

# Industrial Property

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

6<sup>th</sup> Year

No. 2

February 1967

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# INTERNATIONAL UNIONS

## Paris Union

### Adhesion

#### REPUBLIC OF URUGUAY

According to a communication received from the Swiss Federal Political Department, the following notes were 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 February 18, 1967, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that in a note dated January 25, 1967, the Embassy of Uruguay in Berne informed the Swiss Government of the adhesion of the Republic of Uruguay to the International Convention for the Protection of Industrial Property of 1883, as last revised at Lisbon in 1958.

In conformity with Article 16 (3) of the said Convention, this adhesion will take effect on March 13, 1967.

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

\* \* \*

This adhesion will bring the Membership of the Paris Union to 77<sup>1)</sup>.

### Accession to the Lisbon Act

#### HUNGARIAN PEOPLE'S REPUBLIC

(Translation)

“In compliance with the instructions of the Federal Political Department, dated February 23, 1967, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that an instrument of accession by the Council of Ministers of the Hungarian People's Republic relating 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, has been deposited with the Government of the Swiss Confederation on December 29, 1966.

In conformity with Article 16 (3) of the said Convention, this accession will take effect on March 23, 1967.

<sup>1)</sup> Or 78 if East Germany or the German Democratic Republic is also considered as a party (see *Industrial Property*, 1964, p. 254). States disagree on this question.

In depositing the above-mentioned instrument of accession, the Hungarian Embassy in Berne, in a note dated December 27, 1966, addressed to the Political Department, requested the Government of the Swiss Confederation to notify all the States concerned a declaration of the Council of Ministers of the Hungarian People's Republic relating to the said Convention. In compliance therefore, with the request of the Hungarian Government, the Embassy informs the Ministry of the declaration made by the Council of Ministers:

‘With regard to Article 16<sup>bis</sup> of the Paris Convention of March 20, 1883, for the Protection of Industrial Property, 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, the Council of Ministers of the Hungarian People's Republic wishes to express its attachment to the principles contained in the Declaration adopted on December 14, 1960, by the General Assembly of the United Nations Organization guaranteeing independence to colonial countries and peoples. It follows that the Council of Ministers of the Hungarian People's Republic is of the opinion that colonialism, in any shape or form, is contrary to international law now in force.’”

\* \* \*

The effect of this notification is that the Hungarian People's Republic now becomes bound by the Lisbon Act in addition to the earlier Acts.

### Madrid Agreement (Indications of Source)

#### Accession to the Lisbon Act

#### HUNGARIAN PEOPLE'S REPUBLIC

According to a communication received from the Swiss 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 February 23, 1967, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that an instrument of accession by the Council of Ministers of the Hungarian People's Republic relating to the Madrid Agreement for the Repression of False or Deceptive Indications of Origin of April 14, 1891, as revised 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, has been deposited with the Government of the Swiss Confederation on December 29, 1966.

In conformity with Article 16 of the Paris Convention for the Protection of Industrial Property, to which Article 6 (2) of the Madrid Agreement refers, this accession will take effect on March 23, 1967.

In depositing the above-mentioned instrument of accession, the Hungarian Embassy in Berne, in a note dated December 27, 1966, addressed to the Political Department, requested the Government of the Swiss Confederation to notify all the States concerned a declaration of the Council of Ministers of the Hungarian People's Republic relating to the said Agreement. In compliance therefore, with the request of the Hungarian Government, the Embassy informs the Ministry of the declaration made by the Council of Ministers:

'With regard to paragraph 2 of Article 5 of the Madrid Agreement of April 14, 1891, for the Repression of False or Deceptive Indications of Origin on Goods, as revised at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, and at Lishon on October 31, 1958, the Council of Ministers of the Hungarian People's Republic wishes to express its attachment to the principles contained in the Declaration adopted on December 14, 1960, by the General Assembly of the United Nations Organization guaranteeing independence to colonial countries and peoples. It follows that the Council of Ministers of the Hungarian People's Republic is of the opinion that colonialism, in any shape or form, is contrary to international law now in force.'

\* \* \*

The effect of this notification is that the Hungarian People's Republic now becomes bound by the Lisbon Act in addition to the earlier Acts.

### **Madrid Union (Trademarks)**

#### **Ratification of the Nice Act**

##### **HUNGARIAN PEOPLE'S REPUBLIC**

According to a communication received from the Swiss 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 February 23, 1967 (to be regarded as the date of notification), the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Hungarian People's Republic deposited on January 10, 1967, with the French Ministry of Foreign Affairs in Paris, the instrument of ratification 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 (3) of the above-mentioned Agreement, this ratification will take effect on March 23, 1967.

In depositing the above-mentioned instrument of ratification, the Embassy of the Hungarian People's Republic in Paris,

in a note dated January 10, 1967, addressed to the French Ministry of Foreign Affairs, requested that a declaration of the Council of Ministers of the Hungarian People's Republic relating to the said Agreement, be communicated to all the States concerned. In compliance therefore, with the request of the Hungarian Government, the Embassy informs the Ministry of the declaration made by the Council of Ministers:

'With regard to paragraph 7 of Article 11 of the Madrid Agreement of April 14, 1891, for the International Registration of Trademarks, 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, the Council of Ministers of the Hungarian People's Republic wishes to express its attachment to the principles contained in the Declaration adopted on December 14, 1960, by the General Assembly of the United Nations Organization guaranteeing independence to colonial countries and peoples. It follows that the Council of Ministers of the Hungarian People's Republic is of the opinion that colonialism, in any shape or form, is contrary to international law now in force.'

### **Nice Union**

#### **(International Classification of Goods and Services to which Trademarks are Applied)**

#### **Adhesion**

##### **HUNGARIAN PEOPLE'S REPUBLIC**

According to a communication received from the Swiss 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 February 23, 1967, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that an instrument of accession by the Council of Ministers of the Hungarian People's Republic relating to the Nice Agreement for the International Classification of Goods and Services to which Trademarks are Applied of June 15, 1957, has been deposited with the Government of the Swiss Confederation on December 29, 1966.

In conformity with Article 16 of the Paris Convention for the Protection of Industrial Property, to which Article 6 (3) of the Nice Agreement refers, this accession will take effect on March 23, 1967.

With regard to its contribution to the expenses of the International Bureau incurred in carrying out this Agreement, Hungary is placed, at its request, in the Fifth Class for the purposes of Article 13 (8) and (9) of the Paris Convention to which Article 5 (1) of the Nice Agreement refers.

In depositing the above-mentioned instrument of accession, the Hungarian Embassy in Berne, in a note dated December 27, 1966, addressed to the Political Department, requested the Government of the Swiss Confederation to notify

to all the States concerned a declaration of the Council of Ministers of the Hungarian People's Republic relating to the said Agreement. In compliance therefore, with the request of the Hungarian Government, the Embassy informs the Ministry of the declaration made by the Council of Ministers:

'With regard to Article 10 of the Nice Agreement of June 15, 1957, for the International Classification of Goods and Services to which Trademarks are Applied, the Council of Ministers of the Hungarian People's Republic wishes to express its attachment to the principles contained in the Declaration adopted on December 14, 1960, by the General Assembly of the United Nations Organization guaranteeing independence to colonial countries and peoples. It follows that the Council of Ministers of the Hungarian People's Republic is of the opinion that colonialism, in any shape or form, is contrary to international law now in force.'

