

# Industrial Property

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# INTERNATIONAL UNION

## BELGIUM

### Ratification

of the Arrangement of Madrid for the International  
Registration of Trade Marks (Nice Text)

*Supplementary Declaration of 5<sup>th</sup> October, 1962*

On 29<sup>th</sup> April, 1963, the following communication has been received from the Swiss Federal Political Department:

*(Translation)*

"The Belgian Embassy presents its compliments to the Federal Political Department and refers to the Note which it addressed to the Department on 14<sup>th</sup> September, 1962, with regard to the ratification by Belgium, on 8<sup>th</sup> March, 1962, of the Arrangement of Madrid concerning the International Registration of Trade Marks, as revised at Nice on 15<sup>th</sup> June, 1957.

On the instructions of its Government, it has the honour to notify the following declaration:

'In application of Article 3<sup>bis</sup> of the Arrangement of Madrid, as revised at Nice on 15<sup>th</sup> June, 1957, it is declared that the protection resulting from an international registration shall only extend to the territory of the Kingdom of Belgium if the proprietor of the mark expressly demands it.'

The Belgian Embassy will be grateful if the Federal Political Department would communicate this declaration to the countries concerned."

## TANGANYIKA

### Adhesion

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

The following communication has been received from the Swiss Federal Political Department:

*(Translation)*

"In compliance with the instructions of the Swiss Federal Political Department dated 16<sup>th</sup> May, 1963, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that its Government has received on 2<sup>nd</sup> April, 1963, the instrument of adhesion of the Republic of Tanganyika to the Convention of Paris for the Protection of Industrial Property of 20<sup>th</sup> March, 1883, as last revised at Lisbon on 31<sup>st</sup> October, 1958.

In application of Article 16 (3) of the said Convention, the adhesion of Tanganyika will take effect on 16<sup>th</sup> June, 1963.

With regard to its contribution to the common expenses of the International Bureau of the Union, this State is placed, at its request, in the Sixth Class, in accordance with Article 13 (8) and (9) of the Convention of Paris as revised at Lisbon."

## RHODESIA AND NYASALAND

### Ratification

by the Federation of Rhodesia and Nyasaland of the Convention  
of Paris for the Protection of Industrial Property (Lisbon Text)

The following communication has been received from the Swiss Federal Political Department:

*(Translation)*

"In compliance with the instructions of the Swiss Federal Political Department dated 16<sup>th</sup> May, 1963, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the instrument of ratification of the Federation of Rhodesia and Nyasaland to the Convention of Paris for the Protection of Industrial Property of 20<sup>th</sup> March, 1883, as last revised at Lisbon on 31<sup>st</sup> October, 1958, has been deposited with the Swiss Government on 21<sup>st</sup> March, 1963.

In accordance with Article 18 (1) of the said Convention, the ratification of the Federation of Rhodesia and Nyasaland will take effect on the 16<sup>th</sup> June, 1963."

### Conference

of Directors of the National Industrial Property Offices of the  
countries of the Arrangement of Madrid for the International  
Registration of Trade Marks

*(Geneva, 8<sup>th</sup> and 9<sup>th</sup> October, 1962)*

On the 8<sup>th</sup> and 9<sup>th</sup> October, 1962, there was held in Geneva a Conference of Directors of the National Industrial Property Offices of the countries of the Arrangement of Madrid for the International Registration of Trade Marks.

In the course of this Meeting, the following Resolution was passed:

*(Translation)*

### Resolution

Considering that the receipts of the Madrid Arrangement consist of payments by the depositors of the Member States;

Considering that the excess of receipts over expenses is shared out among the States Members;

Considering that the States Members of the Madrid Arrangement are also Members of the Paris Union and that in this capacity they are called upon to finance the expenses inherent in the preparation of international meetings dealing with that Union;

Considering that they should not be obliged to finance them a second time as Members of the Arrangement of Madrid, nor to finance the expenses of the Berne Union;

Considering that it was decided in 1953 to establish by appropriate means:

1. the creation of a Management Fund for marks;
2. the amortization of the technical deficit of the pension fund and the creation of a balanced pension system;
3. the establishment of a building fund which would permit the installation of the services in more favourable conditions;

Considering that these measures have led to a reduction of the profits to be shared between the States Members of the Madrid Arrangement;

Seeing that to-day the programme established in 1953 has been carried out satisfactorily, since the BIRPI has now:

