berlin. In February 1930, he was made Counsellor (*Landgerichtsrat*) of the Regional Tribunal of Berlin II. On the 1st January, 1932, he was made Head of Section (Referent) for the Protection of Industrial Property and Copyright of the Reich Ministry of Justice. During this work he became Counsellor to the Court of Appeal of Berlin (1935) and Ministerial Counsellor (1939).

After the War, Mr. Kühnemann was arrested and detained for nearly 5 years in the Sachsenhausen concentration camp, merely because of his position as Head of Section at the Reich Ministry of Justice and not because of any political implications. However, immediately after his liberation, he placed himself at the disposal of the Ministry of Justice and became President of the Senate (*Senatspräsident*) of the German Patent Office and directed its Berlin branch. In 1957, he was made President of the Patent Office in Munich. In recognition of his eminent services in the development of the protection of industrial property, he was made "*Doctor honoris causa*" of the Louis Maximilien University of Munich in 1959.

Even when he was Head of Section at the Ministry of Justice, Mr. Kühnemann devoted a great part of his activities to questions relating to the international protection of industrial property. He was one of the few officials still in office to have participated in the Conference in London in 1934 for the Revision of the Union Convention of Paris and the accessory Arrangements.

After the War, Mr. Kühnemann participated in important Diplomatic Conferences such as the Universal Copyright Convention (Geneva, 1952), the Arrangement of Madrid for the International Registration of Trade Marks (Nice, 1957), and the Union Convention of Paris for the Protection of Industrial Property (Lisbon, 1958). He was furthermore a member of the Committee of Experts on Patents of the Council of Europe and the Coordinating Committee for the harmonisation of the law on the protection of industrial property for the EEC. He represented the Federal Republic of Germany at the Sessions of the Consultative Committee of the Paris Union, the Conference of Directors of the Madrid Arrangement and many other international associations. The last important international Conference which he attended was the Joint Meeting of the Permanent Bureau of the Paris Union and the Permanent Committee of the Berne Union in October 1962.

I should like to express to Madame Kühnemann, to his family and to his many friends, in the name of us all, our very sincere condolences.

All those who knew Mr. Kühnemann will retain a lasting and moving memory of him.

Guillaume FINNISS

¹⁾ A French version of this Law, including the first and second Ordinances for its implementation, was published in *La Propriété industrielle*, 1958, pp. 21, 41 and 42.

STATISTICS

General statistics of industrial property for the year 1961

1st Supplement

The statistics from Japan having now reached this Office, we reproduce below the figures supplied in order to complete the table of statistics and grand totals published in *Industrial Property*, 1962, on pages 298 to 300.

JAPAN

Principal patents applied for	47,850
Additional patents applied for	567
Total	48,417
Principal patents granted	20,699
Additional patents granted	247
Total	20,946
Utility models deposited	65,685
Utility models registered	34,234
Industrial Designs and Models, Designs deposited . .	23,462
Industrial Designs and Models, Designs registered . .	11,931
National Trade marks deposited	34,320
Foreign Trade marks deposited	3,138
Total	37,458
National Trade marks registered	18,704
Foreign Trade marks registered	1,415
Total	20,119

Corrigendum

We regret that owing to a printing error on page 299 of the December 1962 issue of *Industrial Property* (General Statistics for Industrial Designs and Models) the names of "Great Britain and Northern Ireland" and "Germany (Fed. Rep.)" became transposed. The correct figures are: Germany (Fed. Rep.): 54,907 (registered) and Great Britain and Northern Ireland: 9,427 (deposited) and 8,361 (registered).

Corrigenda

Letter from the Federal Republic of Germany

Owing to the fact that the English version of the "Letter from the Federal Republic of Germany" by Dr. Friedrich-Karl Beier, published in the September issue of *Industrial Property*, page 215 *et seq.*, was a translation from the German text which had not been checked by the author, we publish hereafter certain amendments which he has requested.

Page 216, left-hand column, line 17, should read: "... the competent court for the Patent Office".

Line 22 should read: "... because of their close organisational connections with the administrative bodies of first instance ...".

2nd paragraph, line 10: here and where it reoccurs the expression "Federal Courts" should read "Federal Court". This refers to the Federal Court, the highest instance in civil and penal cases which should not be confused with the newly established Federal Patent Court.