\* \* \*

This adhesion will bring the Membership of the Nice Union to 22 countries<sup>1)</sup>.

### Lisbon Union (Protection of Appellations of Origin and their International Registration) Ratification

#### HUNGARIAN PEOPLE'S REPUBLIC

According to a communication received from the Swiss 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 February 23, 1967, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the instrument of ratification by the Council of Ministers of the Hungarian People's Republic of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, signed on October 31, 1958, has been deposited with the Government of the Swiss Confederation on December 29, 1966.

In conformity with Article 13 (2) of the said Agreement, this ratification will take effect on **March 23, 1967**.

With regard to its contribution to the expenses of the Service for the International Registration of Appellations of Origin, Hungary is placed, at its request, in the Fifth Class for the purposes of Article 13 (8) of the Paris Convention to which Article 7 (2) of the Lisbon Agreement refers.

In depositing the above-mentioned instrument of ratification, the Hungarian Embassy in Berne, in a note dated December 27, 1966, addressed to the Political Department, re-

<sup>1)</sup> Or 23 if East Germany or the German Democratic Republic is also considered as a party (see *Industrial Property*, 1964, p. 254). States disagree on this question.

quested the Government of the Swiss Confederation to notify to all the States concerned a declaration of the Council of Ministers of the Hungarian People's Republic relating to the said Agreement. In compliance therefore, with the request of the Hungarian Government, the Embassy informs the Ministry of the declaration made by the Council of Ministers:

'With regard to paragraph (1) of Article 11 of the Lisbon Agreement of October 31, 1958, for the Protection of Appellations of Origin and their International Registration, the Council of Ministers of the Hungarian People's Republic wishes to express its attachment to the principles contained in the Declaration adopted on December 14, 1960, by the General Assembly of the United Nations Organization guaranteeing independence to colonial countries and peoples. It follows that the Council of Ministers of the Hungarian People's Republic is of the opinion that colonialism, in any shape or form, is contrary to international law now in force.'

\* \* \*

This ratification will bring the Membership of the Lisbon Union to 8.

## LEGISLATION

### AUSTRALIA

#### Trade Marks Act 1955-1958

An Act relating to Trade Marks

*(Third and Last Part)\**

#### PART XIV

#### International Arrangements

#### *Convention countries*

108. — (1) The Governor-General may, with a view to the fulfilment of a treaty, convention, arrangement or engagement between the Commonwealth and another country, by Proclamation<sup>1)</sup>, declare that a country specified in the Proclamation is a Convention country for the purposes of this Act.

(2) The Governor-General may, by Proclamation<sup>2)</sup>, declare a part of the Queen's dominions which has made satisfactory provision for the protection, in that part, of trade marks to be a Convention country for the purposes of this Act.

(3) Where the Governor-General, by Proclamation<sup>2)</sup>, declares that an application for the registration of a trade mark —

\* ) See *Industrial Property*, 1966, p. 276; 1967, p. 16.

<sup>1)</sup> The Governor-General by Proclamation dated 9<sup>th</sup> July, 1958, declared certain countries specified in the Proclamation to be Convention countries. See *Gazette*, 1958, p. 2515.

<sup>2)</sup> No Proclamation was published in the *Gazette* before 1<sup>st</sup> February, 1959.

- (a) is, in accordance with the terms of a treaty subsisting between two or more Convention countries, equivalent to an application made in one of those Convention countries, the first-mentioned application shall, for the purposes of this Act, be deemed to have been made in that Convention country; or
- (b) is, in accordance with the law of a Convention country, equivalent to an application made in that Convention country, the first-mentioned application shall, for the purposes of this Act, be deemed to have been made in that Convention country.

#### *Applications under International Conventions*

109. — (1) Where a person has made an application for the registration of a trade mark in a Convention country and that person, or his legal representative or assignee, makes an application for the registration of the trade mark within six months after the date on which the application was made in the Convention country, the trade mark shall, if registered, be registered as of the date on which the application was made in the Convention country and that date shall, subject to subsection (3) of this section, be deemed for the purposes of this Act to be the date of registration.

(2) Where applications have been made for the registration of a trade mark in two or more Convention countries, the period of six months referred to in the last preceding subsection shall be reckoned from the date on which the earlier or earliest of those applications was made.

(3) For the purposes of determining the period of registration of the trade mark, the date of registration of the trade mark shall be deemed to be the date on which the application for registration under this Act was made.

#### *Manner of application under this Part*

110. — An application for the registration of a trade mark under this Part shall be made and dealt with in the same manner as an application otherwise than under this Part.

### PART XV

#### The Appeal Tribunal

##### *Appeal Tribunal*

111. — (1) The High Court is the Appeal Tribunal for the purposes of this Act.

(2) The High Court has jurisdiction to hear and determine appeals which lie to the Appeal Tribunal under this Act.

##### *Jurisdiction to be exercised by single Justices*

112. — The jurisdiction of the High Court as the Appeal Tribunal shall be exercised by a single Justice.

##### *Intervention by Registrar*

113. — The Appeal Tribunal may grant to the Registrar leave to intervene in an appeal to the Appeal Tribunal.

##### *Powers of Appeal Tribunal*

114. — Upon the hearing of an appeal, the Appeal Tribunal may —

- (a) admit further evidence, either orally or upon affidavit or otherwise;
- (b) permit the examination and cross-examination of witnesses, including witnesses who gave evidence orally or upon affidavit or otherwise at the hearing before the Registrar;
- (c) order an issue of fact to be tried in such manner as it directs;
- (d) affirm, reverse or modify the decision, determination or direction appealed from;
- (e) give such judgment, or make such order, as in all the circumstances it thinks fit, or refuse to make an order; and
- (f) order a party to pay costs to another party.

#### *Special case*

115. — (1) The Appeal Tribunal may state a case or reserve a question for the consideration of a Full Court of the High Court, or may direct a case or question to be argued before a Full Court of the High Court.

(2) A Full Court of the High Court has jurisdiction to hear and determine the case or question.

#### *Appeals*

116. — A Full Court of the High Court has jurisdiction to hear and determine appeals from a judgment or order of the Appeal Tribunal with respect to which a Full Court of the High Court grants leave to appeal.

### PART XVI

#### Miscellaneous

##### *Use of trade mark for export trade*

117. — (1) The application in Australia of a trade mark to goods to be exported from Australia and any other act done in Australia in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within Australia, would constitute use of a trade mark in Australia, shall, for the purposes of this Act, be deemed to constitute use of the trade mark in relation to those goods.

(2) The last preceding sub-section shall be deemed to have had effect in relation to an act done before the date of the commencement of this Act as it has effect in relation to an act done after that date, but does not affect a determination of a court which has been made before that date or the determination of an appeal from a determination so made.

##### *Trade mark not to be deemed to be deceptive or confusing in certain cases*

118. — The use of a registered trade mark in relation to goods between which and the person using the trade mark a form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the trade mark has been, or is, used in relation to goods between which and that person or a predecessor in title of that person a different form of connection in the course of trade subsisted or subsists.