- (a) a Management Fund for marks;
- (b) a balanced pension fund;
- (c) a building properly adapted to their needs and constituting a good investment;

Considering furthermore that the Madrid Arrangement has ensured until now, to a great extent, the finances of BIRPI, taking into account the delays by certain States Members of the Paris Union in the payment of their annual contributions;

Considering moreover that it is possible that the profitable situation of the Madrid Arrangement might be compromised by other international Arrangements;

Considering also that if the payments at present made by depositors to the Arrangement of Madrid appear too high, it would be for the States Members to take all necessary steps including possibly a reduction of fees,

For these reasons:

1. requests the Supervisory Authority to be good enough to consider that the objects of 1953 are already achieved;
2. requests the Supervisory Authority [to see] that the budget of the Madrid Arrangement is not called upon to subsidize, directly or indirectly, the other Unions or Arrangements, nor to pay the expenses of Diplomatic Conferences or other expenses of initiation (*dépenses de conception*) concerning the Unions, including the salaries of the directing staff and of the staff of other Unions, nor to subsidize in any form whatever the pensions of officials other than those of the Marks Service;
3. decides to nominate an expert to examine the organisation of the services of the Madrid Arrangement and to propose, in collaboration with the Supervisory Authority, the Director of BIRPI and the President of the Committee of Directors of the Madrid Arrangement, the necessary measures to permit the establishment of a separate administrative and financial organisation in conformity with the requirements of the Arrangement.

## LEGISLATION

### POLAND

(Translation)

### Inventions Act

(of 31<sup>st</sup> May, 1962)

#### PART III<sup>1)</sup>

#### Utility Models

##### Article 76

The subject matter of a utility model shall be the technical configuration of an article, which has not previously been used in Poland, or of its arrangement, construction or assembly, of permanent form, which enables greater utility of facilitates the use of an article.

##### Article 77

(1) Authorship of a utility model shall belong to the author or joint authors of the utility model. The provisions of Article 14, paragraph (2), shall apply accordingly.

(2) Authorship of a utility model shall be confirmed to the author or joint authors by the issue to them of a certificate of authorship.

##### Article 78

The property in a utility model and the exclusive right of use shall be confirmed by the issue of a utility model protection certificate.

##### Article 79

(1) The Patent Office shall be the competent authority for issuing certificates of authorship and utility model protection certificates.

(2) Certificates of authorship and utility models in respect of which protection certificates have been issued, shall be entered in the Register of utility models.

##### Article 80

(1) Registration of the utility model shall bestow exclusive user rights in respect of the model in the course of trade or profession.

(2) The exclusive user right of the utility model shall extend to the entire territory of the state and its term shall be ten years from the date of notification of the utility model to the Patent Office.

##### Article 81

(1) Where a patented invention also has the characteristics of a utility model, the patentee may apply to exchange the patent for the rights derived from utility model registration. This provision does not apply to inventions made by employees.

<sup>1)</sup> Parts I and II of the Polish Inventions Act were published in the December, 1962, issue of *Industrial Property*, pp. 278 *et seq.*

(2) Upon application by the interested party, a utility model protection certificate may in suitable cases be converted into a patent.

#### Article 82

The provisions relating to inventions and patents contained in Article 18, paragraph (1), Article 18, paragraph (4), Articles 20-33, Articles 35-38, Article 39, paragraph (3), as well as Articles 40-75, shall apply appropriately to utility models as well as certificates of authorship and utility model protection certificates.

### PART IV

#### Rationalization Proposals

##### Article 83

(1) A proposal not having the characteristics of an invention or a utility model shall be regarded as a rationalization proposal, if, in the field of the national economy:

1. by technological application, it introduces improvements relating to the quality of products, technical control methods, testing or safety and operational hygiene, or
2. enables increased performance or improved utilization of the factors of production, energy, appliances, materials and raw materials.

(2) Rationalization proposals may also reside in the adaptation of a known solution to the requirements of a unit of the national economy.

##### Article 84

A rationalization proposal is deemed to be new if it has not previously been notified to or used by others in the unit of the national economy to which it has been notified, or if it was not recorded in the plans of this unit, or if its use had not been recommended by the superior unit after disclosure of its nature and the solution of the problem.

##### Article 85

Rationalization proposals which cannot be used independently of each other shall be regarded as a single rationalization proposal.

