

# Industrial Property

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# INTERNATIONAL UNIONS

## Paris Union

### Adhesion to the Lisbon Act

#### ISRAEL

According to a communication received from the Federal Political Department, the following note was addressed by the Embassies of the Swiss Confederation in the countries of the Paris Union to the Ministries of Foreign Affairs of those countries:

*(Translation)*

“ In compliance with the instructions of the Federal Political Department, dated June 18, 1966, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Embassy of Israel in Berne has, in a note dated April 18, 1966, informed the Political Department of the adhesion of its country to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, and at Lisbon on October 31, 1958.

“ In conformity with Article 16 (3) of the said Convention, this adhesion will take effect on July 18, 1966.”

\* \* \*

The effect of this notification is that Israel now becomes bound by the Lisbon Act in addition to the earlier Acts.

## Union of The Hague

### Ratification of the Hague Act of 1960

#### LIECHTENSTEIN

According to a communication received from the Swiss Federal Political Department, Liechtenstein has ratified the Agreement of The Hague concerning the International Deposit of Industrial Designs, of November 6, 1925, as revised at London on June 2, 1934, and at The Hague on November 28, 1960.

The instrument of ratification of Liechtenstein was deposited with the Ministry of Foreign Affairs of the Netherlands on March 1, 1966.

The Act of The Hague of 1960 has also been ratified by France (June 13, 1962) and Switzerland (October 31, 1962).

## Ratification of the Additional Act of Monaco

#### LIECHTENSTEIN

According to a communication from the Federal Political Department, the following note was addressed by the Embassies of the Swiss Confederation in the countries which signed the Additional Act of Monaco to the Ministries of Foreign Affairs of those countries.

“ In compliance with the instructions of the Federal Political Department, dated June 9, 1966, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Principality of Liechtenstein has ratified the Additional Act of November 18, 1961, to the Agreement of The Hague concerning the International Deposit of Industrial Designs of November 6, 1925, revised at London on June 2, 1934. The deposit of the instrument of ratification took place in Monaco on April 20, 1966.

“ In conformity with Article 7 (3) of the said Additional Act, this ratification will take effect on July 9, 1966.”

\* \* \*

At present the following seven countries have ratified the Additional Act signed at Monaco: Belgium, France, Germany (Fed. Rep.), Liechtenstein, Monaco, Netherlands and Switzerland.

## Madrid Union

### Adhesion to the Nice Act

#### SAN MARINO

According to a communication received from the Federal Political Department, the following note was addressed by the Embassies of the Swiss Confederation in the countries of the Paris Union to the Ministries of Foreign Affairs of those countries:

*(Translation)*

“ In compliance with the instructions of the Federal Political Department, dated June 18, 1966, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Republic of San Marino deposited with the Political Department on February 11, 1966, a declaration of adhesion of this State to the Madrid Agreement for the International Registration of Trademarks of April 14, 1891, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, and at Nice on June 15, 1957.

“ In conformity with Article 12 of the said Agreement, this adhesion will take effect on December 15, 1966, date on which the Agreement, as last revised at Nice on June 15, 1957, comes into force.”

## Madrid Union

### Ad hoc Conference of the Directors of the National Industrial Property Offices of Countries Parties to the Madrid Agreement (Trademarks)

(Geneva, May 6 and 7, 1966)

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#### Report

##### Introduction

1. The *ad hoc* Conference of Directors of the National Industrial Property Offices of countries parties to the Madrid Agreement met at the Headquarters of BIRPI in Geneva, on May 6 and 7, 1966.

2. Of the member countries of the Madrid Union, the following were represented: Austria, Belgium, Czechoslovakia, France, Federal Republic of Germany, Italy, Luxembourg, Monaco, Morocco, Netherlands, Portugal, San Marino, Spain, Switzerland, Tunisia, Yugoslavia (16).

3. The following non-member States of the Madrid Union were represented by observers: Algeria, Poland, United States of America (3).

4. The list of participants is attached to this Report (Annex II).

5. The meeting was declared open by the Director of BIRPI, Professor Bodenhausen.

6. The Conference elected by acclamation Mr. François Savignon (France) as Chairman, and Mr. Joseph Voyame (Switzerland) and Mr. Miloslav Špunda (Czechoslovakia) as Vice-Chairmen.

##### Draft Transitional Regulations

7. The Conference examined various proposals for amending the Draft Transitional Regulations of December 15, 1966 (MJ/DO/VII/3), contained in documents MJ/DO/VII/2, 4, 6 and 7.

8. After a careful study, the Conference modified in some respects these documents and unanimously adopted certain amendments to the Draft Regulations. These amendments are reproduced in Annex I of the present Report<sup>1)</sup>.

9. The Delegation of Spain declared that it reserved its position as to the interpretation, resulting from the Draft Transitional Regulations, of the definition of the starting point of the one-year term which, according to Article 5, paragraph (2), of the Nice Act of the Madrid Agreement, is given to national Administrations for declaring that protection cannot be granted to any given mark on their territory. In fact, according to the Spanish Delegation, it would be more in con-

formity with the spirit of the Agreement to count this term of one year from the date on which the international registration was communicated to the national Administrations rather than from the legal date of international registration since, according to the interpretation adopted in the Draft Transitional Regulations, the year given to the national Administrations would to a certain extent be mutilated.

#### Draft Notices

10. The Conference examined the draft notices contained in document MJ/DO/VII/5 and, after having slightly modified them, expressed a favorable opinion on them.

#### Last Minute Filings Before the Entry into Force of the Nice Agreement

11. BIRPI drew the attention of the Conference to the fact that when the date of December 15, 1966, comes nearer, it will be more and more difficult, for the national Administrations, to foresee whether the applications sent by them to BIRPI will arrive at BIRPI before or after the said date. BIRPI requested the national Administrations of the countries which, as from December 15, 1966, will become bound by the Nice Act not to send any applications between December 1 and 14 but to hold the applications received between these dates and send them to BIRPI only on December 15, 1966.

12. The Conference noted this request and recommends the national Administrations to satisfy it to the maximum extent possible.

13. The representatives of BIRPI noted that there will be cases in which national Administrations will not be able to follow this recommendation.

#### Closing of the Meeting

14. In its closing meeting held on May 7, 1966, the Conference unanimously adopted the present Report.

15. In the same meeting, the Conference examined drafts of forms for applications for registrations and renewals (E/N, E/L, R/N) communicated by the Director of BIRPI to national Administrations with his circular letter No. 139 of April 29, 1966. The Conference, after adopting a few slight modifications, unanimously approved the drafts in question.

#### ANNEX I

### Revised Draft Transitional Regulations, dated December 15, 1966, of the Madrid Agreement concerning the International Registration of Trademarks<sup>1)</sup>

#### Summary

Preamble

Chapter I. Applications for International Registration

Article 1. Applications for International Registration Presented to National Administrations

<sup>1)</sup> Annex I, as published hereinafter, reproduces not only these amendments, but the complete Draft Transitional Regulations as amended.

<sup>1)</sup> Provisions which have been amended by the Conference of May 6 and 7, 1966, are indicated by an asterisk.

- Article 2. Applications for International Registration Presented to BIRPI
- Article 3. Printing Block
- Article 4. Reproduction in Color
- Article 5. Fees
- Article 6. Translations and Transliterations
- Article 7. Right to Use Elements of the Mark
- Article 8. Incomplete or Irregular Applications for Registration as to Classification
- Article 9. Incomplete or Irregular Applications for Registration as to Conditions Relating to Color
- Article 10. Other Incomplete or Irregular Applications for Registration
- Article 11. Incomplete or Irregular Applications for Registration Included in a Collective Deposit

#### Chapter II. Registration

- Article 12. Registration

#### Chapter III. Requests for Territorial Extension made Subsequently to the International Registration

- Article 13. Requests for Territorial Extension made Subsequently to the International Registration

#### Chapter IV. Renewal

- Article 14. Unofficial Notice of Renewal
- Article 15. Applications for Renewal
- Article 16. Printing Block
- Article 17. Reproduction in Color
- Article 18. Fees
- Article 19. Incomplete or Irregular Applications for Renewal
- Article 20. Entry in the Register

#### Chapter V. Changes Made in the Entry of the Mark

- Article 21. Transfers, Assignments, and Other Changes
- Article 22. Changes Made in the Entry of the Mark in the National Register also Affecting the International Registration

#### Chapter VI. Registration Certificates and Notifications

- Article 23. Registration Certificates
- Article 24. Notifications
- Article 25. Collective Notifications

#### Chapter VII. Refusals and Invalidation

- Article 26. Refusals and Invalidation

#### Chapter VIII. Publication

- Article 27. Publication

#### Chapter IX. Fees and Other Charges

- Article 28. Fees and Other Charges

#### Chapter X. Distribution of Certain Receipts

- Article 29. (Reserved)

#### Chapter XI. Final Clauses

- Article 30. Amendments
- Article 31. Entry into Force

#### PREAMBLE

The Committee of Directors of the National Industrial Property Offices of the Madrid Union, in accordance with Article 10 (4) of the Nice Act of 1957,

And the Industrial Property Administrations of the countries of the Madrid Union,

Have unanimously decided to adopt the present Transitional Regulations of the Madrid Agreement.

#### CHAPTER I

#### Applications for International Registration

#### Article 1

#### *Applications for International Registration Presented to National Administrations*

Every application for the international registration of a trademark applicable to goods and/or services must be presented by the applicant to the Administration of the country of origin in the form prescribed by that country in its national regulations.

#### Article 2

#### *Applications for International Registration Presented to BIRPI*

(1) If the mark has been duly registered in the country of origin, the Administration of that country shall send to BIRPI an application for registration, in duplicate, completed in the French language on the form supplied free of charge to the Administrations by BIRPI. The form shall be completed by the Administration of the country of origin; alternatively, the Administration shall take steps to see that it is completed correctly. The form shall, in any event, be signed by the said Administration. The Administration shall certify that the mark is entered in its national Register and that the information contained in the application is in conformity with the information recorded in the said national Register.