### *Powers of Registrar*

119. — The Registrar may, for the purposes of this Act —

- (a) summon witnesses;
- (b) receive evidence on oath, whether orally or otherwise;
- (c) require the production of documents or articles; and
- (d) award costs against a party to proceedings before him.

### *Disobedience to summons an offence*

120. — (1) A person who has been summoned to appear as a witness before the Registrar shall not, without lawful excuse, and after tender of reasonable expenses, fail to appear in obedience to the summons.

(2) A person who has been required by the Registrar to produce a document or article shall not, without lawful excuse, and after tender of reasonable expenses, fail to produce the document or article.

Penalty: Fifty pounds.

### *Refusal to give evidence an offence*

121. — A person who appears before the Registrar as a witness shall not, without lawful excuse, refuse to be sworn or to make an affirmation, or to produce documents or articles, or to answer questions, which he is lawfully required to produce or answer.

Penalty: Fifty pounds.

### *Recovery of costs*

122. — Costs awarded by the Registrar may, in default of payment, be recovered in a court of competent jurisdiction as a debt due by the person against whom the costs were awarded to the person in whose favour they were awarded.

### *Certificate of validity*

123. — In an action or proceeding in which the validity of the registration of a trade mark is unsuccessfully disputed, the court may certify that the validity of the registration of the trade mark came in question and, if the court so certifies, then, in a subsequent action or proceeding in which the validity of the registration of the trade mark is disputed, the registered proprietor of the trade mark, on obtaining a final order or judgment in his favour, is entitled, unless the court trying the action or proceeding otherwise directs, to have his full costs, charges and expenses as between solicitor and client.

### *Groundless threats of legal proceedings*

124. — (1) Where a person, by means of circulars, advertisements or otherwise, threatens a person with an action or proceeding for infringement of a trade mark which is registered, or alleged by the first-mentioned person to be registered, or some other like proceeding, a person aggrieved may, whether the person making the threats is or is not the registered proprietor or the registered user of the trade mark, bring an action against the first-mentioned person and may obtain a declaration to the effect that the threats are unjustifiable, and an injunction against the continuance of the threats, and may recover such damages (if any) as he has sustained, unless the first-mentioned person satisfies the court that the trade mark

is registered and that the acts in respect of which the proceedings were threatened constitute, or, if done, would constitute, an infringement of the trade mark.

(2) The last preceding sub-section does not apply if the registered proprietor of the trade mark, or a registered user acting in pursuance of sub-section (1) of section seventy-eight of this Act, with due diligence commences and prosecutes an action against the person threatened for infringement of the trade mark.

(3) Nothing in this section renders a legal practitioner or a patent attorney liable to an action under this section in respect of an act done by him in his professional capacity on behalf of a client.

(4) Jurisdiction is, by this section, conferred on the High Court to hear and determine an action under this section, but this section does not deprive another court of jurisdiction which it possesses to hear and determine such an action.

### *Counter-claim by defendant for infringement*

125. — The defendant in an action or proceeding under the last preceding section may apply, by way of counter-claim, for relief to which he would be entitled in a separate action in respect of an infringement by the plaintiff of the trade mark to which the threats relate and in that case the provisions of this Act with respect to an action for infringement of a trade mark are, *mutatis mutandis*, applicable in relation to that action.

### *Description of trade marks in pleadings*

126. — In an indictment, information, pleading or proceeding in relation to a registered trade mark, it is not necessary to set out a copy or facsimile of the trade mark or a description of it, but the trade mark may be referred to as a registered trade mark and identified by its registered number.

### *Power of amendment*

127. — (1) The Registrar may, on such terms as to costs or otherwise as he thinks just —

- (a) whether for the purpose of correcting a clerical error or an obvious mistake or otherwise, permit the amendment of an application for the registration of a trade mark, a notice of opposition or other document lodged at the Trade Marks Office; or
- (b) for the purpose of correcting a clerical error or an obvious mistake, amend the Register or a certificate of registration of a trade mark.

(2) An appeal lies to the Appeal Tribunal from a decision of the Registrar under the last preceding sub-section.

(3) An amendment of an application shall not be permitted under this section if the amendment would substantially affect the identity of the trade mark as specified in the application before amendment.

### *Exercise of discretionary power by Registrar*

128. — Where a discretionary power is, by this Act, given to the Registrar, he shall not exercise that power adversely to

a person applying for the exercise of that power without (if so required by that person within such time as is specified by the Registrar) giving to that person an opportunity of being heard.

#### *Fees*

129. — (1) There shall be paid to the Registrar such fees as are prescribed.

(2) Where —

- (a) a fee is payable in respect of the doing of an act by the Registrar, the Registrar shall not do that act until the fee has been paid;
- (b) a fee is payable in respect of the doing of an act by a person other than the Registrar, the act shall be deemed not to have been done until the fee has been paid; or
- (c) a fee is payable in respect of the lodging of a document, the document shall be deemed not to have been lodged until the fee has been paid.

#### *Extension of time*

130. — Where, by this Act, a time is specified within which an act or thing is to be done, the Registrar may, unless otherwise expressly provided, extend the time either before or after its expiration.

#### *Power to extend times by reason of errors in Trade Marks Office, etc.*

131. — (1) Where, by reason of —

- (a) circumstances beyond the control of the person concerned; or
- (b) an error or action on the part of an officer or person employed in the Trade Marks Office,

an act or step in relation to an application for the registration of a trade mark or in proceedings under this Act (not being proceedings in a court) required to be done or taken within a certain time has not been so done or taken, the Registrar may extend the time for doing the act or taking the step and permit the act to be done or the step to be taken.

(2) The time required for doing an act or taking a step may be extended under this section although that time has expired.

#### *Address for service*

132. — (1) An address for service stated in an application or notice of opposition shall, for the purposes of the application or notice of opposition, be deemed to be the address of the applicant or opponent, as the case may be, and all documents in relation to the application or notice of opposition may be served by leaving them at or sending them by post to the address for service of the applicant or opponent, as the case may be.

(2) An address for service may be changed by notice in writing to the Registrar.

(3) The registered proprietor of a trade mark shall from time to time notify the Registrar in writing of any change in his address, and request him to enter the change in the Register, and the Registrar shall alter the Register accordingly.

(4) The address of the registered proprietor of a trade mark, as appearing for the time being in the Register, shall for all purposes under this Act be deemed to be the address of the registered proprietor.

#### *Declaration by infant, lunatic, etc.*

133. — If a person is, by reason of infancy, lunacy or other disability, incapable of making a declaration or doing anything required or permitted by this Act, the guardian or committee of the incapable person, or if there is no such guardian or committee, a person appointed by a court, or a Justice or Judge of a court, of the Commonwealth or of a State or Territory of the Commonwealth possessing jurisdiction in respect of the property of incapable persons, upon the petition of a person on behalf of the incapable person, or of some other person interested in the making of the declaration or the doing of the thing, may make the declaration (or a declaration as nearly corresponding to the declaration as the circumstances permit) and may do that thing, in the name and on behalf of the incapable person and all acts so done are, for the purposes of this Act, as effectually done as if they had been done by the incapable person and that person had not been incapable at the time of the making of the declaration or the doing of the thing.