##### Article 86

A rationalization proposal which constitutes a development or which augments another proposal used in the unit concerned of the national economy, and which satisfies the requirements of Articles 83 and 84, shall be regarded as an independent rationalization proposal only in respect of that part of it which constitutes the said development or augmentation.

##### Article 87

Where such a rationalization proposal has been filed in a unit of the national economy which is the same as one which had already been notified to the same unit by another person, but which had not been accepted for use at that time, the person who had previously made the proposal shall be deemed to be the author.

##### Article 88

(1) Authorship of a rationalization proposal shall belong to the author or joint authors of the rationalization proposal.

The provisions of Article 14, paragraph (2), shall apply accordingly.

(2) Authorship of a rationalization proposal shall be confirmed to the author or joint authors by the issue to them of a rationalization certificate.

(3) The rationalization certificate shall be issued by the unit of the national economy in which the proposal was first used.

##### Article 89

Where the subject of a rationalization proposal is held to be a problem which is also the subject of an invention or a utility model protected in Poland, the rationalization certificate shall be declared invalid upon application by an interested party. The Patent Office shall be the competent authority for deciding on declarations of invalidity of rationalization certificates.

##### Article 90

(1) The provisions of this Act shall not apply to proposals which have the characteristics referred to in Articles 83 and 84, and which have been notified by scientific workers, scientific research workers or technologists employed in organizational units conducting scientific, development or manufacturing work, if these proposals have been developed by such workers in the course of their duties.

(2) Rules relating to the application of the provisions of paragraph (1) shall be made by the President of the Committee for Technical Matters, by agreement with the Central Council of the professional bodies, and after obtaining the views of the governing technical organization and other competent technical organizations.

##### Article 91

Article 58, paragraphs (1) and (4), as well as Article 59, shall apply appropriately to rationalization proposals.

### PART V

#### The Use of Inventive Proposals in the National Economy

##### Article 92

(1) All units of the national economy shall be equally entitled, according to their functions in the economy plans, to use inventive proposals made by employees as well as other inventive proposals constituting state property.

(2) The unit of the national economy shall be required to make available inventive proposals to other interested units without payment upon refund of the documentation expenses.

(3) The provisions of paragraphs (1) and (2) shall not apply where the unit of the national economy is entitled by contract to use an inventive proposal not made by an employee.

(4) The Ministerial Council may, in certain cases which are exceptional due to special circumstances, apply other principles relating to the use of inventive proposals made by employees as well as other inventive proposals in the national economy representing state property.

## Article 93

The employee-author of an inventive proposal is required to notify the proposal to that unit of the national economy in which the proposal was made.

## Article 94

The author of an inventive proposal not having the characteristics of an inventive proposal made by an employee may notify the proposal to a unit of the national economy which is competent with regard to the nature of the proposal for the purpose of using the proposal in accordance with the principles laid down in this law regarding inventive proposals made by employees, or according to the conditions of a contract of sale, licence agreement or other agreement.

## Article 95

(1) The unit of the national economy shall ascertain whether the inventive proposal notified is capable of use in its field of activity or indeed in the national economy.

(2) The costs of the examination and any tests required for judging the inventive proposal shall be borne by the unit of the national economy. This unit is moreover required to complete the necessary application procedure at its own expense if the author of the proposal is not able to do so himself.

(3) In the case of inventions or utility models not originating from employees, the provisions of paragraph (2) shall apply only if they were notified for use in the national economy in accordance with the principles applying to inventive proposals made by employees.

## Article 96

(1) After examination of the inventive proposal notified (Article 95), the unit of the national economy shall make the decision as to acceptance of the proposal for use in its entirety or in part, or as to rejection of the proposal as unusable in the unit concerned.

(2) In the event of rejection of the proposal on the ground that it is unusable the unit of the national economy is required at the same time to refer the proposal to its superior unit for examination, if it holds that the proposal may be usable in other units of the national economy. The author shall be notified if the proposal is referred in this way.

(3) Upon demand by the author of the proposal the unit of the national economy is required to refer the proposal to another unit of the national economy if the proposal has not been accepted for use in its entirety.

(4) The units of the national economy to whom the inventive proposal has been referred in accordance with paragraphs (2) and (3), shall examine the proposal and thereafter decide as to its acceptance for use or its rejection. The provisions of paragraphs (1) to (3) shall apply as appropriate.