(2) The application shall indicate:

- (a) the name of the applicant;
- (b) the address of the applicant; if more than one address is given, the application shall specify the one to which notices should be sent; an address for service may not be indicated unless it is clear from other details of the application that the conditions prescribed in Articles 1 and 2 of the Agreement have been complied with;
- (c) the country of the Madrid Union of which the applicant is a national or, if none, in which he is domiciled or has a real and effective industrial or commercial establishment [Articles 1 (1) and 2 of the London Act; Articles 1 (2) and 2 of the Nice Act];
- (d) the country of origin of the mark [Article 1 (2) of the London Act; Article 1 (3) of the Nice Act];
- (e) the name and address of the agent, if any;
- (f) the wording comprising the mark, in the case of a word mark; in the case of a design mark or of a mark including a design element or a special form of script, the application shall show a clear reproduction of the mark, in black print only; if the applicant claims color as a distinctive feature of his mark, the application shall indicate the color or colors claimed; if the mark is comprised, in whole or in part, of the shape of the physical object (in three dimensions) appearing in the application, the latter will indicate the fact by the statement "shape (three-dimensional) mark";
- (g) the dates and numbers of the application and registration concerning the mark in force in the country of origin at the time of the application for international registration, including, where appropriate, a statement

by the applicant that the application in the country of origin is a first application within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property;

- (h) if the application is in respect of a mark which has already been the subject of one or more international registrations, the dates and numbers of such registrations;
- (i)\* the goods and/or services in respect of which protection of the mark is claimed, designated preferably according to the terminology of the international classification and, in any case, grouped according to the classes of that classification;
- (k) if the application comes from a country where the Nice Act is in force, the date on which the application for international registration was received by the Administration of the country of origin; however, if the application for international registration is received by the Administration of such country before the national mark, subject-matter of the application, has been registered, the Administration shall indicate, as date of receipt of the application, the date of registration of the national mark;
- (l) if the application comes from a country where the Nice Act has entered into force, an indication of the countries which have availed themselves of the right provided for by Article 3<sup>bis</sup> of the Agreement in respect of which extension of the effects of international registration is requested;
- (m) the amount and the method of payment of fees in conformity with Article 5 of these Regulations.

(3) The application shall include the fees, in conformity with Article 5 of these Regulations, as well as, where appropriate, the items referred to in Articles 3, 4, 6, and 7, of these Regulations.

(4)\* One of the two copies of the application shall be kept in the archives of BIRPI. The other copy may be destroyed once the registration has been published in *Les Marques internationales*.

### Article 3

#### *Printing Block*

(1) If the mark is a design mark or includes a design element or a special form of writing, the application shall include a printing block of the mark for its reproduction in the publication to be made by BIRPI. This block must exactly reproduce the mark so that all details stand out clearly; the block must not be less than 15 millimeters nor more than 10 centimeters, either in length or in breadth; its exact thickness must be 24 millimeters, corresponding to the depth of the printing characters.

(2) This printing block will not be returned to the proprietor of the mark.

(3) The applicant may send to BIRPI, instead of the printing block, the fee prescribed in Article 28(14) of these Regulations. In such case, BIRPI shall establish the printing block using the reproduction represented on the application.

### Article 4

#### *Reproduction in Color*

If the applicant claims color as a distinctive feature of his mark, the application shall include forty copies of a reproduction in color, upon paper, each side of which shall not exceed 20 centimeters. One of the copies shall be affixed to each of the two copies of the application for registration, in addition to the representation of the mark in black print. If the mark is comprised of several separate parts, these parts must be collected together and pasted on a sheet of strong paper, in the case of each of the forty specimens. The application shall include a brief statement, describing in simple terms the color, or combination of colors, claimed for the essential parts of the mark.

### Article 5

#### *Fees*

(1) The application shall include the basic international fee and, where appropriate, the supplementary fee and the complementary fee prescribed by Article 8(2) (b) and (c) of the Nice Act if the application comes from a country in which the Nice Act has entered into force, or the surcharge prescribed by Article 8(5) of the London Act if the application comes from a country in which the Nice Act has not entered into force, unless they have been sent in advance directly to BIRPI or can be debited to a deposit account with BIRPI. If these sums cannot be debited to a deposit account with BIRPI, they shall be paid either by a cash payment to BIRPI or by postal order, or by payment or transfer to BIRPI's postal cheque account or bank account, or by cheque payable in Geneva.

(2) Every payment shall be accompanied by a statement indicating the name and domicile of the applicant, as well as the mark and the purpose of the payment.

(3) Applications for registration must state clearly upon what date, in what form and by whom the payment has been made. They shall also indicate whether the international fee is being paid immediately for the full twenty years or only for the first ten years. In the case of a collective deposit, all marks included in the deposit must be uniformly deposited for the same period, that is, either for twenty years or for ten years.

### Article 6

#### *Translations and Transliterations*

When the mark includes inscriptions in a language or in characters insufficiently familiar to BIRPI, the Administration of the country of origin shall require the applicant to attach to the international application a French translation or a transliteration into Latin letters of these inscriptions. Upon request, BIRPI shall send copies of any such translation or transliteration to interested national Administrations.

### Article 7

#### *Right to Use Elements of the Mark*

Where appropriate, the Administration of the country of origin may certify on the application for registration that the applicant has justified to the Administration his right to use

any armorial bearing, portrait, honorary distinction, or name of a third party, appearing in the mark.

#### Article 8\*

##### *Incomplete or Irregular Applications for Registration as to Classification*

(1) If the application does not contain a designation of the classes or if the goods and/or services are not grouped according to the classes of the international classification, BIRPI shall itself proceed to the designation and/or grouping. If the application originates in a country bound by the Nice Act, BIRPI shall notify the classifications thus effected to the applicant or his agent through the intermediary of his national Administration, and shall invite the applicant or his agent to pay the classification fee and, when required — that is, if, according to the classification effected, a supplementary fee is due or the amount of the supplementary fee already paid is insufficient — to pay also the supplementary fee or its balance:

- (a) before the expiration of three months counted from the date indicated in Article 2 (2) (k), if the date on which BIRPI received the application precedes the expiration of a term of two months counted from the date indicated in Article 2 (2) (k), or
- (b) within one month from the date of the invitation, if the date on which BIRPI received the application is later than the expiration of a term of two months counted from the date indicated in Article 2 (2) (k).

(2) If BIRPI finds that the goods and/or services, although grouped according to the classes of the international classification, contain errors as to the classification, and

- (a) if the application originates in a country not bound by the Nice Act, BIRPI shall itself proceed to the classification which it considers to be in conformity with the international classification;
- (b) if the application originates in a country bound by the Nice Act, BIRPI shall propose to the national Administration of the applicant the classification which it considers to be in conformity with the international classification, and, when required — that is, if, according to the proposed classification, a supplementary fee is due or the amount of the supplementary fee already paid is insufficient — BIRPI shall at the same time invite the applicant or his agent to pay the supplementary fee within the time limits applicable according to paragraph (1) of the present Article; however, whenever the rectification does not require the necessity to claim a supplementary fee or the balance of a supplementary fee, BIRPI shall be dispensed from asking the agreement of the national Administration provided that such Administration has authorized BIRPI to proceed in the said manner.

(3) (a) Subject to the other provisions of the present Regulations, if the application originates in a country bound by the Nice Act, the international registration — depending on whether BIRPI received the application before or after the expiration of two months counted from the date indicated

in Article 2 (2) (k) — will be given either the date indicated in Article 2 (2) (k) or the date on which BIRPI received the application, provided that any payment possibly due has been received by BIRPI within the time limits indicated in paragraph (1) of the present Article. As far as countries not bound by the Nice Act are concerned, the registration will be given the date on which BIRPI received the application or, if payments were then outstanding, on which such payments were received by BIRPI.

(b) Subject to the other provisions of the present Regulations, if the application originates in a country not bound by the Nice Act, the international registration will be given the date on which BIRPI received the application or, if the surcharge provided for in the London Act (for the case in which the list of goods or services exceeds one hundred words) has to be paid or completed, on which such surcharge or balance of surcharge was received by BIRPI.

(4) If the applicant, instead of paying the supplementary fee or its balance due, asks for such a reduction of the list of goods and services as no longer necessitates such payment, the date of the receipt by BIRPI of this request shall be substituted for the date of receipt of payment by BIRPI.

(5) Shall be considered as abandoned any incomplete or irregular application originating in a country bound by the Nice Agreement in respect of which the classification fee, and the supplementary fee or its balance, if any are due, have not been paid within the prescribed time limits. In such case, the international fee shall be reimbursed to the applicant after retention of 50 francs.

(6) BIRPI shall perform with the greatest possible diligence the acts which it has to perform pursuant to the present Article and shall always indicate the expiry dates of the prescribed time limits.

#### Article 9

##### *Incomplete or Irregular Applications for Registration as to Conditions Relating to Color*

(1) \* If BIRPI finds that any of the conditions relating to color prescribed by Article 3 of the Agreement and by Article 4 of these Regulations are not fulfilled, it shall defer registration; it shall promptly notify the applicant or his agent through the intermediary of his national Administration and shall fix a period of two months as from the date of such notice for the application to be put in order or completed.

(2) When the application has not been put in order or completed within the period fixed, the mark shall be registered and registration notified without taking color into account.

(3) If BIRPI receives from the national Administration an application which has been put in order or completed within the period prescribed by paragraph (1), the date of receipt either by BIRPI or by the national Administration of the application put in order or completed shall be taken into consideration under the provisions of the London and Nice Acts for determining the registration date. However, if the application put in order or completed, transmitted by the Ad-

ministration of a country in which the Nice Act has entered into force, is received by BIRPI before the expiration of a period of two months from the date on which the incomplete or irregular application was received by such Administration, the international registration shall be effected as of that date.

#### Article 10

##### *Other Incomplete or Irregular Applications for Registration*

(1) \* If BIRPI finds that an application for international registration is incomplete or irregular for other grounds than those mentioned in Articles 8 and 9 of these Regulations, it shall defer registration and shall promptly notify the applicant or his agent through the intermediary of his national Administration.

(2) In particular, BIRPI may, according to the same procedure, defer registration:

- (a) if the application contains descriptions of goods and/or services which are incomprehensible or too vague, such as "miscellaneous merchandise," "and other goods," "etc.," or if the description of goods and/or services consists only of an indication of the corresponding classes;
- (b) if the printing block received does not provide a sufficiently clear impression of the features of the mark, or if BIRPI is unable to establish a printing block from the reproduction sent to it, when the printing block is required;
- (c) if the mark bears the sign of a cross liable to be confused with the "Red Cross" and if, in order to avoid certain refusal, it is necessary to obtain from the proprietor a preliminary declaration that the mark will not be used either in red or a similar color;
- (d) if, in the case of an application referring to a previous international registration, the particulars contained in the application do not correspond to the particulars entered on the International Register, without the discrepancy being justified by an appropriate note in the application.

(3) When the application has not been put in order or completed within six months from the date appearing on the notice mentioned in paragraph (1), BIRPI will fix a further period of the same duration for settlement of the matter. BIRPI shall notify the applicant or his agent accordingly, as well as the Administration which requested the registration.