#### *Death of party to a proceeding*

134. — If a person who is party to a proceeding under this Act (not being a proceeding in a court) dies pending the proceeding, the Registrar may, on request, and on proof to his satisfaction of the transmission of the interest of the deceased person, substitute in the proceeding his successor in interest in his place, or, if the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving parties, permit the proceeding to continue without the substitution of his successor in interest.

#### *Unauthorized persons not to act in trade mark matters*

135. — (1) Subject to section one hundred and thirty-eight of this Act, a person shall not, for gain —

- (a) apply for or obtain the registration of a trade mark;
- (b) prepare, or cause to be lodged at the Trade Marks Office, or at a sub-office of the Trade Marks Office, a document necessary for obtaining or opposing the registration of a trade mark; or
- (c) give advice as to the validity of the registration of a trade mark or as to the infringement of a trade mark, unless he is —
  - (d) a legal practitioner;
  - (e) a registered patent attorney;
  - (f) the applicant or the opponent concerned;
  - (g) a person in the sole and permanent employment of the applicant or the opponent concerned;
  - (h) a person who, within one year after the commencement of this Act, has satisfied the Registrar that, for a continuous period of two years immediately before the first day of January, One thousand nine hundred and fifty-five, he was practising as a trade marks agent in Australia; or

(i) a person who —

(i) within one year after the commencement of this Act, has satisfied the Registrar that, for a continuous period of two years immediately before the first day of January, One thousand nine hundred and fifty-five, he was employed by a registered patent attorney in Australia and his duties related solely or principally to the lodging, prosecuting and opposing of applications for the registration of trade marks; and

(ii) unless the Registrar otherwise directs, has, within one year after the commencement of this Act or within such further time as the Registrar allows, passed the prescribed examination.

Penalty: One hundred pounds.

(2) For the purpose of paragraph (h) of the last preceding sub-section, a person shall not be deemed to have practised as a trade marks agent unless the only or the principal business carried on by him was the business of lodging, prosecuting and opposing, for gain, applications for the registration of trade marks in Australia on behalf of applicants or opponents.

#### *Privileges of patent attorneys*

136. — (1) A patent attorney —

- (a) is entitled to prepare documents, transact business and conduct proceedings for the purposes of this Act; and
- (b) has such other rights and privileges as are prescribed.

(2) Nothing in this section authorizes a patent attorney to prepare a document which is to be issued from or filed in a court or to transact business or to conduct proceedings in a court.

#### *Unregistered persons not to describe themselves as trade marks agents*

137. — (1) Subject to the next succeeding section —

- (a) a person shall not describe himself or hold himself out, or permit himself to be described or held out, as a trade marks attorney, trade marks agent or agent for obtaining the registration of trade marks, unless he is a legal practitioner, registered as a patent attorney or a person referred to in paragraph (h) or (i) of sub-section (1) of section one hundred and thirty-five of this Act; or
- (b) the members of a partnership shall not describe themselves or hold themselves out, or permit themselves to be described or held out, as trade marks attorneys, trade marks agents or agents for obtaining the registration of trade marks, unless each member of the partnership is so registered, is a legal practitioner or is a person referred to in paragraph (h) or (i) of sub-section (1) of section one hundred and thirty-five of this Act.

Penalty: One hundred pounds.

(2) A company shall not describe itself or hold itself out, or permit itself to be described or held out, as a trade marks attorney, trade marks agent or agent for obtaining the registration of trade marks.

Penalty: One hundred pounds.

(3) A director, manager, secretary or other officer of a company which is guilty of an offence against the last preced-

ing sub-section who is knowingly a party to the offence is guilty of an offence punishable, upon conviction, by a fine not exceeding One hundred pounds.

#### *Carrying on business of deceased patent attorney*

138. — It is not an offence against section one hundred and thirty-five or section one hundred and thirty-seven of this Act if the legal representative of a deceased patent attorney carries on the business or practice of that deceased patent attorney for a period not exceeding three years from the death of the patent attorney, or, in the case of a patent attorney who died before the date of commencement of the *Patents Act* 1952, for a period of three years from that date, or, in either case, for such further period (if any) as the High Court allows, and is himself a patent attorney or a person entitled to practise as a patent attorney, or employs a patent attorney, or a person entitled to practise as a patent attorney, to manage that business or practice on his behalf.

#### *Adaptation of classification*

139. — (1) The regulations may make provision for the amendment of the Register, whether by making, expunging or varying entries in the Register, for the purpose of adapting the designation in the Register of the goods or classes of goods in respect of which trade marks are registered to any amended or substituted classification of goods which is prescribed.

(2) An amendment for the purpose referred to in the last preceding sub-section shall not be made if it would have the effect of adding goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made, or of antedating the registration of a trade mark in respect of goods.

(3) The last preceding sub-section does not have effect in relation to goods as to which the Registrar is satisfied —

- (a) that compliance with that sub-section in relation to those goods would involve undue complexity; and
- (b) that the addition or antedating, as the case may be, would not affect a substantial quantity of goods and would not substantially prejudice the rights of any person.

(4) A proposal for the amendment of the Register for the purpose referred to in sub-section (1) of this section —

- (a) shall be notified to the registered proprietor of the trade mark affected;
- (b) shall be advertised in the *Official Journal*; and
- (c) may be opposed before the Registrar by a person aggrieved on the ground that the proposed amendment contravenes the provisions of sub-section (1) of this section.

(5) An appeal lies to the Appeal Tribunal from a decision of the Registrar under this section.

#### *Making and signing of applications*

140. — Where, by this Act, an application or notice is required or permitted to be made or signed by a person, that application or notice may be made or signed, on behalf of that person, by a patent attorney, legal practitioner or person entitled to practice as a trade marks agent.

*Examiner's reports to be communicated*

141. — A copy of each report of an Examiner under this Act shall be sent to the applicant or registered proprietor of the trade mark concerned, as the case requires.

*Security for costs*

142. — If a person who appeals to the Appeal Tribunal neither resides nor carries on business in Australia, the Appeal Tribunal may require that person to give security for the costs of the appeal, and in default of security being given to the satisfaction of the Appeal Tribunal, the appeal may be dismissed.

*Costs of attendance of patent attorney*

143. — Where, at the hearing of an action or proceeding under this Act, a patent attorney attends in court for the purpose of assisting a party in the conduct of the hearing and an order is made for payment of the costs of that party, those costs may include an allowance in respect of that attendance.

*Service of orders on appeal*

144. — (1) Where by this Act provision is made for the service on the Registrar of a judgment or order of a court, and an order is made by the Queen in Council, or by a court, on appeal from such a judgment or order, a person in whose favour the order on appeals is made is not entitled to enforce the order until he has served on the Registrar an office copy of the order.

(2) Upon the service on him of such an order, the Registrar shall make such entries (if any) in the Register, or take such other action (if any), as the case requires.

*Improperly describing an office as the Trade Marks Office*

145. — (1) A person shall not use, in connection with his business, words which would reasonably lead to the belief that his office is, or is officially connected with, the Trade Marks Office.

Penalty: Twenty pounds.