## Article 97

If the inventive proposal made by an employee has been held to be unusable in the national economy and the decision which has been promulgated in this matter has been made final (Article 96), the competent Minister shall permit the

author of the proposal to apply for a patent or utility model in respect of the inventive proposal in the name of the author.

## Article 98

A unit of the national economy may decline realization of an inventive proposal which has been accepted for use, or limit its use, only with the approval of the superior unit, and the superior unit is required to examine the possibility of realization of the inventive proposal by other units of the national economy.

## Article 99

The Ministerial Council shall determine the principles on which the inventive proposal shall be disseminated throughout the units of the national economy with a view to the proposal being utilized in the national economy to the greatest possible extent.

## Article 100

Professional institutions and technical associations, technological societies and other social organizations competent in matters relating to inventions may, in the interests of authors who are members of these organizations, appear before units of the national economy in connection with matters relating to the use and utilization of the inventive proposals.

## PART VI

## Remuneration for Inventive Proposals

## SECTION I

*Remuneration for inventive proposals made by employees*

## Article 101

(1) The employee-author of an inventive proposal accepted for use by one or more units of the national economy is entitled to remuneration in accordance with the principles laid down in this Act.

(2) The basis for deciding the amount of remuneration for an inventive proposal made by an employee shall be the effects resulting from the application of the proposal.

## Article 102

(1) Remuneration for an employee-invention shall be paid annually in respect of the period during which the invention has actually been used in the national economy, but not for more than the first five years of its use.

(2) In cases where this is justified, remuneration on an appropriately reduced scale may be paid in respect of an employee-invention for a further period of five years.

(3) The period of experimental use of the invention shall not count towards the periods provided for in paragraphs (1) and (2).

(4) Remuneration shall be payable only over a period of fifteen years from the date of notification of the invention to the Patent Office.

## Article 103

Remuneration for an employee-invention shall also be payable where the patent has ceased as a result of surrender or arrears in official fees (Article 70, paragraph [1]).

## Article 104

(1) Remuneration for an employee-utility model as well as for a rationalization proposal shall be payable for the period of actual use of the utility model or rationalization proposal in the national economy, but for not longer than a period of use of twelve months.

(2) The basis for determining remuneration shall be the greatest effects which were achieved resulting from the use of the utility model or rationalization proposal over a period of twelve months during the first two years of its use.

(3) Remuneration for an employee-utility model shall be payable only over a period of ten years from the date of notification of the model to the Patent Office.

## Article 105

Until a patent is granted for an employee-invention, the author shall be paid a provisional remuneration in accordance with the principles relating to the remuneration for rationalization proposals. The provisional remuneration shall be deducted from the remuneration paid in respect of the invention.

## Article 106

If the remuneration provided for in a contract relating to the use of an inventive proposal made by an employee (Article 7, paragraph [3]), is less than that which would be payable in accordance with the provisions of Articles 101-105, the author of the proposal is entitled to remuneration in accordance with these provisions.

## Article 107

If an inventive proposal made by an employee, which has been accepted for utilization, cannot be used immediately and is only intended to be used at a future date, the author of the proposal shall be entitled to provisional remuneration on a scale determined by the competent Minister, or, in respect of organizational units under the direction of State Councillors, by the President of the Presidium of the National Council of the *Wojewodschaft* (of the town). The provisional remuneration shall be deducted from the remuneration paid to the author after the proposal is put into use. If the proposal is not used the provisional remuneration shall not be repayable.

## Article 108

If the national economy derives any advantages from application for protection abroad of an invention or a utility model (Article 75), the author of the invention or utility model shall be entitled to additional remuneration which shall be determined in accordance with the advantages derived.

## Article 109

The employee-author of an inventive proposal shall be entitled to special remuneration for providing documentation enabling utilization of the proposal.

## Article 110

(1) Remuneration paid for inventive proposals made by employees shall not be liable to repayment.

(2) The provision of paragraph (1) shall not apply if the remuneration was paid for the benefit of a person who has acted maliciously or in respect of a punishable act.

## Article 111

The provisions of civil law shall be applied appropriately to remuneration for inventive proposals made by employees in relation to matters which are not provided for in this Act or any regulations made thereunder.

## Article 112

(1) The remuneration payable in respect of an inventive proposal made by an employee shall be determined by the unit of the national economy in which the proposal was adopted for use.