2nd paragraph, 4 lines from the bottom, should read: "... separate from the other administrative bodies of first instance".

Page 216, right-hand column, 2nd paragraph, line 11, should read: "... whose chief task is the examination of applications for patents".

Page 217, left-hand column, 2nd paragraph, last 2 lines, should read: "... to the Federal Court, which in this case functions as a fact-finding body".

Right-hand column, 2nd paragraph, line 16: the word "litigation" should read "legislation".

Page 219, left-hand column, 4th paragraph, line 4, should read "... into Article 11, Section 1 (a) of GTMA. This ...".

Right-hand column, 2nd paragraph, 4th line, should read "... of Article 16 of the Law against Unfair Competition".

Page 221, right-hand column, 5th paragraph, lines 1 and 2. Here and generally speaking in this part dealing with jurisprudence, the expression "Federal Patent Court" should read "Federal Court" (*Bundesgerichtshof*). With the exception of the decisions quoted under II, 1 (a) to (d) which have been given by the Patent Office, all other decisions mentioned were given by the "Federal Court" in Karlsruhe.

Page 223, left-hand column, 2nd paragraph: The heading "Eligibility for trade mark protection" should read "Registrability of trade marks". This applies equally to line 4 of the same paragraph.

Right-hand column, 3rd paragraph: The heading "Alphabetic trade mark" should read "Letters".

Right-hand column, 3rd paragraph, line 1, should read "The problem of registrability of trade marks consisting of simple letters was dealt with ...".

Page 225, right-hand column, 1st paragraph, line 11, should read "Moreover, even if the sign is not used as a trade mark, its use can be prohibited under Article 1 of the Law against Unfair Competition and Article 826 of the German Civil Code (*Bürgerliches Gesetzbuch*) if the intention is...". Right-hand column, 3rd paragraph: the sentence beginning on line 2 should read "In this case, the Court decided that the use of a trade mark of another person in the catalogue...".

Page 226, left-hand column, 1st paragraph, line 10, should read "... regard the mark as an indication of origin of the goods,...".

Page 226, right-hand column, 12th line from the bottom, beginning with "the general rule", should read as follows: "... the general rule in Article 823, Section 1, of the Civil Code (*Bürgerliches Gesetzbuch*); in other words, it derives from the doctrine developed by jurisprudence, according to which each industrial enterprise, being established and in operation, is protected against any unlawful interference. The well-known mark...".

Right-hand column, 7th line from the bottom, should read "... of the goodwill of the enterprise, protection against all...".

Page 227, left-hand column, line 3, should read "... derives either from the provision of Article 12 of the Civil Code (*Bürgerliches Gesetzbuch*) protecting the individual name or from the General Rule...".

Left-hand column, line 8: instead of "constitutional law" read "Civil Code (*Bürgerliches Gesetzbuch*)".

Left-hand column, 1st paragraph: the last sentence of this paragraph should read "... Since this protection will

henceforward derive from the General Rule of the German Civil Code concerning the Law of Torts, the absence of a...".

Left-hand column, 2nd paragraph, line 6, read "goodwill" for "good name".

Page 228, left-hand column, lines 4 to 6, should be corrected to read "... under the administrative practice of the former Reichsgericht, which the Federal Court at first followed. To begin with...".

Left-hand column, 2nd paragraph, line 4, for "Reich Courts" read "Reichsgericht".

Page 228, left-hand column, last sentence, should read "... (b) The results of the latest jurisprudential approach to the protection of defensive trade marks, as followed by the Federal Court,...".

Page 229, left-hand column, lines 6, 7 and 8, should read "... The District Court (*Landgericht*) and the Court of Appeals (*Oberlandesgericht*) alike found for the respondents. The Court of Appeals held...".

Right-hand column, 1st paragraph: the last sentence should read "... The Court of Appeals dismissed the action, making specific reference to this explicit regulation...".

Page 230, left-hand column, 2nd paragraph, last line, and right-hand column, 2nd paragraph, line 3 from bottom: read "Court of Appeals" for "Appeal Board".

In case of doubt, particularly with regard to names of Courts, the reader should refer to the French version published in *La Propriété industrielle*, September 1962 issue, p. 237, which has been checked and approved by the author himself.