(2) Without limiting the effect or application of the last preceding sub-section, a person who —

- (a) places, or suffers or permits to be placed, on the building in which his office is situated;
- (b) uses in advertising his office or business; or
- (c) places on a document, as a description of his office or business,

the words "Trade Marks Office", the words "Office for registering trade marks", or words of similar import, whether alone or in conjunction with other words, shall be deemed to use, in connection with his business, words which would reasonably lead to the belief that his office is the Trade Marks Office.

*Falsely representing a trade mark as registered an offence*

146. — (1) A person shall not make a representation —

- (a) with respect to a mark, not being a registered trade mark, to the effect that it is a registered trade mark;

- (b) with respect to a part of a registered trade mark, not being a part separately registered as a trade mark, to the effect that it is so registered;
- (c) to the effect that a registered trade mark is registered in respect of goods in respect of which it is not registered; or
- (d) to the effect that the registration of a trade mark gives a right to the exclusive use of the trade mark in circumstances in which, having regard to conditions or limitations entered on the Register, the registration does not give that right.

Penalty: Fifty pounds.

(2) For the purposes of this section, the use in Australia, in relation to a trade mark, of the word "registered", or of some other word referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration under this Act, except —

- (a) where that word is used in physical association with other words delineated in characters at least as large as those in which that word is delineated, and indicating that the reference is to registration as a trade mark under the law of a country outside Australia, being a country under the law of which the registration referred to is in force;
- (b) where that word (being a word other than the word "registered") is of itself such as to indicate that the reference is to such registration as is referred to in the last preceding paragraph; or
- (c) where that word is used in relation to a mark registered as a trade mark under the law of a country outside Australia and in relation to goods to be exported to that country.

*Regulations*

147. — The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for the conduct of any business relating to the Trade Marks Office, and in particular —

- (a) for providing for the destruction of documents relating to trade marks the registration of which has ceased not less than twenty-five years before the time of destruction; and
- (b) for prescribing penalties not exceeding a fine of Fifty pounds or imprisonment for six months for offences against the regulations.

THE SCHEDULE

First column Acts Repealed	Second column Extent of Repeal
<i>Trade Marks Act 1905</i> . . . . .	The whole
<i>Patents, Trade Marks and Designs Act 1910</i> . . . . .	Section 4
<i>Trade Marks Act 1912</i> . . . . .	The whole
<i>Trade Marks Act 1919</i> . . . . .	The whole
<i>Trade Marks Act 1922</i> . . . . .	The whole
<i>Trade Marks Act 1936</i> . . . . .	The whole
<i>Trade Marks Act 1948</i> . . . . .	The whole

## FEDERAL REPUBLIC OF GERMANY

**Regulations for Patent Applications**(Of March 30, 1965)<sup>1)</sup>

As provided in Section 26, paragraph 3, of the Patent Law, text of the announcement of May 9, 1961 (*Bundesgesetzblatt I*, p. 549), in conjunction with Section 23 of the decree concerning the German Patent Office of May 9, 1961 (*Bundesgesetzblatt I*, p. 585), it is hereby ordered:

## Section 1

*Application*

Any person desiring to obtain a patent must in the German language apply in writing to the Patent Office (Section 26, paragraph 1, sentence 1, and Section 45 of the Patent Law).

The application consists of (Section 26, paragraph 1, sentences 3-6, Patent Law):

- (1) the petition (Section 2),
- (2) the specification (Section 3),
- (3) the claims (Section 3a), and
- (4) the necessary drawings (Section 4).

If, in the case of an invention for which a patent application on the same subject has been disposed of, registration in the Gebrauchsmuster Register is petitioned (Gebrauchsmuster auxiliary application), the Gebrauchsmuster regulations shall be applicable to the said petition.

## Section 2

*Petition*

A petition for the grant of a patent shall be submitted on a separate sheet. The form issued by the Patent Office should be used for the petition.

The petition must contain:

- (1) the civil name, firm name, or other designation of the applicant, the domicile or place of business, and the address (place, street and number). The civil name comprises the first or Christian name and the surname, and in the case of women also the maiden name. The country and district are also to be given in the case of foreign countries.

It must clearly appear whether the patent is sought for one or more individual persons or for a company, for the proprietor of a firm in his civil name or for the firm itself. Firm names are to be set forth as they appear in the commercial register (column 2a).

Later changes of name, firm name, domicile or place of business, or address are to be communicated without delay to the Patent Office; documentary proof is to be submitted in the case of change of name or of firm name;

- (2) a brief and exact technical designation of the object to which the invention relates (no fanciful title);

- (3) the statement that the grant of a patent is sought for the invention. If the grant of a patent of addition is applied for, the number of the parent patent or the serial number of the parent application is to be cited;
- (4) the name and address of any appointed agent. As agent only a legally qualified person designated by his civil name can be appointed. The appointment of more than one agent is permissible. The power of attorney is to be submitted as an attachment to the petition;
- (5) where application is made by more than one person but without a common agent, or where several agents with different addresses are appointed, a statement setting forth to whom official actions are to be sent;
- (6) the signature of the applicant, applicants, or the agent. In the case of juridical persons and firms, the signature must agree with that entered in the register.
- (7) where the applicant, by reason of his minority (Section 106, Civil Code) or otherwise (Section 114, Civil Code), is limited in his legal capacity, the consent in writing of his legal representative.

## Section 3

*Specification*

1. The specification shall describe the invention in such a manner that its subsequent utilization by others skilled in the art appears possible (Section 26, paragraph 1, sentence 4, Patent Law).

2. Two identical copies of the specification shall be submitted.

3. The civil name, firm name, or other designation of the applicant (Section 2, paragraph 2. No. 1), and the technical designation of the invention as title (Section 2, paragraph 2, No. 2), shall precede the specification.

4. The specification must contain:

- (a) a statement of the scope of application of the invention;
- (b) if the applicant supplies the prior art on which the invention is based, of his own initiative or at the request of the Patent Office under Section 26, paragraph 4, of the Patent Law, an indication of the sources from which the cited prior art is derived, to the extent that they are known to the applicant;
- (c) the description of the invention, as characterized in the claims, in such a way that the technical problem and its solution can be understood therefrom;
- (d) if necessary, an explanation of the invention suitably in terms of examples of application;
- (e) the description of the advantages that can be derived from the invention in comparison with the prior art;
- (f) reference symbols when reference is made to the drawing.

5. Embodiments of the invention for which protection is sought in dependent claims are to be disclosed as necessary in the specification.

6. The specification shall contain only those statements which are necessary to clarify the invention.

<sup>1)</sup> The English translation of the Regulations for Patent Applications was prepared by the U.S. Patent Office and is reproduced with its kind permission.

7. A technical concept shall always be expressed by the same technical designation. In the case of technical concepts contained in applications for patents of addition and which correspond to concepts contained in the parent application, the same designations as in the parent application must be used.

8. Units of measurement, e. g. linear measures and weights, are to be expressed in the metric system, temperatures in degrees centigrade. For electrical units the rules recognized in international practice are to be observed.

In chemical formulas, the symbols which are customary in Germany shall be used.

9. Fanciful designations, trademarks, and other designations which are not obviously suitable for clear indication of the nature of an object may not be used in the specification.