(2) The unit of the national economy mentioned in paragraph (1) shall pay the remuneration. The competent Minister and, in respect of units under the direction of State Councillors, the President of the Presidium of the National Council of the *Wojewodschaft* (of the town), may nominate a different unit of the national economy for the purpose of payment.

## Article 113

(1) If the employee-author of the inventive proposal is not satisfied with the amount of remuneration determined by the unit of the national economy, he shall be entitled to refer to the superior unit for determination of the remuneration.

(2) The superior unit shall determine the amount of remuneration after seeking the views of a fellow organ which shall also consist of the representatives of professional bodies and technical associations. An appeal against the decision shall lie to the superior organ.

(3) An employee-author of an inventive proposal who is not satisfied with the remuneration determined in accordance with the procedure according to paragraph (2), shall be entitled to refer to the Referee Committee of the Patent Office (Article 123) for determination of the remuneration.

## Article 114

(1) Any person assisting the employee-author of an inventive proposal in the execution or development of the proposal in the national economy shall be entitled to remuneration.

(2) Persons who have collaborated in the realization of an inventive proposal made by an employee or who have contributed to accelerating its utilization or its dissemination shall be entitled to a reward.

## Article 115

The Ministerial Council shall, in co-operation with the Central Council of the professional bodies and after seeking the views of the governing technical organization and other competent technical organizations, determine precise principles concerning:

1. determination of the basis for calculating the amount of remuneration;

2. calculation of remuneration for employee-authors of inventive proposals as well as the remuneration provided for in Articles 107, 108, 109 and Article 114, paragraph (1), and also payment of this remuneration and advances of remuneration;
3. determination of the rewards provided for in Article 114, paragraph (2), as well as the procedure for determining these rewards;
4. determination of the cases where the provisions of Article 102, paragraph (2), apply;
5. responsibility for new working standards resulting from the use of the inventive proposal in relation to the author of the proposal and the persons mentioned in Article 114, paragraph (2).

## SECTION II

*Remuneration for inventions and utility models  
not made by employees*

## Article 116

(1) The author of an invention or utility model which does not constitute an inventive proposal made by an employee and which is being used by a unit of the national economy, shall be entitled to remuneration or a royalty or other payment in accordance with the provisions of the Agreement for the assignment of the property rights or the licence authorising the use of the invention or utility model.

(2) In accordance with Article 94, where an invention or utility model has been accepted for utilization in the national economy according to the provisions for inventive proposals made by employees, remuneration for the invention or utility model shall be payable in accordance with the provisions of Articles 101-113 and Article 115.

## Article 117

(1) A unit of the national economy may enter into agreements for an assignment in its own favour or for a licence authorising it to use an invention or utility model which does not constitute an inventive proposal made by an employee, only in accordance with the provisions of this Act relating to the value of the property and the calculation of remuneration in respect of inventive proposals made by employees.

(2) The competent Minister may, with the agreement of the Minister of Finance, determine the remuneration according to principles other than those provided in paragraph (1), in cases where special considerations apply.

## Article 118

The provisions of this Act relating to the determination of the value of the property and the calculation of the remuneration for inventive proposals made by employees shall also apply in cases in which a unit of the national economy enters into an agreement with a party which is not a unit of the national economy, for the assignment of the property rights to the latter, or for a licence to use an invention or utility model which constitutes state property.

## PART VII

## Procedure - Register - Fees

## Article 119

The Patent Office, the organs of national administration as well as the units of the national economy, shall use the provisions of the law relating to administrative procedure and, in litigation, the procedure according to Article 112, paragraph (2), in all decisions and resolutions provided for in this law or proceedings based thereon.

## Article 120

(1) The Patent Office shall decide in the following matters in connection with litigation:

1. declaration of nullity of a certificate of authorship, a rationalization certificate, a patent and the rights arising from registration of a utility model;
2. revocation of a patent or of the rights arising from registration of a utility model;
3. assignment of a patent or of the rights arising from the registration of a utility model acquired by a person not entitled thereto (Article 54);
4. the declaration of the dependence of a patent or utility model;
5. the right to use a patent or utility model in the cases specified in Articles 44, 68 and 72;
6. determination of non-infringement of a patent or registered utility model by a particular manufacture;
7. determination to the effect that an invention or utility model was made by an employee;
8. determination of the identity of the author or joint authors of an inventive proposal made by an employee or employees;
9. determination to the effect that a proposal notified to a unit of the national economy is an inventive proposal;
10. determination of entitlement to compensation by the author of an inventive proposal made by an employee;
11. other matters relating to litigation proceedings in respect of which the Patent Office is competent.

