

Industrial Property

Monthly Review
of the United International Bureaux for the Protection of Intellectual Property
(BIRPI)

General Index

Second volume — 1963



GENEVA

32, chemin des Colombettes
(Place des Nations)
BUREAUX INTERNATIONAUX REUNIS
POUR LA PROTECTION DE LA
PROPRIÉTÉ INTELLECTUELLE

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1963

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Table of Jurisprudence

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V. Commercial or Trade Name

VI. Indications of Source

VII. Unfair Competition

VIII. Legislation against monopolies

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1. Basis of rights			
(b) Patentable and non-patentable inventions (novelty, technical progress, inventive step, chemical, pharmaceutical, horticultural products, etc.).		<i>Italy.</i> The originality of the invention or the creativeness does not necessarily consist in an impossibility of achievement on the part of an average technician, even though such a test may be used by the court in its appraisal (Rome, Cassation, October 24, 1958)	177
<i>Israel.</i> An article of stationery consisting of a pencil having at one end a cap of plastic material made in one piece with a paper knife, was held to be a collocation and not a combination of elements, since there was no functional interrelation between the pencil and the paper knife (Jerusalem, Registrar, Pat. Appln. 8334, March 26, 1956)	177	Grant of patents forbidden for medicines and processes for their production (Rome, Cassation, United Divisions, No. 2073, July 22, 1960)	108
A patent was refused for a concentrated food product comprising of a bate-together combination of flour and communitated vegetables, possibly admixed with oil, which was held to be a mere mixture of various ingredients (Jerusalem, Registrar, Pat. Appln. 8446, May 21, 1956)	177	Absolute novelty. Contrary to what is the case with many foreign legislations, any disclosure, having taken place in Italy or even merely abroad, in recent times or long ago, whether made by the inventor himself or by third parties, destroys novelty (Rome, Cassation, April 20, 1961; October 13, 1961)	109
Publication. It was held that where a single copy of a leaflet was sent from abroad to a company in Israel, the leaflet had not become a document published in this country (Jerusalem, Registrar, Pat. Appln. 7917, January 4, 1957)	178	<i>United Kingdom.</i> Defence of obviousness. Mixed hot and cold water supplied from same outlet, physical contact between the two fluids not occurring until after emergence from apparatus (London, Chancery Division, July 13, 1962)	196
The objection of obviousness of an invention. The Registrar held that this objection should be used with great caution, as the present state of scientific knowledge did not allow the prediction of the presence or absence of pharmaceutical properties from mere theoretical considerations based on the structure of the compound (Jerusalem, Registrar, Pat. Appln. 8950, September 2, 1960)	177	2. Acquisition of rights	
Patent allowed for a method of determining the presence and properties of fluids in an earth formation traversed by a wellbore by obtaining certain electric data from one or two magnetic fields set up in the bore hole (Jerusalem, Registrar, Pat. Appln. 12 959, May 1961)	177	(a) Formalities, examination, amendments in the course of the procedure of grant, communication of files, etc.	
The Registrar held that if a prior publication was cited against the pending patent application, this publication could be interpreted in the light of general common knowledge, even if such common knowledge did not exist at the time when the cited document was published but only at the time when it was cited (Jerusalem, Registrar, Pat. Appln. 12 496, August 8, 1961)	177	<i>Israel.</i> Only an interested person can lodge an opposition to the grant of a patent. A patent holding company whose business consists merely in possessing patents and granting licenses without being the registered proprietor of such patents, is not entitled to oppose the grant of patents in the same field (Jerusalem, Registrar, Pat. Appln. 8146, November 5, 1956)	178
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The new specific use of a substance can be patentable if the novelty is not merely in the new purpose for which the substance is used, but in the manner in which it is so used (Jerusalem, Registrar, Pat. Appln. 14 933, October 1, 1962)	177	Voluntary amendment of a specification (Jerusalem, Registrar, Patent No. 5996, April 17, 1957)	179
Two applications for patents of addition concerning the use of certain substances as pesticides for particular applications were rejected, where the		Clerical errors occurring in a specification can be corrected by simple application to the Registrar (Jerusalem, Registrar, Patent No. 4602, March 31, 1959)	179
		Computation of periods fixed by the Patents and Designs Ordinance. In regard to the opposition period the Registrar held that the day of publication of the Patents Journal should not be included in the two months' period (Jerusalem, Registrar, Pat. Appln. 11 692, November 27, 1959)	178
		A document in a foreign language (i. e., not being English, Hebrew or Arabic) must be accompanied by an attested translation. The Registrar made an exception for a document drafted in French (Jerusalem, Registrar, Pat. Appln. 7821, December 10, 1959)	178
		Where the applicant had originally omitted to put a claim in the specification and added it at a later date, the patent application had to be post-	

dated to such later date (Jerusalem, Registrar, Pat. Appln. 12 869, January 12, 1961) 178