10. No graphical illustrations may be included in the specification. Chemical and mathematical formulas are excepted.

### Section 3a

#### Claims

1. The claims shall indicate what is to be protected as patentable (Section 26, paragraph 1, sentence 5, Patent Law).

2. Each claim must contain:

(a) a statement (*Oberbegriff*) containing the technical designation (Section 2, paragraph 2, No. 2) of the structure, or process, to which the invention relates, and its characteristic features in so far as these features are known or not to be protected;

(b) a characterizing portion (*kennzeichnender Teil*) concisely stating what is, with respect to the structure, or process, designated, to be protected as patentable. The characterizing portion shall be introduced by the words "characterized in that" or "characterized by."

Other formulations of the claims are admissible if they are appropriate to the case.

3. All the features necessary for the solution, according to the invention, of the problem posed, must be contained in the first (principal) claim (*Hauptanspruch*).

4. Another solution of the same general technical problem, independent from the solution characterized in the principal claim, may be set forth in a secondary claim (*Nebenanspruch*)<sup>1)</sup> provided that the principle of unity is preserved (Section 26, paragraph 1, sentence 2, Patent Law). Secondary claims generally contain no reference to other claims, but contain the same statement (as defined in Sub-Section 2a above) as the principal claim. The secondary claim must contain all the characteristics necessary for the other solution.

5. Embodiments of the invention, based on the principal or the secondary claim, may constitute the subject of dependent claims (*Unteransprüche*). A dependent claim must refer to a preceding claim. The statement (as defined in Sub-Section 2a above) of the dependent claim may be replaced by a complete or partial reference to a preceding claim, to the extent that such reference is sufficient to clarify the protection sought.

<sup>1)</sup> *Translator's note:* This is an independent claim, of the same kind as the principal claim.

6. If a plurality of claims is set forth, these claims must be designated by successive Arabic numerals.

7. The claims must clearly characterize what is to be protected as patentable, even without reference to the specification or drawings. If drawings are submitted, reference symbols which refer to these drawings should always be inserted in parentheses in the claims (see Section 4, No. 4). Reference symbols must be introduced to the extent that they are necessary for clarification. General reference to the specification or the drawing (e. g. "as described" or "as illustrated") shall not be made in the claims.

8. The provisions of Section 3, Nos. 2 and 7-10, *mutatis mutandis*, are also applicable to claims.

### Section 4

#### Drawings

1. Drawings (Section 26, paragraph 1, sentence 6, Patent Law) shall be submitted in triplicate, namely two file copies with the application and one copy for printing not later than preceding the issuance of the decision to lay the patent open to public inspection.

2. The sheet size shall be DIN A4 (29.7 × 21 cm) narrow form, and exceptionally DIN A3 (29.7 × 42 cm) wide form. Sheet lengths of 29-34 cm are also acceptable.

The surface used for graphic illustration (printing area) may not exceed 25.7 × 17 cm for a sheet width of 21 cm, and 25.7 × 35.5 cm for a sheet width of 42 cm.

3. The drawings are to be made only in lines and broken lines. Cross sections are to be hatched. The use of colors is prohibited. All parts of the drawings are to be made in dark (preferably black), indelible lines and broken lines of equal strength, with sharp outlines and in a manner to cover the background satisfactorily.

The scale of drawings is to be selected so that all details can be easily made out in photographic reproduction, even when reduced to two thirds. If, in exceptional cases, the scale of the drawing is indicated, such indication must be given graphically, and not in writing.

Individual figures are to be arranged without wasting space on a sheet of drawings, but clearly separated. They are to be designated by consecutive numerals.

4. All characters supplied in the drawings must be simple and clear, and may not be smaller than 3.2 cm. Reference symbols (preferably Arabic numerals) for individual elements in drawings are to be used only if a reference to the illustration of the element concerned is necessary in the specification to clarify the invention.

The same elements must be designated by the same reference symbols in all drawings, and said symbols must correspond exactly to the reference symbols contained in the specification. The same reference symbols may not be used for different elements, even when the figures are on different sheets.

5. Explanations are not to be included in drawings, except for short indications such as "water," "vapor," "section along AB (Fig. 3)," "open," or "closed"; short keywords may be

used if necessary for clarification in circuit diagrams, block diagrams, or schematics. All word indications are to be in the German language.

6. The identifying indication (Section 6, No. 1) is to appear in the margin.

7. The drawing for printing is to be made on translucent, flexible, strong, unglazed materials (e.g. tracing linen or tracing paper) and is to be submitted without creases, cracks or other mutilations. It may be reproduced by photoengraving method, provided that all lines and broken lines cover the background satisfactorily and appear dark (preferably black) on light transparent material. The material may not be dark or spotted. Violet coloring of lines and broken lines must be avoided.

The two file drawings must be made on durable, white unglazed paper. Positive reproductions on durable paper are also sufficient, provided that all lines or broken lines appear in sharp outline dark, so that they can be photographically reproduced. They must conform exactly with the drawing for printing. Negative reproductions are not accepted.

## Section 5

### *Models and Samples*

1. Models or samples are to be submitted only at the request of the Patent Office.

2. Models and samples that may be easily damaged must be so marked and submitted under strong cover. Small articles are to be attached on stiff paper.

3. Samples of toxic, corrosive or readily inflammable materials, especially of explosives, shall be clearly marked as such on the cover and, if possible, on the article itself.

4. Samples of chemical substances are to be submitted in glass bottles provided with a strong seal and with a permanently attached indication of the contents. Samples are to be accompanied by a list set up according to the specification or the claim.

5. Dyed products or tanned product samples must be attached permanently and as flat as possible on stiff paper (size DIN A4) and accompanied by exact inscriptions which conform with the statements made in the specification. Dyed products and tanned product samples are to be specified by an exact description of the dyeing and tanning processes employed.

## Section 6

### *Additional Requirements Relating to Filed Papers*

1. Attachments to the petition must bear a clear indication of the application to which they belong. After an application number has been officially assigned, said application number must be included in all mail addressed to the Patent Office.

2. Papers which are to be distributed to third parties or relate to a plurality of applications shall be submitted in the appropriate number of copies.

3. Durable, strong white paper shall be used for all documents. Petitions for patent grant, specifications and claims shall be submitted in size DIN A4. Sheet sizes of 29-34 × 20-22 cm are also admissible.

4. Sheets must be printed on one side only.

Writing must be clearly legible, in dark, indelible and permanent ink. A suitable space must be left between individual lines to permit the insertion of corrections.

A free margin of at least 3 cm must be left on the left side of the sheet. Individual sheets of documents must be numbered consecutively.

5. The specification and the claims should contain no erasures, amendments or overwriting. However, if erasures, amendments or overwritten words are contained in the original they must be exactly reproduced in all copies.

6. If the specification, claims or drawings are amended in the course of the procedure, the applicant should indicate in particular where the invention characteristics described in the new papers are disclosed in the original papers, except if the changes have been suggested by the Patent Office. Missing data shall be supplied at the request of the Patent Office.

Fair copies made on the basis of amendments in the specification or claims shall be submitted by the applicant at the request of the Patent Office.