(4) If the application has not been put in order or completed within the period fixed, the application shall be deemed to have been abandoned and the international fee paid shall be returned to the applicant after a deduction of fifty francs.

(5) If BIRPI receives from the national Administration an application which has been put in order or completed within the prescribed periods, the date of receipt either by BIRPI or by the national Administration of the application put in order or completed shall be taken into consideration under the provisions of the London and Nice Acts for determining the registration date. However, if the completed or regularized application transmitted by the Administration of a country in which the Nice Act has entered into force is received by BIRPI before the expiration of a period of two

months from the date on which the incomplete or irregular application was received by such Administration, the international registration shall be effected as of that date.

#### Article 11

##### *Incomplete or Irregular Applications for Registration Included in a Collective Deposit*

When an incomplete or irregular application for registration of a particular mark is part of a collective deposit, registration of all the marks included in the deposit shall be suspended, unless the Administration concerned or the applicant requests BIRPI to consider the mark as withdrawn from the collective deposit and to treat it as a separate deposit.

#### CHAPTER II

#### Registration

#### Article 12

##### *Registration*

(1) BIRPI shall enter the mark, without delay, in a Register which shall contain the following particulars:

- (a) the serial number of the international registration;
- (b) the wording comprising the mark or a reproduction of the mark;
- (c) where appropriate, the particulars relating to a claim of color;
- (d) where appropriate, a statement that the mark is a "shape (three-dimensional) mark";
- (e) the name and address of the proprietor of the mark;
- (f) the date or dates on which the registration has taken effect;
- (g) the term for which the basic fee has been paid;
- (h) \* the goods and/or services to which the mark is applied, grouped according to the classes of the international classification;
- (i) the countries to which the registration is to be notified;
- (k) the country of origin of the mark;
- (l) the dates and numbers of the application and registration of the mark in force in the country of origin at the time of the application for international registration, including, where appropriate, a statement by the applicant that the application in the country of origin is a first application within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property;
- (m) where appropriate, the particulars of a previous international registration or of any earlier international registrations referred to in connection with the application for registration and particulars relating to changes not yet entered which have occurred since the latest registration.

(2) In addition, the Register shall contain:

- (a) BIRPI's entries for administrative purposes;
- (b) \* particulars concerning the status of the mark after registration, such as: refusal of protection, limitations, transfers, renunciations, requests for territorial extension provided for in Article 3<sup>ter</sup> (2) of the Agreement, cancellations, renewals or new applications referring to previous registrations, etc.

## CHAPTER III

Requests for Territorial Extension made Subsequently  
to the International Registration

## Article 13

*Requests for Territorial Extension made Subsequently  
to the International Registration*

(1) This article is applicable only if the country of origin, or, where appropriate, the country of the proprietor, has ratified or acceded to the Nice Act.

(2) Any request for territorial extension [Article 3<sup>ter</sup> (2) of the Nice Act] sent to BIRPI by the Administration of the country of origin of the mark, or, where appropriate, by the Administration of the country of the proprietor, subsequently to the international registration, shall be presented in duplicate on the form supplied free of charge to the Administrations by BIRPI. The request shall be written in the French language. It shall indicate:

- (a) the name and address of the proprietor of the mark;
- (b) the number and date of the international registration;
- (c) the country or countries in respect of which the request for territorial extension is made;
- (d) the goods and/or services in respect of which the territorial extension is applied for, if the protection is not claimed in the countries concerned for all the goods and/or services entered in the International Register;
- (e) the amount and the method of payment of the complementary fee and the entry fee [see paragraph (3), below].

(3) The complementary fee [Article 8 (2) (c) of the Nice Act] and the fee in respect of the entry in the Register [Article 28 (1) of these Regulations] must be paid to BIRPI before or at the same time as the request is made. If BIRPI has not received these fees at the time it receives the request, it shall defer inscription until receipt of the payment.

(4) BIRPI shall without delay enter in the Register the request for territorial extension. If it finds that the application is incomplete or irregular, it shall apply, *mutatis mutandis*, the provisions of Article 10 of these Regulations.

(5)\* One of the two copies of the request for territorial extension shall be kept in the archives of BIRPI. The other copy may be destroyed once the territorial extension has been published in *Les Marques internationales*.

## CHAPTER IV

## Renewal

## Article 14

*Unofficial Notice of Renewal*

The unofficial notice mentioned in Article 7 (4) of the Agreement:

- (a) shall indicate the exact date of expiration of the international registration;
- (b) shall indicate, if the country of the proprietor of the mark has ratified or acceded to the Nice Act, the countries which have exercised the right given by Article 3<sup>bis</sup> of the Nice Act and shall specify that the proprietor must name those countries in which he wishes to maintain the protection;

- (c)\* shall contain a notice that the goods and/or services mentioned in the Register in respect of the mark in question must, in the application for renewal, be grouped according to the classes of the international classification;
- (d) shall contain a warning to the effect that, if the request contains any modification in relation to the registration to be renewed, or is received by BIRPI after the expiration of the prescribed periods, it will be treated as an application for new registration.

## Article 15

*Applications for Renewal*

(1) In order to effect renewal of the international registration, the Administration of the country of the proprietor of the mark shall send to BIRPI, no sooner than twelve months before the expiration of the existing registration, an application for renewal, in duplicate, completed in the French language on the form supplied free of charge to the Administrations by BIRPI. The form shall be completed by the Administration of the country of the proprietor of the mark; alternatively, the Administration shall take steps to see that it is completed correctly. The form shall, in any event, be signed by the said Administration.

(2) The application shall indicate:

- (a) the date and number of the international registration subject to renewal;
- (b) the name of the proprietor of the mark;
- (c) the address of the proprietor; if more than one address is given, the application shall specify the address to which notices should be sent; an address for service may not be indicated unless it is clear from the particulars referred to in (d) and (e), below, that the conditions prescribed in Articles 1 and 2 of the Agreement have been complied with;
- (d) the country of the Madrid Union of which the proprietor is a national or, if none, in which he is domiciled or has a real and effective industrial or commercial establishment [Articles 1 (1) and 2 of the London Act; Articles 1 (2) and 2 of the Nice Act];
- (e) the country of the proprietor of the mark within the meaning of the Nice Act; the country of origin at the time of renewal, within the meaning of the London Act;
- (f) the name and address of the agent, if any;
- (g) the wording comprising the mark, in the case of a word mark; in the case of a design mark or of a mark including a design element or a special form of script, the application shall show a clear reproduction of the mark, in black print only; if color is claimed as a distinctive feature of the mark, the application shall indicate the color or colors claimed; if the mark is comprised, in whole or in part, of the shape of the physical object (in three dimensions) appearing in the application, the latter will indicate the fact by the statement "shape (three-dimensional) mark";
- (h) the dates and numbers of the application and registration concerning the mark in force in the country of origin at

the time of renewal, within the meaning of the London Act;

- (i) the dates and numbers of previous international registrations, if any;
- (k) \* the goods and/or services in respect of which protection of the mark is claimed, grouped according to the classes of the international classification;
- (l) in the circumstances envisaged under Article 19 (2) of these Regulations, if the application comes from a country where the Nice Act has entered into force, the date on which the application for renewal was received by the Administration of that country;
- (m) if the application comes from a country where the Nice Act has entered into force, an indication of the countries which have availed themselves of the right provided for by Article 3<sup>bis</sup> of the Agreement, and in respect of which extension of the effects of international registration is requested;
- (n) the amount and the method of payment of fees in conformity with Article 18 of these Regulations.

(3) The application shall include the fees, in conformity with Article 18 of these Regulations, as well as, where appropriate, the items referred to in Articles 16 and 17 of these Regulations.

(4) \* One of the two copies of the application for renewal shall be kept in the archives of BIRPI. The other copy may be destroyed once the renewal has been published in *Les Marques internationales*.

#### Article 16

##### *Printing Block*

(1) If the mark is a design mark or includes a design element or a special form of writing, the application shall include a printing block of the mark for its reproduction in the publication to be made by BIRPI. This block must exactly reproduce the mark so that all details stand out clearly; the block must not be less than 15 millimeters nor more than 10 centimeters, either in length or in breadth; its exact thickness must be 24 millimeters, corresponding to the depth of the printing characters.

(2) This printing block will not be returned to the proprietor of the mark.

(3) The proprietor of the mark may send to BIRPI, instead of the printing block, the fee prescribed in Article 28 (14) of these Regulations. In such case, BIRPI shall establish the printing block using the reproduction represented on the application.

#### Article 17

##### *Reproduction in Color*

If the proprietor claims color as a distinctive feature of his mark, the application shall include forty copies of a reproduction in color, upon paper, each side of which shall not exceed 20 centimeters. One of these copies shall be affixed to each of the two copies of the application for renewal, in addition to the representation of the mark in black print. If the mark is comprised of several separate parts, these parts must be collected together and pasted on a sheet of strong paper, in

the case of each of the forty specimens. The application shall include a brief statement, describing in simple terms the color, or combination of colors, claimed for the essential parts of the mark.

#### Article 18

##### *Fees*

(1) The application shall include the basic international fee and, where appropriate, the supplementary fee and the complementary fee prescribed by Article 8 (2) (b) and (c) of the Nice Act if the application comes from a country in which the Nice Act has entered into force, or the surcharge prescribed by Article 8 (5) of the London Act if the application comes from a country in which the Nice Act has not entered into force, unless they have been sent in advance directly to BIRPI or can be debited to a deposit account with BIRPI. If these sums cannot be debited to a deposit account with BIRPI, they shall be paid either by a cash payment to BIRPI or by postal order, or by payment or transfer to BIRPI's postal cheque account or bank account, or by cheque payable in Geneva.

(2) Every payment shall be accompanied by a statement indicating the name and domicile of the proprietor, as well as the mark and the purpose of the payment.

(3) Applications for renewal must state clearly upon what date, in what form, and by whom the payment has been made.

#### Article 19

##### *Incomplete or Irregular Applications for Renewal*

(1) The provisions of Articles 8, 9, 10 and 11 of these Regulations shall be applicable, *mutatis mutandis*, to renewals, in as much as the applications for renewal are received by BIRPI within the prescribed periods.

(2) If the application for renewal contains a modification in relation to the registration to be renewed, or is received by BIRPI after the expiration of the prescribed periods, BIRPI may treat it as a new application for registration.

#### Article 20

##### *Entry in the Register*

Article 12 of these Regulations shall be applicable, *mutatis mutandis*, to renewals.