United Kingdom. A complete specification normally has to be filed within twelve months from the filing of an application for patent accompanied by a provisional application, but not later than fifteen months after the application for a patent (London, Assistant-Comptroller, December 12, 1961) 194

Correction of clerical error in specification. Error resulting from literal translation of foreign specification containing original error (London, Assistant-Comptroller, September 5, 1962) 194

Locus standi in opposition proceedings. Where the subsidiary of a holding company would have been entitled to oppose the grant of a patent, the holding company itself is equally entitled to do so (London, Hearing Officer, February 13, 1962; London, Superintending Examiner, December 27, 1962) 194

(b) Fees for application; legal representatives.

Israel. Patent Attorneys. The mere fact that the client has left his former residence and his Patent Attorney does not know his new address, does not absolve the Patent Attorney from his responsibility for a specific case, for which a Power of Attorney was given to him (Jerusalem, Registrar, Pat. 10 390, March 19, 1959) 180

3. Scope and maintenance of rights

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United Kingdom. Amendment of specification of an invention in course of infringement proceedings (London, Chancery Division, December 11, 1961) 195

Amendment of specification in course of infringement proceeding: Meaning of disclaimer (London, House of Lords, February 13, 1962) 195

Use of invention for the service of the Crown. Government authorisation to "make, use and exercise" patented invention. Whether authorisation includes "vending": Importing drugs for National Health Service (London, Chancery Division, December 21, 1962) 196

(d) Extension.

United Kingdom. Application for extension on ground of war loss. Use of invention by Crown during the war (London, Divisional Court, October 24, 1961) 195

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4. Change of ownership

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(b) Licences.

Israel. Compulsory licence (Jerusalem, Registrar, Patents 8521 and 8663, 7637, August 10, 1961) 180

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United Kingdom. Application for interim injunction to restrain infringement of recently granted patent. No evidence of validity or challenge to validity submitted by either party (London, Court of Appeal, December 12, 1961) 196

7. International law in patent matters

(a) International common law. Independence of patents, etc.

Israel. Where a patent application was filed after the end of the Convention priority year because by the mistake of a clerk the filing papers were sent from abroad not by airmail but by surface mail and arrived too late in this country, the Registrar held that he had no power to grant an extension of time (Jerusalem, Registrar, Pat. Applns. 12 586 and 13 102 of January 8, 1960) 178

United Kingdom. No provision in the Act for the attribution of two different priority dates to different parts of one claim (London, Patents Appeal Tribunal, 1962) 194

III. INDUSTRIAL DESIGNS AND MODELS

United Kingdom. Designs. Validity. Design applied to part of article not sold separately (London, High Court of Justice, December 13, 1961) 196

IV. TRADEMARKS

(b) Acquisition by deposit and registration (formalities, etc.). Individual Marks

Greece. Nationalization of firms. It was decided that a firm whose headquarters were in East Germany, but had been transferred or had continued its activities in West Germany, whereas the East German firm had become nationalized, could validly deposit its mark in Greece. Nationalization carried out without indemnity, according to the custom in practice in the communist countries, could have no legal effect outside the boundaries of the German People's Republic and more particularly in Greece (Greece TMP, No. 1569, 1955; TMD, No. 250, 1959) 62

Israel. An applicant is not entitled as a right to have his trademark registered, but he has to satisfy the Registrar that his trademark is registrable and that he is entitled to registration ("Thermatic" refused in view of "Thermos") (Jerusalem, Registrar, TM Appln. 14 013, July 6, 1956) 180

2. Symbols which may or may not be used as marks

(a) Constitutive elements (lay-out, packaging, bottles, shapes of containers, shapes of products, colours, letters, figures, etc.).