7. New parts of the specification and new claims shall always be submitted on separate sheets.

## Section 7

### *Translations*

If documents are not written in the German language, a German translation must be attached thereto. Such translation must be made by an officially appointed translator. The translator's signature (Section 129, Civil Code) and also the fact that the translator has been officially appointed for this purpose must be officially certified upon request.

This provision does not apply to priority documents submitted in accordance with the revised Convention of Paris for the Protection of Industrial Property, The Hague text of November 6, 1925, London text of June 2, 1934, or Lisbon text of October 31, 1958. Such papers may also be submitted in the French or English language. The requirement of submission of a translation of such papers is to be determined in each individual case by the service processing the application.

## Section 8

### *Berlin*

Under Section 14 of the law concerning the status of the "Land Berlin" in the financial system of the Federal Republic (Third Transitory Law) of January 4, 1952 (*Bundesgesetzblatt I*, p. 1), in conjunction with Section 21 of the sixth Law for the Amendment and Transfer of Regulations on the Protection of Industrial Property of March 23, 1961 (*Bundesgesetzblatt I*, p. 274), these Regulations also apply to the "Land Berlin."

## Section 9

### *Enactment*

These Regulations supersede the Regulations for Patent Applications of October 16, 1954 (*Bundesanzeiger* No. 217 of November 10, 1954). They shall come into force on September 1, 1965.

## ITALY

## Decrees

## concerning the Temporary Protection of Industrial Property Rights at Three Exhibitions

(Of December 16, 1966, January 12 and 18, 1967)<sup>1)</sup>

## Single Article

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

XIX<sup>a</sup> Fiera Campionaria della Sardegna (Cagliari, March 4 to 19, 1967);

37<sup>th</sup> Salon International de l'Automobile (Geneva, March 9 to 19, 1967);

IV<sup>o</sup> Salone internazionale delle arti domestiche (Turin, March 16 to 29, 1967)

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

<sup>1)</sup> Official communication from the Italian Administration.

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

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

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

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


 UNITED NATIONS

### Cooperation Between the United Nations and BIRPI on Patents in 1966

Action taken in the United Nations and its various bodies in regard to industrial property has been described in recent issues of *Industrial Property*<sup>1)</sup>.

By virtue of the Working Agreement established in 1963 between the United Nations Secretariat and BIRPI (see *Industrial Property*, 1964, p. 207), BIRPI was represented at a number of meetings of United Nations bodies in the course of 1966. These included, in particular, the Trade and Development Board and its main Committees, the Economic and Social Council, the Advisory Committee on the Application of Science and Technology to Development, the Economic Commission for Europe, and the General Assembly.

#### I. Advisory Committee on the Application of Science and Technology to Development

Fifth Session, New York, March 1966

The Committee prepared its Third Report covering its Fourth and Fifth Sessions, and gave serious attention to the transfer of technology to developing countries. The BIRPI

<sup>1)</sup> See *Industrial Property*, 1962, p. 38; 1963, p. 267; 1964, pp. 56, 141, 207, 211; 1966, p. 67.

representative was invited to sit with the Sub-Committee considering this subject.

The Report contains the following passage:

“ 120. The Committee attaches special importance to possible means for reducing the cost of the acquisition and practical operation of foreign technology to emerging industries and countries. These possibilities might relate, for example, to financial assistance to the know-how recipients through loans or aid, by bilateral and multilateral institutions and programmes; or to compensation provided to the know-how suppliers by either their own Governments directly, for example, out of aid allocations, or indirectly, through tax concessions or guarantees, or from international financial resources. Reference was made to the special possibilities available in the case of innovations which were in the public domain or had been developed by, or with, support from public, semi-public or non-profit agencies.

“ 121. The Committee looks forward to a systematic study in this field by the Secretary-General, in consultation with the United International Bureaux for the Protection of Intellectual Property (BIRPI) and other international and national bodies concerned (both public and private), with a view toward formulating specific proposals for remedial action.”

The Committee also recommended that the Secretary-General should (*inter alia*) “ carry out, in consultation with the United International Bureaux for the Protection of Intellectual Property (BIRPI) and other international and national bodies concerned (both public and private), a systematic inquiry into the possibilities suggested in the Secretary-General's earlier report on the role of patents in the transfer of technology to developing countries, as well as those put forward in paragraph 120 above for reducing the cost of foreign technology and formulate proposals for appropriate action.”

The Report also draws attention to the vast amount of technical information to be found in published patent specifications.

The Sixth Session of the Committee met in Rome in October 1966, but as the agenda was largely devoted to the development of food and natural resources, BIRPI did not send a representative.

#### 2. Economic Commission for Europe Geneva, April 1966

The Economic Commission for Europe organized a Consultation of Experts nominated by Governments to consider the question of clauses dealing with know-how in contracts. BIRPI was represented at this meeting and it was agreed, as the Report shows, that BIRPI would be associated with future work in this field.

#### 3. Committee for Industrial Development Sixth Session, New York, April 1966

This was the last meeting of the Committee before its absorption into the new United Nations Industrial Development Organization (see below).

The Secretariat is producing a Consolidated Report of the Industrial Development Activities of the United Nations System of Organizations and BIRPI has been invited to contribute material on what it is doing in the industrial property field. This contribution has been made and the Consolidated Report will be presented to the first meeting of the new Industrial Development Board in March 1967.

The Committee adopted a draft resolution to the effect that an International Symposium on Industrial Development should be held in 1967. This draft was subsequently approved by the Economic and Social Council and the Symposium will take place in Athens in December 1967. It was made clear in the Report of the Committee that Item 3 (a) of the Provisional Agenda — “General Issues of Industrial Policy and Its Implementation” — includes industrial property legislation and administration. Provision is made in the Rules of Procedure for participation of and the distribution of written statements by intergovernmental bodies.

#### 4. Economic and Social Council Forty-First Session, Geneva, August 1966

The proceedings of this Session were largely formal so far as BIRPI was concerned, but it approved the Report of the Sixth Session of the Committee for Industrial Development and of the Ad Hoc Committee which establishes the organization and functions of the United Nations Industrial Development Organization (see below). In regard to the latter, a number of delegates stressed that the new Organization should cooperate fully with existing organizations.

#### 5. Trade and Development Board Third Session, New York, January/February 1966

BIRPI was invited to send an observer to this Session, but, as it was not expected to deal with industrial property matters, BIRPI was not represented.

#### Fourth Session, Geneva, August/September 1966

This Session had before it an Implementation Report which included several pages dealing with activities in the field of industrial property. The BIRPI representative made a statement outlining BIRPI's program for the benefit of developing countries. This was fully reproduced in the Summary Records and summarized in the Report of the Session.

The Second Session of the United Nations Conference on Trade and Development (UNCTAD) will take place in New Delhi in February and March 1968. The Fourth Session of the Board adopted a Provisional Agenda for the Conference, which includes the item “Transfer of Technology including Know-How and Patents.”

The Committees of the Board have not yet dealt with industrial property, but it is likely that during 1967 the Committee on Invisibles will consider the question of patents from a royalty point of view in the light of the inclusion of this item in the Agenda of the Second Conference.