#### CHAPTER V

##### Changes Made in the Entry of the Mark

#### Article 21

##### *Transfers, Assignments, and Other Changes*

(1) The transfers and assignments referred to in Articles 9<sup>bis</sup> and 9<sup>ter</sup> of the Agreement shall be entered in the International Register by BIRPI, once it has established that the assignee is a person entitled to register an international mark, that the consent required under the provisions of Articles 9<sup>bis</sup> (1) and 9<sup>ter</sup> (3) of the Agreement has been obtained, and that payment of the prescribed fees has been made.

(2) If the assignment of an international mark for part only of the goods and/or services registered is notified to BIRPI, BIRPI shall cancel the international registration in respect of the goods and/or services assigned and shall enter

the assignment in the Register, subject to the provisions of Article 9<sup>ter</sup> of the Agreement. The mark shall be entered in the name of the assignee, in respect of the goods and/or services assigned, under a number different to that of the registration, which shall remain in the name of the assignor in respect of the goods and/or services not included in the assignment. The registration in the name of the assignee shall expire at the same time as the registration in the name of the assignor. Each registration shall be capable of renewal independently of the other.

(3) If the assignment of an international mark for one or several of the contracting countries is notified to BIRPI, BIRPI shall cancel the international registration so far as concerns the country or countries involved, and shall enter the assignment in the Register, subject to the provisions of Article 9<sup>ter</sup> of the Agreement. The mark shall be entered in the name of the assignee, in respect of the country or countries subject of the assignment, under a number different to that of the registration, which shall remain in the name of the assignor in respect of the country or countries not included in the assignment. The registration in the name of the assignee shall expire at the same time as the registration in the name of the assignor. Each registration shall be capable of renewal independently of the other.

(4) If the country of the assignee is a country other than the country of the assignor, BIRPI shall transmit to the national Administration of the country of the assignee an extract of the registration including all particulars entered in the International Register prior to the entry of the assignment.

#### Article 22

##### *Changes Made in the Entry of the Mark in the National Register also Affecting the International Registration*

(1) Changes which have been the subject of notice as provided for in Article 9 of the Agreement shall be entered in the International Register by BIRPI, once it has established that the status of the mark following the entry will remain in conformity with the provisions of the Agreement and that payment of the prescribed fees has been made.

(2) The same provision, including the obligation to pay the prescribed fees, shall apply if the domicile of the proprietor of the mark is transferred from one country to another.

(3) If the transfer of title or of domicile cannot be registered, BIRPI may ask the Administration of the country of the former proprietor for authorization to cancel the mark.

#### CHAPTER VI

##### Registration Certificates and Notifications

#### Article 23

##### *Registration Certificates*

When the registration of an international mark has been effected, BIRPI shall prepare a certificate of registration containing the information referred to in Article 12 (1) of these Regulations. It shall send the certificate to the Administration which submitted the application, and that Administra-

tion shall forward the certificate to the proprietor of the mark or his agent.

#### Article 24

##### *Notifications*

(1) BIRPI shall notify the interested Administrations without delay of registrations (Article 12), entries in the Register of requests for territorial extension made subsequently to the registration (Article 13), and renewals (Article 20).

(2) Transfers, assignments, and other changes (Articles 21 and 22), shall be notified by BIRPI to the Administrations of all the countries parties to the Agreement.

#### Article 25

##### *Collective Notifications*

The collective notification provided for in Article 11 (2) of the Agreement shall contain the same particulars as the notifications provided for in Article 24 of these Regulations.

#### CHAPTER VII

##### Refusals and Invalidations

#### Article 26

##### *Refusals and Invalidations*

(1) Notifications, whether of a refusal, or of a decision following a provisional or final refusal, or of a total or partial invalidation, shall be transmitted to BIRPI, by means of a separate notice in respect of each mark, in three identical copies: one for BIRPI, one for the Administration of the country of origin or that of the country of the proprietor, and one for the proprietor of the mark or his agent. BIRPI shall prepare by a photographic process, if necessary, the copy intended for the Administration of the country of the proprietor. Notice of refusal must indicate, as a minimum, the country making the refusal, the date of dispatch of the notice of refusal, the number and date of the international registration of the mark, the name and address of the proprietor, the grounds for refusal, and, in the case of partial refusal in respect of one or more classes of goods and/or services, the list of goods and/or services contained in the class or classes in respect of which protection is refused or accepted.

(2) If the refusal is based upon the existence of an earlier registration the notification must specify the distinctive elements, whether word or design, of the national or international mark with which there is conflict, and indicate, in particular where a national mark is concerned, the name and address of the proprietor of the earlier mark, the date of its registration, and its serial number. The Administration refusing protection shall attach to the notification a facsimile of the mark with which there is conflict.

(3) Notices of provisional refusal, as well as, where there is a possibility of appeal, notices of final refusal or invalidation, must specify the essential provisions of the national law applicable, as well as the time for appeal and the authority to which such appeal should be addressed. In the case of invalidation, BIRPI is authorized to ask the Administration concerned, if it considers it necessary, to supply it with addi-

tional information and in particular to give reasons for its decision.

(4) If BIRPI finds that a notice of refusal was sent to it after the expiration of the period of one year provided for under Article 5 (2) of the Agreement, then BIRPI shall return the notice to the Administration which sent it, pointing out that the Administration has lost the benefit of the right provided for under Article 5 (1) of the Agreement.

## CHAPTER VIII

### Publication

#### Article 27

##### *Publication*

(1) When registered, BIRPI shall publish the international mark in *Les Marques internationales*. This publication shall contain the particulars referred to in Article 12 (1) of these Regulations.

(2) BIRPI shall publish in *Les Marques internationales* particulars relating to requests for territorial extension made after registration, renewals, and all changes made in the entry concerning the mark in the International Register, according to the provisions of Articles 13, 20, 21 and 22 of these Regulations.

(3) At the beginning of each year, BIRPI shall publish an index containing, in alphabetical order, the names of the proprietors of marks which have been published in the course of the preceding year in *Les Marques internationales*.

(4) Every Administration shall have the right to receive from BIRPI two copies free of charge and two copies at half price of *Les Marques internationales* in respect of each unit corresponding to the class of contributions selected in accordance with Article 13 (8) of the Paris Convention for the Protection of Industrial Property.

## CHAPTER IX

### Fees and Other Charges

#### Article 28

##### *Fees and Other Charges*

(1) The fee for entry in the International Register of a request for territorial extension made subsequently to the international registration [Article 3<sup>ter</sup> (2) of the Nice Act; Article 13 (3) of these Regulations] is 40 francs per mark.

(2) The selling price of an uncertified copy (reprint) of the publication of a specific international registration [Article 5<sup>ter</sup> (1) of the Agreement] is 5 francs.

(3) The fee for providing a certified extract from the International Register relating to a specific mark [Article 5<sup>ter</sup> (3) of the Agreement] is 25 francs.

(4) The fee for providing any other attestation is 20 francs per mark.

(5) The fees for searches for anticipation among international marks [Article 5<sup>ter</sup> (2) of the Agreement] are:

(a) 15 francs per word mark and 30 francs per design mark if the searches cover a clearly distinguishable mark without taking into account contingent similarities (*identity*

*searches*); these fees are doubled if the search has to cover marks which fall within more than three classes of goods and/or services according to the international classification;

(b) 60 francs per word or design mark if the searches cover similarities; a supplement of 5 francs per class will be charged if the mark applies to more than three classes of goods and/or services;

(c) If the searches have to cover a mark which contains both word and design elements, the fees referred to in (a) and (b) above are calculated separately for each of these elements.

(6) The fee for providing any other information concerning a specific mark is 5 francs if it is communicated orally, and 20 francs if it is the subject of a letter.

(7) \* The surcharge for taking advantage of the period of grace [Article 7 (5) of the Nice Act] is twenty per cent (20%) of the basic fee and, where appropriate, of the supplementary fee and of the complementary fee [Article 8 (2) of the Nice Act] or, where appropriate, of the balance of the basic fee [Article 8 (8) and (9) of the Nice Act].

(8) No fee shall be payable in respect of renunciations of protection in one or more countries (Article 8<sup>bis</sup> of the Agreement), general cancellations of registrations, as well as operations consequent upon a notice of provisional or final refusal or a judicial decree (Article 26 of these Regulations).

(9) No fee shall be payable in respect of the entry in the Register of the annulment or cancellation of the national mark, as well as of the renunciation of the national mark [Article 9 (1) of the Agreement; Article 22 of these Regulations].

(10) The fee for entry in the International Register of a reduction of the list of goods and/or services to which an international mark applies [Article 9 (3) of the Agreement] is 40 francs per entry and per mark.

(11) The fee for entry in the International Register of the transfer or assignment of an international mark (Article 9<sup>bis</sup> and 9<sup>ter</sup> of the Agreement; Article 21 of these Regulations) is 40 francs per entry and per mark.

(12) The fee for entry in the International Register of a change of name, trade name, or address, of the proprietor of an international mark is 40 francs for the first mark, and 5 francs for each additional mark if the change is the same for all marks and if the request for entry of the change is presented to BIRPI at the same time for all marks.

(13) The fee for entry in the International Register of changes of agent and/or address of the agent of the proprietor of an international mark is 5 francs per mark.

(14) The fee for preparing the printing block of the mark provided for in Articles 3 and 16 of these Regulations is 20 francs.

(15) \* BIRPI shall fix the amount to be charged in respect of operations which have to be dealt with urgently, as well as the amount to be charged in respect of transactions not provided for in these Regulations.

(16) Applications for renewal of an international registration coming from countries which have not ratified the Nice Act, as well as applications for renewal of an international registration which originate from countries bound by the said Act and which would involve modifications in the registration intended to be renewed, shall be treated as applications for registration; in such cases, the fees may be paid for two periods of ten years each by applying the procedure provided for in Article 8 (3) and (4) of the London Act or in Article 8 (7) and (8) of the Nice Act, as appropriate, as well as in Article 5 (3) of these Regulations.

(17) The Administrations of the contracting countries which notify BIRPI of operations subject to fees shall indicate the designation of the mark and the operation for which payment is made, as well as, where appropriate, the international registration number of the mark; they will also indicate either the date and the method of payment of the fee and the name of the person who made the payment, or the deposit account with BIRPI upon which the payment may be raised.

(18) All payments to BIRPI shall be made in advance in Swiss francs.

(19) The surcharge prescribed by Article 8 (5) of the London Act, referred to in Articles 5 (1) and 18 (1) of these Regulations, is 2 francs by group of ten words above the first hundred words contained in the list of goods and/or services.

(20) \* The classification fee [Article 8 (1) of these Regulations] is 50 centimes per word. Such fee shall not be required if its amount is less than 10 francs.

(21) \* If the applicant has taken advantage of the option provided for by Article 8 (3) of the London Act and if the complementary fee (balance) was received by BIRPI at a date when the country of origin was bound by the Nice Act, the amount of such complementary fee (balance) shall be governed by Article 8 (8) of the Nice Act.