Israel. The following trademarks were refused registration by the Registrar:

- | | | | |
|--|--------------|--|-------|
| — “S. K. M.” (ball bearings) (Jerusalem, Registrar, May 1, 1958) | Pages
182 | The Registrar registered the following trademarks: | Pages |
| — “Paz” (a Hebrew word meaning “gold”) refused as a laudatory term (soap, cosmetics) (Jerusalem, Registrar, May 1, 1958) | 182 | — “Tomatoni” (paste products containing tomato juice) (Jerusalem, Registrar, November 20, 1958) | 183 |
| — “Five-Five” (in Hebrew words) (cosmetics) (Jerusalem, Registrar, May 1, 1958) | 182 | — “Pazphalt” (not directly descriptive of asphalt products made by the applicants, Paz Oil Company) (Jerusalem, Registrar, February 26, 1959) | 183 |
| — “Haute Mode” (cosmetics) (Jerusalem, Registrar, November 18, 1960) | 182 | — “Adenovax” (vaccine against adenovirus) (Jerusalem, Registrar, November 30, 1961) | 183 |
| <i>Italy.</i> The Court upheld a patent for a trademark consisting of the configuration of the bottle of the “Strega” liqueur, which, in the Court’s opinion, had uncommon aesthetical and morphological features (Milan, Court of Appeal, January 29, 1960) | 111 | — “Lipamin” (auxiliary agents for leather and fur industries containing oleyl amines) (Jerusalem, Registrar, November 30, 1961) | 183 |
| A trademark must always be considered as a single unit, even if it consists of different elements (combination or complex marks). As a consequence it is not possible to envisage a partial nullity of the trademark (Rome, Cassation, February 23, 1961) | 112 | — “Calcitonic” (calcium containing tonic) (Jerusalem, Registrar, May 5, 1960) | 183 |
| <i>United Kingdom.</i> Use of initials “GEC” (or “G. E. C.”) and “CEC” (London, Chancery Division, July 31, 1962) | 199 | — “Bisquick” (ready baking mixes) (Jerusalem, Registrar, November 17, 1960) | 183 |
| | | — “Tarsel” (bituminous coating) (Jerusalem, Registrar, March 28, 1961) | 183 |
| (b) Generic or qualitative descriptions. | | The Registrar refused to accept the word “President” in respect of stationery (Jerusalem, Registrar, Applns. Nos. 18 409 and 18 410, May 10, 1961) | 182 |
| <i>Israel.</i> A specific prohibition under Israeli law concerns the word “Standard” which has been protected by a law regulating the standardization of goods. However, this law was amended and the words “Standard” and “Standard Oil” of the Esso Standard Oil Company were registered (Jerusalem, Registrar, Applns. Nos. 14 199 and 14 200, January 3, 1957) | 182 | The Registrar accepted the registration of the following trademarks: | |
| The Registrar did not register the following trademarks: | | — “Gala” (cigarettes) (Jerusalem, Registrar, June 2, 1958) | 182 |
| — “Relaxine” (for a tranquillizer) (Jerusalem, Registrar, February 20, 1958) | 182 | — “Eytan” (a Hebrew word meaning “firm, strong”, for lacquers) (Jerusalem, Registrar, June 12, 1958) | 182 |
| — “Lectric Shave” (for a shaving lotion) (Jerusalem, Registrar, February 20, 1958) | 182 | — “Universol” (agricultural pesticide) upon evidence of use (Jerusalem, Registrar, May 30, 1962) | 182 |
| — “Basak”, a Hebrew word meaning “lightning” (for laundry preparations) (Jerusalem, Registrar, May 1, 1958) | 182 | — “Turnier” (German word) for motorcars (Jerusalem, Registrar, June 16, 1961) | 182 |
| — “Olivia” (for soap) (Jerusalem, Registrar, May 1, 1958) | 182 | — “Primus” (for combs, the usual laudatory term being “Prima” but not “Primus”) (Jerusalem, Registrar, June 18, 1961) | 182 |
| — “Vitaminets” (vitamin preparation) (Jerusalem, Registrar, July 17, 1959) | 182 | — “Red-Seal” (gramophone records) (Jerusalem, Registrar, December 24, 1962) | 182 |
| — “Toplin” (articles of clothing) (Jerusalem, Registrar, November 20, 1958) | 182 | <i>United Kingdom.</i> “Orange Grove” accepted for non-alcoholic orange drinks (so-called “cordials”) (London, Chancery Division, December 21, 1961) | 197 |
| — “Atarax” (for tranquillizers in view of the term “ataraxy”) (Jerusalem, Registrar, May 12, 1960) | 182 | | |
| — “Duplex” (for pharmaceutical preparations having both immediate and protracted action) (Jerusalem, Registrar, December 27, 1956, confirmed by the High Court, Jerusalem, HC 18/57, July 23, 1957) | 182 | (c) Family and geographical names. | |
| — “Kicker” (shoes) (Jerusalem, Registrar, August 13, 1961) | 182 | <i>Greece.</i> The prohibition from registration as marks of surnames of third parties applies generally: it is of no importance whether there is identity or not between the products of the firm whose name has been infringed and those of the infringer (Athens, TMD, No. 254, 1959) | 61 |
| — “Mentafil” (menthol filter cigarettes) (Jerusalem, Registrar, November 18, 1960) | 182 | The denomination “Achaia” (wines) was entitled to registration although designated the place of origin of the product. As a result of long use this word had acquired a “secondary meaning” indicating the wine products of the owner (Athens, TMD, No. 268, 1959) | 61 |
| — “Chromitan” (chrome tanning agents) (Jerusalem, Registrar, June 10, 1960) | 183 | Third party surnames cover both the names of physical persons and the names for registered titles of legal entities (Tricosa) (Athens, TMD, No. 254, 1959; No. 301, 1961) | 61 |
| — “Wheaties” (for wheat-flour-paste products) (Jerusalem, Registrar, June 10, 1960) | 183 | “Attica”, “Creta” and “Naoussa” were rejected as trademarks being mere indications of origin (Athens, TMD, No. 252, 1959, confirmed by the Council of State, No. 794, 1961; TMD, No. 269, 1959; No. 314, 1962) | 61 |