(2) The Patent Office shall decide the matters mentioned in paragraph (1), as a Tribunal in which the representatives of the professional bodies and technical associations participate.

## Article 121

Appeals and complaints against the decisions of the Patent Office mentioned in Article 119, as well as appeals and complaints against the decisions of the Patent Office issued in accordance with the procedure mentioned in Article 120 shall be heard by the Appeal Commission of the Patent Office. The Appeal Commission shall reach its decisions as a Tribunal with the representatives of the professional bodies and technical associations participating.

## Article 122

The Ministerial Council shall make rules for:

1. constituting the Appeal Commission and determining its compensation and the manner of selecting and remunerating its members;



2. determine the procedure for litigation before the Patent Office and the Appeal Commission.

#### Article 123

(1) The value of the property accruing to the national economy as a result of utilization of the inventive proposal and the remuneration due shall, if in dispute, be decided by the Referee Committee of the Patent Office. The Referee Committee shall reach its decision as a Tribunal in which the representatives of the professional bodies and technical associations participate.

(2) The Ministerial Council shall make rules for constituting the Referee Committee and determining the composition and the manner of selecting and remunerating its members, as well as the manner in which it is to function.

(3) The decisions of the Referee Committee shall be final and not subject to further appeal. These decisions shall be carried into effect by judicial execution.

#### Article 124

(1) The Tribunals of the Patent Office hearing the matters in accordance with Article 120, and of the Referee Committee (Article 123) shall be presided over by judges selected by the Minister of Justice from the Judges of the Courts of the *Wojewodstwach*, resident in the territory of the capital, Warsaw.

(2) The Tribunals of the Appeal Commission of the Patent Office hearing the matters (Article 121) shall be presided over by Judges selected by the First President of the Supreme Court from the Judges of that Court.

#### Article 125

Matters which do not fall within Articles 119-124 and which relate to civil claims concerning inventions, shall be decided by arbitration.

#### Article 126

(1) The Patent Office shall keep a register of patents and utility models intended for entries provided for by this Act and by regulations made in accordance therewith.

(2) Ignorance of entries in the register shall not be a defence.

(3) The President of the Patent Office shall determine the manner in which the registers shall be kept, the conditions and the manner of making entries therein, inspection of the registers and the supply of extracts therefrom.

#### Article 127

(1) In connection with the protection of inventions and utility models, registration fees and periodic fees shall be payable, which shall be due at prescribed intervals throughout the term of protection.

(2) The Ministerial Council shall make rules for determining the matters in respect of which fees shall be payable and the amounts thereof, the intervals at which they are due and also the circumstances in which these fees may be entirely or partially remitted. These rules shall also specify the circumstances in which the terms for the payment of fees shall be

extended, and the circumstances in which patents shall be restored.

### PART VIII

#### Penal Provisions

#### Article 128

(1) Anyone infringing the exclusive right arising from a patent for an invention or the registration of a utility model shall be liable to detention for a term not exceeding six months or a fine or both.

(2) Anyone using a third party's invention or utility model, knowing that the invention or utility model has been notified to the Patent Office, is liable to the same penalty. A prosecution may not be brought until after the grant of the patent for the invention or the registration of the utility model. The period for statute bar shall not start until then.

(3) Where the public interest has not been damaged, prosecution shall take place at the instance of the person aggrieved.

#### Article 129

(1) Anyone marking articles which do not enjoy the protection arising from a patented invention or the registration of a utility model, with designations or symbols calculated falsely to give the impression that these articles do enjoy such protection shall be liable to detention for a term not exceeding six months or a fine or both.

(2) Anyone trading in or preparing or storing for trade articles mentioned in paragraph (1), knowing them to be deceptively marked, or distributing information calculated to give the impression that these articles do enjoy protection, by publications, communications or other means, shall also be liable to the same penalty.

#### Article 130

(1) Anyone who appropriates the right to apply for a patent for an invention or to registration of a utility model belonging to a third party, and who files an application for a patent for an invention or a utility model belonging to a third party shall be liable to detention for a term not exceeding two years or a fine or both.

(2) Anyone infringing the rights in an invention, a utility model or rationalization proposal belonging to a third party, for the purpose of achieving for himself or others material or personal advantages shall be liable to detention for a term not exceeding one year or a fine or both.