#### CHAPTER X

##### Distribution of Certain Receipts

###### Article 29

[Reserved]

#### CHAPTER XI

##### Final Clauses

###### Article 30

##### Amendments

(1) These Regulations may be modified by the Committee of Directors of the National Industrial Property Offices of the special Union, by the unanimous vote of the countries represented. For this purpose, representatives of member countries of the Madrid Union in respect of which the Nice Act has not yet come into force shall be admitted to the Committee.

(2) In adopting any modification, the Committee of Directors shall fix the date of its entry into force.

#### Article 31

##### Entry into Force

(1) These Regulations shall come into force, for all countries parties to the Agreement (Nice Act and/or London Act), on December 15, 1966, and, as from that date, shall replace the Regulations adopted at London on June 2, 1934.

(2) \* Within the limits provided for by Articles 3 (4) and 8 (3) of the Nice Act and by the provisions of these Regulations, registration may bear a date prior to December 15, 1966, if the application for registration has reached BIRPI on or after that date.

#### ANNEX II

##### List of Participants

###### I. States Parties to the Madrid Agreement

###### Austria

Dr. Thomas Lorenz, Ratssekretär, Patent Office, Vienna.

###### Belgium

Mr. A. Schurmans, Director, Industrial Property Office, Brussels.

###### Czechoslovakia

Dr. Miloslav Špunda, Director of the Trademark Department, Office of Patents and Inventions, Prague.

Dr. Vladimír Šulc, Head of the International Trademark Section, Office of Patents and Inventions, Prague.

###### France

Mr. François Savignon, Director, National Institute of Industrial Property, Paris.

Mr. Maurice Bierry, Civil Administrator, Ministry of Industry, Paris.

###### Germany (Fed. Rep.)

Dr. Romuald Singer, Senatsrat, Patent Office, Munich.

Mr. Willy Miosga, Regierungsdirektor, Patent Office, Munich.

###### Italy

Mr. Aldo Pelizza, Inspector General, Ministry of Industry, Patent Office, Rome.

###### Luxembourg

Mr. Jean-Pierre Hoffmann, Head, Industrial Property Service, Luxembourg.

###### Monaco

Mr. Jean-Marie Notari, Director, Industrial Property Service, Monaco.

###### Morocco

Mr. Abdeljalil Kabbaj, Director, Office of Industrial Property, Casablanca.

###### Netherlands

Mr. Enno van Weel, Member of the Patent Office, The Hague.

###### Portugal

Mr. Jorge van Zeller Garin, Assistant to the Direction of Trade, Lisbon.

###### San Marino

Mr. Jean Charles Munger, Chancellor, Permanent Delegation, Geneva.

###### Spain

Mr. A. F. Mazarambroz, Director, Industrial Property Registration Office, Madrid.

Mrs. Elisa de Goytia Schuck, Head, International Section, Industrial Property Registration Office, Madrid.

Mr. José A. S. Velayos, International Section, Industrial Property Registration Office, Madrid.

**Switzerland**

Mr. Joseph Voyame, Director, Federal Office of Intellectual Property, Berne.

Mr. Léon Egger, Head of Section, Federal Office of Intellectual Property, Berne.

**Tunisia**

Mr. Mongi Azabou, Head of the Section of Commerce, Secretariat of State for Planification and National Economy, Tunis.

**Yugoslavia**

Mr. Vladimir Savić, Director, Patent Office, Belgrade.

**II. Observers****Algeria**

Mrs. Ghaoutia Sellali, Director ad interim, National Office of Industrial Property, Algiers.

Mr. Salah Bouzidi, Head, Trademark Department, National Office of Industrial Property, Algiers.

**Poland**

Mr. Jerzy Królewski, Counsellor, Patent Office, Warsaw.

**United States of America**

Mr. Warren E. Hewitt, Legal Officer, U. S. Mission, Geneva.

**III. BIRPI**

Professor G. H. C. Bodenhausen, Director.

Dr. Arpad Bogsch, Deputy Director.

Mr. Ch.-L. Magnin, Deputy Director.

Mr. G. Béguin, Counsellor.

Mr. G. R. Wipf, Counsellor.

Mr. E. Margot, Head of the Trademark Registry.

## CONVENTIONS AND TREATIES

### European Convention relating to the Formalities required for Patent Applications

**Adhesion by Israel**

According to a communication of the Secretary-General of the Council of Europe, Israel deposited, on April 29, 1966, its instrument of adhesion of the European Convention relating to the Formalities required for Patent Applications. This adhesion took effect on May 1, 1966.

This Convention, which came into force on June 1, 1955, has now been ratified by all the signatory Governments: Belgium, Denmark, France, Federal Republic of Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, whereas Israel, South Africa and Switzerland have adhered to it.

## LEGISLATION

**IRELAND****Entry into Force of the Patents Act 1964**

According to a communication of the Controller of the Industrial and Commercial Property Registration Office of Ireland, the Patents Act, 1964 (published in the September, October, November and December, 1964, issues of *Industrial Property*, will, by virtue of the Patents Act 1964 (Commencement) Order, 1966, come into force on July 1, 1966.

**ISRAEL**

### Appellations of Origin (Protection) Law, 5725 - 1965<sup>1)</sup>

(*Translatoin*)<sup>2)</sup>

**CHAPTER I****Interpretation****Definitions**

1. — In this Law —

“appellation of origin” means the geographical name of a country, region of locality contained in the name of a product and intended to convey that such product has its origin there and that its quality and properties are mainly due to that geographical area, including its nature and people;

“country of origin” means the country whose name, or the name of a region or locality in which is the appellation of origin which has given the product its reputation;

“person entitled” means the person entitled to use an appellation of origin to denote a particular product;

“product” means any agricultural, industrial or handicraft product;

“the Registrar” means the Registrar of Trade Marks.

**CHAPTER II****Registration of Israeli Appellations of Origin****Register of Appellations of Origin**

2. — (a) The Patent Office at the Ministry of Justice shall keep a Register of Appellations of Origin (hereinafter referred to as “the Register”) in which shall be registered the appellations of origin accepted for registration under this Law and such further particulars as may be prescribed or as the Registrar may see fit to register.

(b) The Register shall be established and kept under the supervision of the Registrar.

<sup>1)</sup> Passed by the *Knesset* on the 7<sup>th</sup> Tammuz, 5725 (July 7, 1965) and published in *Sefer Ha-Chukkim*, No. 459, of the 16<sup>th</sup> Tammuz, 5725 (July 16, 1965), p. 186; the Bill and an Explanatory Note were published in *Hatza'ot Chok*, No. 635, of 5725, p. 88.

<sup>2)</sup> This is an official translation which has been communicated to BIRPI by the Patent Office of the State of Israel.

### *Registration of Appellations of Origin in Israel*

3. — Any person interested in protection under this Law for an appellation of origin, the country of origin being Israel, may apply to the Registrar to register in the Register such appellation, the product which it is intended to denote and the person entitled.

#### *Contents of Application*

4. — An application under section 3 shall indicate the product, the special particulars showing that the designation of the product is an appellation of origin and not merely an indication of provenance or type, the person entitled in respect of the appellation, and such further particulars as may have been prescribed.

#### *Examination of Application*

5. — The Registrar or a person appointed by him in that behalf shall examine every application with a view to ascertaining whether it complies with the provisions of section 4 and whether the designation which he is asked to register is an appellation of origin.

#### *Powers in Connection with Examination*

6. — For the purposes of an examination under section 5, the Registrar may demand of the applicant, or of any other person claiming to be a person entitled, any material or information relevant to the examination and deemed by him to be necessary for it, and he may consult with any such person as he may think fit and may obtain from any such person any material or information deemed by him to be necessary for the examination.

#### *Acceptance of Application*

7. — Where the Registrar is satisfied that the designation which he has been asked to register is, *prima facie*, an appellation of origin, and that the other conditions laid down in section 4 are fulfilled, he shall accept the application.

#### *Advertisement of Acceptance of Application*

8. — (a) When an application has been accepted, the Registrar shall notify the acceptance in *Reshumot* at the expense of the applicant. In addition, the Registrar shall notify the application publicly in some other appropriate manner.

(b) The publication shall indicate the appellation of origin, the product which the appellation is intended to denote and the person entitled, as named in the application.

#### *Opposition*

9. — Within three months from the date of advertisement of the acceptance of the application, under section 8, any person may notify to the Registrar, in writing, his opposition to the registration of the appellation of origin applied for.

#### *Grounds of Opposition*

10. — The grounds of opposition to the registration of an appellation of origin are the following:

- (1) the designation whose registration is applied for is not provenance or type;  
an appellation of origin, but merely an indication of

- (2) the person who claims to be the person entitled to the appellation is not entitled to use it.

#### *Powers of Registrar with Regard to Opposition*

11. — The Registrar may accept the opposition in whole or in part, reject it or accept it subject to conditions.

#### *Registration and Issue of Certificate*

12. — Where no opposition has been filed within the time fixed therefor, or where opposition has been filed in time, but has been withdrawn or been rejected by a decision or a final judgment, the appellation of origin shall be registered in the register and the applicant shall be given a certificate attesting the registration.

#### *Period of Validity of Registration and Extension thereof*

13. — (a) A registration under this chapter shall be valid for ten years from the filing of the application. However, its validity may be extended for additional periods of ten years on application by a person entitled filed with the Registrar within such time and in such manner as shall have been prescribed.

(b) Before extending the validity of a registration, the Registrar shall examine whether the designation is still an appellation of origin and shall advertise the application for extension in *Reshumot*.

#### *Striking-out of Registration*

14. — (a) A registration under this chapter may be struck out on the application of an interested person or on the initiative of the Registrar if the appellation has become a mere indication of type or provenance or if the conditions which served as basis for the registration have ceased to exist.

(b) An application for the striking-out of a registration shall be treated like an opposition, and the provisions of this chapter relating to opposition procedure shall apply to it.

### CHAPTER III

#### Registration of Appellations of Origin under the Lisbon Arrangement

##### *The Registrar — the Administration within the meaning of the Lisbon Arrangement*

15. — The Registrar is the Administration, within the meaning of the Lisbon Arrangement Concerning the Protection and International Registration of Appellations of Origin and for the purposes of communication with the International Bureau established thereunder.

##### *Registration of Israeli Appellations of Origin in International Register*

16. — (a) On the application of a person entitled registered in Israel, the Registrar shall submit to the International Bureau an application to register, in the International Register, an Israeli appellation of origin and the person entitled thereto.