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<i>Israel.</i> The Registrar refused the following marks:		2 A. Goods for which a mark may or may not be registered	
— “Golden Gate” (cigarettes) (Jerusalem, Registrar, November 20, 1958)	183	<i>Israel.</i> Service marks are not registrable. However, the marks “The Diners Club” and “Deutsche Lufthansa” were registered in respect of the following goods: printed matter and air vehicles respectively (Jerusalem, Registrar, TM Applns., Nos. 16 651, 16 026 and 16 027, January 1, 1959)	183
— “Big Ben” (cigarettes) (Jerusalem, Registrar, November 20, 1958)	183		
— “Popeye” (chewing gum) (Jerusalem, Registrar, January 5, 1960)	183		
The Registrar accepted the following marks:		2 B. Well-known marks	
— “Windsor” with picture of Windsor Castle (cigarettes), upon evidence of use (Jerusalem, Registrar, June 16, 1959)	183	<i>Greece.</i> Well-known mark. “Omega” refused for designating fountain pens of Greek origin (Athens, TMD, No. 255, 1959, confirmed by the Council of State, No. 1102, 1960)	62
— “Lady Manhattan” (clothing), upon evidence of acquired distinctiveness (Jerusalem, Registrar, June 13, 1961)	183	<i>Israel.</i> Mark “Rolex” registered in respect of watches. Also accepted for ball-pens and fountain-pens (Jerusalem, Registrar, mark No. 13 252, July 6, 1956)	180
The Registrar accepted the trademark “Prince Consort” in respect of Scotch whisky upon evidence of the fact that this designation had not officially been accepted for use by the British Royal Family (Jerusalem, Registrar, TM Appln. 19 093, May 18, 1962)	182	“His Master Voice” (gramophones and records); “His Masters Choice” (pencils). The second mark was accepted (Jerusalem, Registrar, TM Appln., 14 275, January 23, 1958)	184
<i>Italy.</i> The trademark “Haiti” was refused for coffee as it is customary to indicate such goods (coffee) by the name of the place of origin (Rome, Cassation, July 14, 1953)	111	<i>Italy.</i> The use of a well-known trademark for goods which cannot be confused with those for which it was registered may, in given circumstances, be restrained under the rules forbidding the so-called “parasitical” competition. “Lucky Strike” for a perfume (Turin, Tribunal, March 16, 1949)	113
Use of another’s name as a trademark. “Farouk” not accepted (Rome, Cassation, October 27, 1961; Milan, Court of Appeal, January 22, 1960)	112	The use for different products of an identical trademark did not amount to an act of unfair competition. “Sabrina” protected for cloth and soap (Court of Milan, April 21, 1958)	113
Geographical name used as a fancy name and not as an indication of the origin of the goods. The trademarks “Columbia” and “Capri” accepted (Rome, Cassation, March 18, 1958; February 8, 1961)	111	Representation of a sailor with the characteristic beret of the British navy (Court of Lucca, January 27, 1959)	113
<i>United Kingdom.</i> <i>Bona fide</i> use of own name “Rael Brook” (London, Chancery Division, February 16, 1962)	199	The title of an advertising competition could not be validly protected by a patent for a trademark, as both the original text of the Trademarks Act as well as the classification envisaged merely goods and products. Practice changed by introduction of service marks (Court of Appeal, Milan, February 16, 1960)	111
“Dan River” refused as a trademark (London, Chancery Division, March 5, 1962)	197		
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