#### Article 131

In matters relating to the offences mentioned in Articles 128-130, the Court may, at the instance of the person aggrieved, order publication of the decision in periodicals at the expense of the person convicted.

#### Article 132

Anyone who, despite the obligation imposed on him to desist from using and selling illegally manufactured articles and means solely adapted for the manufacture of these articles (Article 56), uses or sells these articles, shall be liable to a



fine. Prosecution shall take place at the instance of the person aggrieved.

#### Article 133

Anyone contravening the provisions of this Act relating to secret inventive proposals or to keeping inventive proposals secret, shall be subject to the penal liabilities provided in the enactments relating to the protection of state and official secrets.

#### Article 134

Anyone causing damage to the national economy by exceeding his entitlements or through failure to fulfil his official duties in the execution of the obligations relating to the national economy specified in this Act, and in the regulations based thereon, shall be subject to the penal liabilities provided for offences by employees.

#### Article 135

A Polish citizen contravening the provisions of this Act relating to relations with foreign countries in the matter of inventions, shall be liable to imprisonment or detention for a term not exceeding two years or a fine or both.

### PART IX

#### Transitional and Final Provisions

#### Article 136

(1) The provisions of this Act relating to units of the national economy shall apply to professional organizations, trade union organizations, associations and other social organizations in relation to their economic and scientific activities.

(2) The competent head offices of the organizations mentioned in paragraph (1) shall, by agreement with the President of the Committee for technical matters, issue regulations relating to their own activities, which apply the executive provisions issued on the basis of this Act to the structure of their subordinate and associate organs and units.

#### Article 137

The Minister of Defence and the Minister of the Interior shall issue regulations relating to their own activities which apply the executive provisions issued on the basis of this Act to the structure of their subordinate units.

#### Article 138

In the field governed by this Act the provisions relating to the supply of goods and the performance of work and duties for the benefit of units of the national economy shall not apply to duties and work performed for the benefit of such units.

#### Article 139

(1) Any rights relating to inventions, utility models and technical developments and improvements acquired before the coming into force of this Act, shall remain in force. The provisions hitherto applicable shall apply to these rights.

(2) Any proceedings in matters relating to inventive proposals which had not been concluded at the date of the coming

into force of this Act, shall be governed by the provisions of this Act.

#### Article 140

(1) All remuneration for inventive proposals made by employees as well as for technical assistance by collaborators, shall be free from all taxes and official fees. This provision shall also relate to remuneration for inventive proposals not made by employees, which have been dedicated to the State in accordance with the principles governing inventive proposals made by employees.

(2) Payments, licence fees and other fees for an assignment of proprietary rights or a licence to use an invention or a utility model not made by an employee, executed in favour of a unit of the national economy, shall be liable to tax in accordance with the provisions relating to taxation of remuneration in the same way as remuneration for creative work.

#### Article 141

Wherever Ministers are referred to in this Act, this expression shall also include the Presidents of Commissions and Committees who exercise the functions of the supreme organs of national administration, as well as heads of central offices.

#### Article 142

(1) The Ministerial Council shall make rules for determining which proposals for new shapes of plastic products of industry or trade shall be regarded as design models.

(2) The Ministerial Council shall make rules promulgated by agreement with the Central Council of the professional bodies and specifying precisely the regulations relating to the protection of design models; the extent to which the provisions of this Act relating to utility models shall apply in relation to design models shall also be determined.

#### Article 143

(1) The following shall be repealed:

1. the provisions of the rules dated 22<sup>nd</sup> March, 1928, relating to the protection of inventions, models and trade marks (Law Folio No. 39, Position 384 with subsequent amendments), in matters relating to inventions, utility models and design models;
2. the Act dated 20<sup>th</sup> December, 1949, relating to inventions and utility models concerning defence (Law Folio No. 63, Position 496);
3. the Act dated 18<sup>th</sup> July, 1950, relating to licences for the use of inventions and utility models (Law Folio No. 36, Position 331);
4. the decree of the 12<sup>th</sup> October, 1950, relating to inventions made by employees (Law Folio for the year 1956, No. 3, Position 21 with subsequent amendments).