(b) Upon making the application, the person entitled shall deposit with the Registrar a sum of money, as shall be prescribed by regulations, as security for the payment of the registration fee.

*Notification of Foreign Appellation Registered  
in International Register*

17. — When the Registrar has been notified by the International Bureau that a foreign appellation of origin has been registered in the International Register, he shall examine such appellation as if he had before him an application under section 3 for the registration of an Israeli appellation of origin, and the provisions of Chapter II shall apply.

*Registration of Foreign Appellation*

18. — (a) If the Registrar is satisfied that the foreign appellation of origin registered in the International Register is eligible for protection in Israel, he shall register it in the Register and shall notify the International Bureau accordingly.

(b) The Registrar may exercise his powers under subsection (a) even if he has previously sent notification under section 19 (b).

*Refusal to Protect*

19. — (a) If the Registrar is satisfied that the appellation of origin registered in the International Register is not eligible for protection in Israel under this Law, he shall send to the International Bureau, within one year from the date of receipt of the notification, a reasoned notification of his inability to ensure the protection of that appellation of origin in Israel.

(b) The Registrar shall send a notification as aforesaid also where opposition proceedings under section 9 are pending before him in respect of the appellation of origin notified by the International Bureau, or where objection proceedings in respect of a decision under section 30 are still pending, and he may regard such proceedings as a ground for his inability to ensure the protection of the appellation of origin in Israel.

*Effect of Registration of Foreign Appellation*

20. — The term of validity of the registration of an appellation of origin effected upon a notification received as specified in section 17 shall be the same as the term of validity of its registration in the country of origin.

*Striking-out of Appellation of Origin in Foreign Country*

21. — (a) Any interested person may ask the Registrar, on such conditions as shall be prescribed, to strike out an appellation of origin under this chapter by reason that it is not, or has ceased to be, protected in the country of origin; and the Registrar may do so on his own initiative.

(b) An application for striking-out under this section shall be treated like an opposition, and the provisions of Chapter II relating to opposition procedure shall apply to it.

CHAPTER IV

General Provisions

*Infringement of Right to Appellation of Origin*

22. — The improper use of a registered appellation of origin is an infringement of the right to an appellation of origin even if the true origin of the goods is indicated beside the appellation of origin and even if the appellation appears in translation or accompanied by expressions such as "kind", "type", "class", "imitation" or the like.

*Relief upon Infringement of Right*

23. — Where a court is satisfied that a right in a registered appellation of origin has been infringed, it shall order the infringer to refrain from infringing the right. The court may attach conditions to the order and may stay the execution thereof for up to six months on such conditions as it may think fit.

*Offences*

24. — Any person who unlawfully uses an appellation of origin shall be dealt with like a person who uses a false trade description, within the meaning of the Merchandise Marks Ordinance<sup>1</sup>), and the provisions of that Ordinance shall apply.

*Exercise of Power by Registrar*

25. — The Registrar shall not exercise any power vested in him by this Law before he has given every person who, in his opinion, is likely to be adversely affected by his decision an opportunity to state his arguments before him.

*Notice of Proceeding under this Law*

26. — Notice of every proceeding under this Law shall be published in *Reshumot* at least thirty days before the time fixed for the proceeding. The Registrar shall, moreover, publish the said notice in some other appropriate manner, summoning every person entitled to attend at the proceeding and to give the Registrar notice of his attendance five days before the date on which the proceeding is to be held. If the person does not give notice as aforesaid, he shall not be permitted to attend.

*Decisions of Registrar to be in Writing*

27. — Every decision of the Registrar shall be in writing and shall be delivered to every person who was a party to the proceedings before him.

*Procedure in Proceedings Concerning Dispute*

28. — (a) In every proceeding concerning a dispute brought before the Registrar under this Law, the Registrar shall give the parties an opportunity to produce their evidence and state their arguments before him in such manner and form and at such times as shall be prescribed by regulations.

(b) The Registrar may order the payment of such costs as he may deem reasonable and may direct which of the parties shall pay the costs and how they shall be paid.

(c) An order under subsection (b) is capable of execution as if it were an order of the court.

*Evidence*

29. — (a) Evidence in any proceeding before the Registrar under this Law shall be by affidavit, and the Registrar shall, if he has been requested so to do and sees no reasonable cause not to accede to the request, direct every person who has made an affidavit to be cross-examined.

(b) For the purpose of taking oral evidence in a cross-examination, the Registrar shall have all the powers of a court as to the administration of an oath or affirmation to

<sup>1</sup>) *Laws of Palestine*, Vol. II, Cap. 91, p. 916 (English Edition).

witnesses, compelling witnesses to attend and matters connected with the summoning of witnesses and the giving of evidence.

#### *Objection to Decisions of Registrar*

30. — (a) A person who considers himself aggrieved by a decision of the Registrar may lodge objection to it with an objection committee of three members appointed by the Minister of Justice. The members of the committee shall be a Judge who shall act as chairman, and two members of the public.

(b) Notice of the appointment and address of the committee shall be published in *Reshumot*.

(c) The objection committee may, at its discretion, confirm, vary or rescind the decision of the Registrar.

#### *Auxiliary Powers of Objection Committee*

31. — The objection committee shall be competent —

- (1) to obtain any such written or oral testimony as it may deem necessary;
- (2) to summon any person to attend before it for the purpose of giving evidence or submitting any document in his possession, to examine him and to demand of him any such document as aforesaid;
- (3) to compel the attendance of a person who has not complied with a summons and has not justified such non-compliance to the satisfaction of the committee, to order him to pay all the expenses caused by compelling his attendance or by his non-compliance with the summons and to impose on him a fine of seventy-five pounds;
- (4) to require every witness to make a declaration in the manner customary in a court of law;
- (5) to impose a fine of seventy-five pounds on a person who, having been required to make a declaration or to submit a document, has refused to do so without justification satisfactory to the committee: Provided that no person shall be required to answer, or be fined for refusing to answer, a question by answering which he might incriminate himself;
- (6) to admit any written or oral evidence even if it would not be admissible in civil or criminal proceedings.
- (7) to award to a person who has been summoned to attend a session of the committee an amount of money which, in the opinion of the committee, he has expended in consequence of his attendance.

#### *Documents*

32. — The Register, and any document submitted by an applicant as evidence that a registered designation is an appellation of origin or to prove the rights of a person entitled shall be open to inspection by the public.

### CHAPTER V

#### Reciprocal Protection of Appellations of Origin

##### *Protection of Appellations of Origin by Agreement*

33. — If the Minister of Justice, by notice in *Reshumot*, has announced the existence of an agreement between Israel and a particular state concerning the protection of their pro-

tected appellations of origin, an application for protection received from the appropriate administration in that state shall be regarded as a notification received under section 17 and the provisions of Chapter III shall apply to the examination, registration and term of validity thereof.

### CHAPTER VI

#### Applicability and Implementation

##### *Permission to Use Appellation of Origin*

34. — Where a person has actually used an appellation of origin in the course of his business for not less than one year before the coming into force of this Law, but is not a person entitled thereto, the Registrar may, on such conditions appropriate to the circumstances of the case as he shall determine, permit him to use that appellation for a period not exceeding two years from the date of its registration under this Law.

##### *Implementation*

35. — The Minister of Justice is charged with the implementation of this Law and may make regulations for such implementation, including regulations as to fees payable in respect of any matter relating to this Law.

##### *Commencement*

36. — The provisions of Chapter III shall come into force on such day, after the coming into force of the Lisbon Arrangement Concerning the Protection and International Registration of October 31, 1958, as the Minister of Justice shall by notice determine.

## ITALY

### Decrees

concerning the Temporary Protection of Industrial Property Rights at Three Exhibitions

(Of April 16, 1966)<sup>1)</sup>

#### Single Article

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

XXVI<sup>a</sup> Fiera di Ancona — Mostra-Mercato internazionale della pesca, degli sports nautici ed attività affini (Ancona, June 25-July 10, 1966);

XVI<sup>o</sup> Salone internazionale della tecnica (Turin, September 22-October 4, 1966);

XLVIII<sup>o</sup> Salone internazionale dell'automobile (Turin, November 3-13, 1966)

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

1) Official communication from the Italian Administration.

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

3) *Ibid.*, 1940, p. 196.

4) *Ibid.*, 1942, p. 168.

5) *Ibid.*, 1960, p. 23.

# **CORRESPONDENCE**

## **Letter from Canada**

### **The Canadian Trade Marks Act After Twelve Years**

By Christopher ROBINSON, Q. C., Ottawa









## CONGRESSES AND MEETINGS

### XXVI<sup>th</sup> Congress of the International Association for the Protection of Industrial Property

(Tokyo, April 11 to 16, 1966)

The XXVI<sup>th</sup> Congress of the International Association for the Protection of Industrial Property was held in Tokyo from April 11 to 16, 1966. It was attended by 866 participants, not including the accompanying ladies, coming from 53 countries. Several countries belonging to the Paris Union for the Protection of Industrial Property were represented by Government officials.

The International Bureau of the Paris Union was represented by its Director, Professor G. H. C. Bodenhausen, and the International Patent Institute by its Director-General, Mr. G. Finniss.

The Formal Inauguration of the Congress, which took place in Tokyo Bunka Kaikan, was honoured by the presence of Their Imperial Highnesses Crown Prince Akihito and Crown Princess Michiko of Japan and of many other Japanese authorities. At this Inauguration, addresses were given by Mr. Taizo Ishizaka, President of IAPIP, His Imperial Highness Crown Prince Akihito, His Excellency the Minister of International Trade and Industry, His Excellency the Governor of Tokyo Metropolis and the Director of BIRPI.

In his address, the Director of BIRPI said:

Your Imperial Highnesses,  
Mr. President,  
Your Excellencies,  
Ladies and Gentlemen,

It gives me great satisfaction to represent the International Bureau of the Paris Union at this Congress which is an occasion when we are acutely aware of the importance of the international protection of industrial property. It is the first Congress of your Association to be held in Asia and it seems logical that the capital of Japan has been chosen as its seat in view not only of the well-known hospitality of this country but also of its outstanding importance in the industrial and commercial fields. I am sure that this Congress will be even more interesting and magnificent than the preceding Congresses. I also hope that, considering the rapidly growing interest in the protection of industrial property in all parts of the world, it will be followed by many others in all these different parts.

It is a tradition at opening sessions of Congresses of your Association that the Director of the International Bureau should report on the state of the Paris Union. I shall follow this tradition with great pleasure because, while the Congresses of your Association provide an ideal opportunity to hear the views of eminent specialists and of interested circles united in the Association, it is also useful that something should be heard of the views and activities of the International

Bureau, especially with regard to the development of the Paris Union.

In reporting on the development of the Paris Union one can, of course, concentrate on the past or on the future. The past, however, is already well-known to most of you, the activities of the Bureau being published, as annual reports, in our periodicals *Industrial Property* and *La Propriété industrielle*. I prefer, therefore, only to summarize some of the important features of recent developments and to ask for more of your attention with regard to the future.

As I had the honour to report to the last Congress of your Association, in Berlin in June 1963, the Paris Union then comprised 52 Member States. The number of Member States is now 74 (or 75, if East Germany, or the German Democratic Republic, is also considered to be a Member, a question on which the States disagree). This increase of 22 new Members, or 42%, in less than 3 years is no doubt impressive and we may be permitted to believe that our program of information and propaganda has contributed to this result. It is particularly gratifying that not only have many newly independent States thus joined the Union, but also one of the industrial and commercial giants of this world, the Soviet Union. However, we must not close our eyes to the fact that the worldwide protection of industrial property which the Paris Union strives to achieve still leaves very important gaps in several parts of the world, notably in Asia and Latin America. Consultations with the Governments of many countries in these parts of the world are in progress: some of these Governments have already decided in favour of their countries' adherence to the Paris Union and have gone so far as to propose this adherence to their Parliaments; other Governments are at least seriously considering adherence. It seems reasonable to hope that in the next few years important developments in this field will take place, which would not only be beneficial to the Paris Union *in toto* but also to the newly adhering countries, which would thereby create a more favourable climate for their inventors and for local industrial and commercial investments.

Our drive for enlarging the membership of the Paris Union is in part intimately linked with another important item of our program — assistance to developing countries. This assistance is one of the challenges of our time and indeed is also one of the items of the program of this Congress. We have tried to work on this problem in various ways. We have organized well-attended regional seminars on industrial property consecutively in Africa, Latin America, and Asia, where we have been able to explain and discuss the functioning of industrial property and of the Paris Union in particular; we have established, on the advice of a committee of experts of developing countries, a Model Law on Inventions, and, during the last two years, with the collaboration of several national administrations to which we owe our gratitude for their assistance, we have placed 14 officials of industrial property offices of developing countries as trainees in fully organized offices of developed countries. But more is to come in these fields because we plan to organize still another seminar for the Arab States, which were insufficiently represented on former occasions of this sort; we are at present working on a second

Model Law, namely, a Law on Trademarks, Trade Names, Indications of Source, and Unfair Competition, and we shall probably be able to enlarge considerably our program of traineeships with the cooperation and financial assistance of the United Nations.

As indicated by this last possibility, the relations between the International Bureau and the United Nations, which were more or less problematic at the time of the last Congress of your Association in Berlin, have in the meantime considerably improved. As a matter of fact, there is enough for both Organizations to do and, whereas the United Nations are concentrating on the vast subject of transfer of technology, both patented and unpatented, to developing countries, and its economic, financial and fiscal implications, the competence and experience of our Organization in dealing with the legal framework of part of this transfer in the form of international regulations on industrial property are fully acknowledged. That is why in all recent resolutions of United Nations' bodies on these subjects, collaboration between both Organizations has been requested.

In order to maintain and further improve our position in the international world, however, and in order to render the operation of our Organization, and particularly of the Paris Union, more effective, we urgently need a modernization of its administrative and financial structure. Since this is one of the subjects to be discussed by your Congress I shall not dwell upon it now, but I look forward to an interesting exchange of views.

Our membership drive, the assistance to developing countries, the improvement of the structure of our Organization and its relations with other international bodies, must not, and will not, however, absorb all our attention. It is no less interesting to note that because of immensely improved communications between countries and the rapid growth of exchange of ideas and international commerce, the system of protection of industrial property, in which we believe, is now threatened not so much from without as from within. The well-known facts are that in view of the rapidly growing number of patent applications and the complexity of modern technology many examining Patent Offices find it extremely difficult to fulfil their tasks within a reasonable time, and that in their countries the patent system, at least in its present form, is in danger of collapse. It is also known that it is nowadays well-nigh impossible to choose a trademark which may have worldwide validity without extremely costly, lengthy, and sometimes unreliable novelty searches. Means are sought in various quarters to overcome these difficulties, mainly by collaboration between States in exchanging search results, in combining or mechanizing searches, or in acknowledging each other's grants. These, obviously, are multilateral international problems and problems of international law. No other Organization seems better qualified than ours to try to find solutions to them, in some cases possibly with the collaboration of the International Patent Institute in The Hague. This is, in fact, what we intend to do, first by the now customary method of convening committees of experts and, eventually, by working in the direction of special agreements to be concluded under the Paris Convention.

This leads me to a final remark. In his recent book on *Multilateral Treaties on Industrial Property and Copyright*, the Swiss Professor, Alois Troller, states that the Paris Convention and similar Treaties, would probably never have reached their present high level if international associations, such as yours, had not constantly worked for their improvement. It is also stated by Professor Troller that it would be serious if these associations were no longer given the opportunity to collaborate in the improvement of the international law of industrial property as they have done so far.

I fully agree with these statements. No search for internationally acceptable solutions of problems concerning the protection of industrial property can ever be complete without the extremely competent and thorough work of your Association and others. The influence of your work on our Organization and, no doubt, also on the Governments of our Member States is an established fact and you will certainly be constantly called upon to give advice and collaboration.

It is with the expression of the hope that your Congress will also be convinced of the necessity of this collaboration in the difficult and challenging tasks which await us all that I should like to conclude these remarks and wish every success to you in your work and much satisfaction to our gracious Japanese hosts.

\* \* \*

The Formal Inauguration of the Congress was followed by the delivery of a Commemorative Stamp by the Minister of Posts and Tele-Communications, of Commemorative Cigarettes by the President of the Japan Monopoly Corporation, and by performances of traditional Japanese Dance and Music.

In a meeting of the Executive Committee of IAPIP which preceded the Congress, new Groups of the Association were admitted from the following countries: Czechoslovakia, Pakistan, USSR, Venezuela and Yugoslavia.

The Congress itself met in an Administrative Session and in several Working Sessions which were presided over by Messrs. Pointet (Switzerland), Moser von Filsek (Federal Republic of Germany), Marconnet (France), Robinson (Canada), Davidson (Netherlands), Brown (U. S. A.), and Luzzati (Italy), who were assisted by co-presidents and secretaries from other Groups.

After thorough discussion of the problems involved, the following resolutions were adopted at the Closing Session of the Congress. Most of these were adopted unanimously and others with only very few votes against or abstentions.

#### QUESTION 23 B

##### Study on the unification of the right of marks

##### *I. Acquisition of the right to a mark*

The Congress,

with a view to harmonizing legislation concerning marks adopts the following principles:

The right to the mark may be acquired

(a) by registration or

(b) by use provided that the mark be recognized in the relevant circles as distinctive of the products or services to which it applies.

Furthermore, no rights shall arise from any registration obtained or use made in bad faith.

It is understood that use of the mark shall be a condition for the maintenance of the registration and the rights deriving therefrom.

The provisions of the Paris Convention relating to the six-month Convention priority (Art. 4), temporary protection of marks used at official international exhibitions (Art. 11) and the protection of well-known marks (Art. 6<sup>bis</sup>) remain effective.

## II. Incontestability of Registration

The Congress decides that the study of this question should be continued.

### QUESTION 34 B

#### Study on the unification of the law on industrial designs and models

The Congress,

with a view to establishing the essential features of legislation for the protection of industrial designs and models adopts the following principles:

#### I. Subject matter of protection

The appearance of an industrial object may be protected as a design; this appearance may result among other things from an assembly of lines, or colours, from the shape of the article itself or from its ornamentation.

#### II. Nature of protection

Industrial designs must be protected by a system of their own which can co-exist with the copyright protection system in accordance with domestic laws.

#### III. 1. Basic conditions of protection

The protection of the above-mentioned system may be refused to a design:

- (a) which corresponds to an earlier design or which involves no creative effort relatively thereto;
- (b) or which is exclusively dictated by a technical necessity.

#### III. 2. Formalities for protection

- (a) The design must be the subject of a deposit.
- (b) The deposited design must be officially made public, either immediately or after a period of secrecy limited to a maximum duration of one year, including any priority period accorded under article 4 of the Paris Convention or the Agreement of The Hague.

(c) Marking of the deposit or the registration on the subject must not be a condition precedent to the institution of infringement proceedings.

#### IV. Effects of protection

1. The term of the protection available shall be at least ten years, which may be divided into periods.

2. The deposit or, in examining countries, the registration, shall give protection not only against exact reproduction, but also against any substantial copying and wrongful reproduction by any means.

### QUESTION 37 A

#### Incidence on the rights of industrial property of the national or international provisions guaranteeing free competition

The Congress,

with reference to the Berlin resolution, declares:

- that generally the system of industrial property law and practice contains within itself adequate measures for protection against misuse of industrial property rights within their framework and, therefore, provisions in the interest of free competition should not limit the rights which have been — or according to usual standards should be — provided under the industrial property system;
- that, consequently, if in the interest of free competition legislation is promulgated to prevent the misuse of industrial property rights outside their legal framework, the nature of any measure and the actual impairment of the right to free competition should be clearly and specifically set forth in such legislation and such measure should not restrict the use of industrial property rights more than this impairment requires.

The Congress furthermore decides to keep this question on the agenda in order that developments in this field may be followed.

### QUESTION 39 A

#### Reasons for which the rights of the patentee can be restricted

The Congress

formulates the wish that Article 5 A of the Paris Convention be amended as follows:

- I. Each country of the Union shall recognize the exclusive rights conferred by the patent to the owner.
- II. Each country of the Union shall have the right to take legislative measures providing for a restriction of the patentee's right, but only for an individual patent and not in general, and only in the following cases:
  - (a) when such restriction is necessary for satisfying an important public interest;
  - (b) when such restriction is necessary to prevent an abuse which might result from the exercise of the exclusive right conferred by the patent, for instance failure to work;
  - (c) when the proprietor of a patent which is dependent upon a patent enjoying an earlier date and the invention of which represents a notable advance over the invention of the prior patent, cannot exploit his invention without infringing the prior patent;
  - (d) in the case in which there exists a right of prior working.

The importation by the patentee into the country, where the patent has been granted, of articles manufactured in any of the countries of the Union shall not entail forfeiture of the patent.

III. (a) Any restrictive measure more severe than the grant of a licence, such as the forfeiture of the patent, shall not be provided for except in the case where the granting of a compulsory licence has proved to be insufficient. No pro-

ceedings for the forfeiture or revocation of a patent may be instituted before the expiration of two years from the grant of the first compulsory licence.