(2) The following shall also be repealed:

1. Article 194, paragraph (1), point 9 of the Code relating to administrative proceedings;
2. Article 8, paragraph (2) (e): the last sentence of the decree of the 26<sup>th</sup> October, 1950, relating to income tax (Law Folio for the year 1957, No. 7, Position 26 with subsequent amendments).

(3) Up to the date of issue of rules of procedure provided for in this Act, the present rules of procedure which were issued by virtue of the statutes mentioned in paragraph (1) shall remain in force.

Article 144

This Act shall come into force on the 1<sup>st</sup> October, 1962.

## **GENERAL STUDIES**

**Report of the British Departmental Committee  
on Industrial Designs**





G. R. W.

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**Industrial Design Legislation**

By Roy V. JACKSON, New York







## CORRESPONDENCE

### Letter from Italy

By Mario G. E. LUZZATI, Milan

*(Translation)*















## BOOK REVIEW

**La protection des droits des obtenteurs sur les nouvelles espèces ou variétés de plantes et la Convention de Paris du 2 décembre 1961 pour la protection des obtentions végétales** [The protection of rights of plant breeders for new species of plants and the Convention of Paris of 2<sup>nd</sup> December, 1962, for the Protection of New Varieties of Plants], by *B. Laclavière*. Reprinted from the "Bulletin technique d'information des Ingénieurs des Services agricoles", No. 168, April, 1962, Paris.

M. B. Laclavière, Civil Administrator to the Ministry of Agriculture (INRA), was one of the originators of the idea of the protection of the rights of plant breeders on the international level. For this reason, his study is of particular interest.

In a few chapters, the author summarizes the essence of the subject. He gives an historical account of how the problem presented itself to the selectors and plant breeders since the beginning of the XX<sup>th</sup> Century. Apart from a Law dated 14<sup>th</sup> November, 1883, published in the official bulletin of laws and public administrative rulings of the Pontifical States, and which was probably never applied, no provisions then existed. The first claims of plant breeders were submitted in 1904 during the Congress of the "Société pomologique de France" (French Pomological Society). Proposals for draft laws aimed at establishing agricultural patents were presented in France but without success.

In 1936, an association was set up called the International Association of Professional Selectors (ASSINSEL). In 1956, during the ASSINSEL Congress, towards the end of its session, a "vœu" was drafted asking for the convening of an International Conference and requesting that France should be entrusted with its organisation.

The International Conference of Paris for the Protection of plant varieties was scheduled to take place from 7<sup>th</sup> to 11<sup>th</sup> May, 1957. Following this first meeting, of a technical nature, a Committee of Experts prepared a draft Convention. The work of the first meeting was resumed from 21<sup>st</sup> November to 2<sup>nd</sup> December, 1961. At this Diplomatic Conference, the final text of the Convention was drawn up and signed on 2<sup>nd</sup> December by five countries: Germany (Federal Republic), Belgium, France, Italy and the Netherlands<sup>1)</sup>.

<sup>1)</sup> Since the publication of this study, the Convention has been signed by three more countries: Denmark, United Kingdom of Great Britain and Northern Ireland and Switzerland.

M. Laclavière analyses the Convention under the following headings: (1) the reasons for its existence; (2) its field of application; (3) definition of the rights of plant breeders; (4) protection of the name; (5) conditions under which protection is granted; (6) the term of protection; (7) system of protection; (8) establishment of an International Union.

The headquarters of this Union will be in Geneva with the aim of ensuring cooperation between the new organisation and the Unions of the United International Bureaux for the Protection of Industrial, Literary and Artistic Property.

The conclusion of the author is, rightly, optimistic. It is now a matter for the legislators to establish, in their respective countries, legislation providing for the protection of plant breeders.

The last page includes a list of the main publications, in French, relating to the protection of new plant varieties.

M. Laclavière's study will be of interest to both technicians and lawyers. I. S.

## NEWS ITEMS

### GERMANY (Federal Republic)

#### *Appointment of President of the Patent Office of the Federal Republic of Germany*

We are informed that Dr. Kurt Haertel, of the Ministry of Justice of the Federal Republic of Germany, has been appointed, as from 1<sup>st</sup> May, 1963, President of the Patent Office in Munich. He succeeds the late Dr. Herbert Kühnemann, who died suddenly on 12<sup>th</sup> December, 1962<sup>1)</sup>.

We take this opportunity of extending our best wishes to Dr. Haertel on his new appointment.

<sup>1)</sup> See *Industrial Property*, 1962, p. 297.