Any restrictive measure other than revocation shall give rise to a claim to equitable compensation for the benefit of the patentee.

Any restrictive measure shall entail access to a judicial tribunal by the patentee, at least in the final instance.

(b) In the case of a dependent patent the proprietor of the prior patent may be compelled to grant a licence under his patent to the proprietor of the dependent patent to the extent which is absolutely necessary for the exploitation of the invention protected under the dependent patent.

Inversely, the proprietor of the prior patent shall have the right to obtain a licence from the proprietor of the dependent patent to exploit the latter patent.

(c) An application for a compulsory licence may not be made on the ground of failure to work or insufficient working before the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period last expires; it shall be refused if the patentee justifies his inaction by legitimate reasons.

IV. A compulsory licence shall not be granted until an agreement has proved to be impossible.

The compulsory licence shall be non-exclusive and shall not be transferable, even in the form of the grant of a sub-licence, except with that part of the enterprise or goodwill using such licence.

V. The foregoing provisions shall be applicable, *mutatis mutandis*, to utility models.

#### QUESTION 40 B

##### Inventions of employees

The Congress

decides that the study of this question be continued at the Executive Committee.

#### QUESTION 41 B

##### Protection of the commercial name

The Congress,

bearing in mind the importance of protecting the commercial name,

decides to carry out a more detailed study of this question in order to achieve strengthening and harmonization of the law on this subject and to continue this study on the basis of the Summary Report presented to the Tokyo Congress.

#### QUESTION 42 B

##### Inventors' certificates

The Congress

I. wishes that Article 4 of the Convention be amplified by the following new provisions:

“Article 4 J (new):

Applications for inventors' certificates filed in a country in which applicants have the right to apply, at their own option and on the same substantive conditions either

for a patent or for an inventor's certificate, shall engender the right of priority provided for by this article, under the same conditions and with the same effects as an application for a patent.

Conversely, in the countries in which applicants have the above option between a patent and an inventor's certificate, it shall be provided that an inventor's certificate can be applied for by claiming, pursuant to the present article, a priority founded on an application for a patent, utility model, or an inventor's certificate”;

II. wishes that number (2) of Article 1 of the Convention be amplified as follows:

“The protection of industrial property has for its object patents of invention, utility models, *inventors' certificates* . . .” (otherwise no change).

#### QUESTION 43 B

##### Administrative machinery of international cooperation in the field of intellectual property

The Congress

I. approves the principle of a reorganization of the administrative machinery of the Unions;

II. approves in principle the creation of a world-wide Intellectual Property Organization provided that the autonomy of the Unions is preserved;

III. refers to the Executive Committee for an additional examination of the draft of January 1966.

#### QUESTION 45 B

##### Industrial property in the developing countries

The Congress

adopts the following resolution:

1. It cannot be disputed that the protection of industrial property and, in particular, the protection of inventions by the grant of a patent is apt to promote the technical and economic progress, especially of developing countries.

The experience of countries which have nowadays developed their industrialization demonstrates that the protection of industrial property has been an important factor in the development and progress of these countries.

In fact, by the advantages it procures, the protection of industrial property stimulates the financial investments in the developing countries, and it is just through these means that techniques are introduced in these countries.

2. There is no doubt that certain adjustments of traditional legislation are necessary to take into account the particular situations in the developing countries.

These adjustments, however, should not interfere with the basic principles underlying the protection of industrial property.

3. The IAPIP confirms its will to cooperate, as far as it lies within its power, in the accomplishment of the contemplated work.

It has the means to do so through its actions, especially through the media of its national Groups and of its publications.

At the Closing Session of the Congress, an invitation was accepted with great pleasure to hold the next Congress of IAPIP in Italy in 1969. Mr. Gianni Agnelli of Turin (Italy) was elected International President of IAPIP in replacement of Mr. Taizo Ishizaka (Japan) who was appointed Honorary Member. The Bureau of IAPIP, consisting of Mr. Paul Mathély, General Reporter, Mr. R. E. Blum, Secretary-General, and Dr. S. P. Ladas, Treasurer-General, was unanimously re-elected.

The Tokyo Congress of IAPIP was extremely well organised and all its technical services operated perfectly. Moreover, the Congress included a number of social events of the highest standard, such as a reception after the Formal Inauguration, a Garden Party at Chinzan-so, a very interesting representation of Kabuki (Japanese classic drama), a Reception given by the Minister of International Trade and Industry and a magnificent Final Banquet at the Hotel Okura given by the Japanese Group of IAPIP and honoured by the presence of Their Imperial Highnesses Prince and Princess Takamatsu. On this occasion several speeches were made. In his speech, the Director of BIRPI said:

Your Imperial Highnesses,  
Mr. President,  
Ladies and Gentlemen,

It is a great honour for me to address this Congress again, which I do this time not only on behalf of the intergovernmental organization I represent but also, on their request, in the name of the representatives of Governments who have been delegated to this Congress.

I believe, on the basis of my long experience with Congresses of IAPIP, that this Congress has, in many respects, surpassed its predecessors. It has certainly surpassed all former Congresses with respect to the atmosphere or friendliness and cooperation which has prevailed.

You may know that Congresses of the Association have a tendency to acquire, after their termination, unofficial names. We have in the past attended a Congress in Paris which was inevitably called the "Congress of Champagne," a Congress in Vienna which is remembered as the "Congress of Music"; still another Congress was jokingly called the "Chicken Congress," because of an unfortunate incident which occurred at this otherwise delightful Congress. It seems certain to me that the present Congress will be remembered, if not as the "Perfect Congress," then as the "Congress of the Smile" — le Congrès du Sourire. This is so because no participant will ever forget the extremely charming and gracious manner in which our Japanese hosts have received us, a reception which has made the flawless organisation of this Congress seem an effortless achievement. It has been truly unforgettable and it gives me great pleasure to express the heartfelt thanks and congratulations of my colleagues and myself to the Japanese authorities and to the Japanese Group of IAPIP.

With no less emphasis, I would like to thank and congratulate the Association as a whole and particularly its extremely competent Bureau, Reporter-General Mathély and Secretary-General Blum, for the most effective and successful manner in which this Congress has been conducted.

It has been another memorable occasion on which the Association has served its twofold purpose — the high purpose of contributing to the creation and development of law in its field, and the even higher purpose of promoting better understanding between different views and people.

We have come to this Congress from very different parts of the world and with varied ways of thinking. We have had to escape from these a little in order to be able to understand and appreciate each other's views. In rendering this possible, the Association is furthering, modestly perhaps but definitely, the progress of humanity.

With this in mind, it is an honour for me, on behalf of the intergovernmental organization and the Governments represented here, to wish our Japanese hosts and the Association all happiness and success in their future activities.

## NEWS ITEMS

### AFRICAN AND MALAGASY INDUSTRIAL PROPERTY OFFICE (OAMPI)

#### *Publication of the First Issue of the "Bulletin Officiel"*

This *Bulletin* is for all the countries parties to the Accord of Libreville of September 13, 1962<sup>1)</sup> and for which the African and Malagasy Industrial Property Office (OAMPI) acts as the national service of industrial property (Article I of the Accord of Libreville), the official periodical journal provided for in Article 12 (2) of the Paris Convention of March 20, 1883, as last revised at Lisbon on October 31, 1958. The first issue, dated February, 1966, of the *Bulletin Officiel* of the African and Malagasy Industrial Property Office has recently been published.

This first *Bulletin*, which testifies to the vigour of this newly established body, contains an interesting editorial by the Director-General of the Office, Mr. Denis Ekani, general information on the Council of Administration of OAMPI, the High Commission of Appeals and amendments to the Regulations of the Accord of Libreville. It also includes lists of patents and certificates of addition, trademarks and industrial designs, recently deposited with the OAMPI or validated and maintained in accordance with the transitional provisions of Annexes I, II and III of the Accord of Libreville.

The direction, editing and administration of the *Bulletin* is in Yaoundé (Cameroon), OAMPI, B. P. 887. A yearly subscription for six issues is 1,000 F.CFA for States parties to the Accord of Libreville and 1,500 F.CFA for other countries.

<sup>1)</sup> See *Industrial Property*, April 1963, pp. 66 et seq.

# CALENDAR

## Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
September 26 to 29, 1966 Geneva	Interunion Coordination Committee	Program and Budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union; United Nations
September 26 to 29, 1966 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (2nd Session)	Program and Budget (Paris Union)	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union; United Nations
October 30 to November 4, 1966 Budapest	East/West Industrial Property Symposium	Discussion of practical questions of industrial property		Open. Registration required
November 7 to 11, 1966 Geneva	Committee of Experts on a model law for developing countries concerning trademarks, trade names, indications of source, and unfair competition	To draft a Model Law on Trademarks for developing countries	<i>Africa:</i> Algeria, Burundi, Congo (Leopoldville), Ethiopia, Gambia, Ghana, Guinea, Kenya, Liberia, Libya, Malawi, Mali, Morocco, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Tunisia, United Arab Republic, Uganda, Zambia <i>America:</i> Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guiana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, Venezuela <i>Asia:</i> Afghanistan, Burma, Cambodia, Ceylon, China (Taiwan), India, Indonesia, Iraq, Iran, Jordan, Korea, Kuwait, Laos, Lebanon, Malaysia, Maldive Islands, Mongolia, Nepal, Pakistan, Philippines, Saudi Arabia, Singapore, Syrian Arab Republic, Thailand, Viet Nam, Yemeu <i>Others:</i> Cyprus, Malta, Western Samoa	United Nations; Council of Europe; European Economic Community; Latin American Free Trade Association; African and Malagasy Industrial Property Office; International Association for the Protection of Industrial Property; International Chamber of Commerce; Inter-American Association of Industrial Property; International Federation of Patent Agents
December 13 to 16, 1966 Geneva	<i>Ad hoc</i> Conference of the Directors of National Industrial Property Offices and Committee of Directors of the Madrid Union	Adoption of the Transitional Regulations of the Madrid Agreement (Trade-marks)	All Member States of the Madrid Agreement (Trade-marks)	All other Member States of the Paris Union

## Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
The Hague	October 10 to 21, 1966	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	6th Annual Meeting
Hollywood	October 11 to 17, 1966	International Writers Guild (IWG)	1st Congress

**POST OF A DEPUTY DIRECTOR AT BIRPI****Postponement of Recruitment**

Action towards the filling of the above post for which applications were invited by a notice published in the March issue of *Industrial Property* has been postponed in view of the fact that the post is not now expected to become vacant on January 1, 1967, but at a later date.

Intending applicants are therefore requested to defer submission of their applications until the vacancy is announced again.