## 6. United Nations General Assembly Twenty-First Session, New York, September to December 1966

### 1. United Nations Industrial Development Organization (UNIDO)

Undoubtedly, the most important feature of United Nations' activities in 1966, from BIRPI's point of view, was the establishment of a new United Nations body for industrial development.

At the Twentieth Session in 1965, the Assembly set up an Ad Hoc Committee of thirty-six Member States to prepare a draft resolution to establish this new body and to report back to the Twenty-First General Assembly.

This Ad Hoc Committee met in New York in April 1966 (when BIRPI was not represented) and produced a Report and Draft Resolution proposing the details of the organization and functions of UNIDO. Having passed through the Committee for Industrial Development and the Economic and Social Council (which, of course, were only able to comment on it without amendment), this Report was considered at the Twenty-First General Assembly and, in the result, was adopted unanimously.

The Organization will consist of all the Members of the United Nations and of any of the specialized agencies and will operate through a Board of forty-five members, each of which remains in office for three years.

The first meeting of the Board is scheduled to take place in New York in March 1967. Its permanent Headquarters will be in Vienna.

BIRPI's interest lay in paragraph 2 (a) (x) of the functions of the new Organization which, as drafted, read as follows:

“Proposing measures for the improvement of the international system of industrial property, with a view to accelerating the transfer of technical know-how to developing countries and to strengthening the role of patents consistent with national interests as an incentive to industrial innovations.”

In the course of debate, many Delegations intimated that this paragraph should only be implemented in consultation with existing international organizations in the field of industrial property, and a number said that any such implementation should only be in cooperation with BIRPI.

There was a strong disinclination on the part of the Second Committee (which was initially considering this Resolution) to accept any amendments, but finally an amendment was adopted, by 50 votes in favour to 9 against with 40 abstentions, to insert after the word “Proposing” in paragraph 2 (a) (x), the words “in cooperation with the international bodies or intergovernmental regional bodies concerned with industrial property.”

This amendment, which was sponsored by a group of 15 African countries including all the Members of the African and Malagasy Industrial Property Office, should put it beyond doubt that BIRPI will be asked to cooperate on any implementation of this paragraph.

2. *United Nations Commission on International Trade Law*  
(UNCITRAL)

There was a draft resolution before the Assembly to set up a United Nations Commission on International Trade Law. This draft was based on a Report by the Secretary-General, upon which BIRPI had been invited to make comments. The final text contains all BIRPI's suggestions and sets out the Conventions administered by BIRPI and BIRPI's present and future programme for harmonization by the publication of model laws on the various subjects of industrial property.

In the debate, industrial property was expressly referred to as a subject on which considerable harmonization already existed and it was emphasised that any such new Commission should not interfere in the work of other Organizations which were already operating satisfactorily.

The Resolution was adopted unanimously and the Commission will consist of representatives of 29 States elected by the General Assembly for a term of six years, such representatives to be persons "of eminence in the field of the law of international trade." The function of the Commission is "the promotion of the progressive harmonization and unification of the law of international trade" and includes the promotion of "wider participation in existing international conventions and wider acceptance of existing model and uniform laws."

It is also provided that the Commission may establish appropriate working relationships with intergovernmental organizations concerned with the progressive harmonization and unification of the law of international trade.

The Commission will not be set up until the Twenty-Second Session of the General Assembly in the Autumn of 1967, and the Secretary-General is meanwhile requested to carry out the preparatory work.

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In all bodies of the United Nations, it is becoming apparent that an increasing importance is attached to industrial property, particularly as a means of assistance towards the industrialization of the developing countries.

## GENERAL STUDIES

### The New German Regulations for Patent Applications \*)

By W. ALTHAMMER and R. SCHULTE, Munich









# CALENDAR

## Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
March 14 to 17, 1967 Geneva	Permanent Committee of the Berne Union (Extraordinary Session)	Consideration of various questions concerning copy-right	Belgium, Brazil, Denmark, France, Germany (Fed. Rep.), India, Italy, Portugal, Rumania, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland	All other Member States of the Berne Union; United Nations; International Labour Office; Unesco; Council of Europe; Unidroit
April 10 to 12, 1967 Geneva (Headquarters of ILO)	Intergovernmental Committee (Neighbouring Rights). Meeting convened jointly by BIRPI, ILO and UNESCO (First Session)	Adoption of the rules of procedure; election of officers; various questions	Congo (Brazzaville), Czechoslovakia, Ecuador, Mexico, Sweden, United Kingdom of Great Britain and Northern Ireland	—
April 18 to 21, 1967 Geneva	Committee of Experts for the Classification of Goods and Services	To bring up to date the international classification	All Member States of the Nice Union	—
June 12 to July 14, 1967 Stockholm	Intellectual Property Conference of Stockholm, 1967	<p>(a) General Revision of the Berne Convention (Copyright)</p> <p>(b) Revision of the Paris Convention (Industrial Property) on the question of inventors' certificates</p> <p>(c) Revision of the administrative and final clauses of the Berne and Paris Conventions and of the Special Agreements concluded under the latter</p> <p>(d) Establishment of a new Organization</p>	<p>For (a), (b) and (c): Member States of the various Unions</p> <p>For (d): States Members of the United Nations or any of the UN Specialized Agencies</p>	<p>States: States not members of the Unions [for (a), (b) and (c)]</p> <p><i>Intergovernmental Organizations:</i> United Nations; International Labour Organization; World Health Organization; United Nations Educational, Scientific and Cultural Organization; General Agreement on Tariffs and Trade; International Institute for the Unification of Private Law; International Olive Oil Council; International Patent Institute; International Vine and Wine Office; African and Malagasy Industrial Property Office; Council of Europe; Latin-American Free Trade Association; Organization of American States</p> <p><i>Interested International Non-Governmental Organizations</i></p>
December 12 to 15, 1967 Geneva	Permanent Committee of the Berne Union (13 <sup>th</sup> Session)	Consideration of various questions concerning copy-right	Belgium, Brazil, Denmark, France, Germany (Fed. Rep.), India, Italy, Portugal, Rumania, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland	All other Member States of the Berne Union; interested international inter-governmental and non-governmental organizations
December 18 to 21, 1967 Geneva	Interunion Coordination Committee (5 <sup>th</sup> Session)	Program and Budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Mexico, 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
December 18 to 21, 1967 Geneva	Conference of Representatives of the International Union for the Protection of Industrial Property (2 <sup>nd</sup> Session)	Program and Budget for the next three-year period	All Member States of the Paris Union	--

Date and Place	Title	Object	Invitations to Participate	Observers Invited
December 18 to 21, 1967 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (3rd Session)	Program and Budget (Paris Union)	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Mexico, 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
December 18 to 21, 1967 Geneva	Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration (2nd Session)	Annual Meeting	All Member States of the Lisbon Union	All other Member States of the Paris Union

### Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
The Hague	March 8 and 9, 1967	International Patent Institute (IPI)	Session of the Administrative Council
Strasbourg	March 13 to 17, 1967, and April 3 to 7, 1967	Council of Europe	Working Group of the Committee of Experts on Patents
Basle	March 29 to April 4, 1967	International Literary and Artistic Association (ALAI)	52nd Congress
Montreal	May 13 to 20, 1967	International Chamber of Commerce (ICC)	21st Congress
Guatemala	May 25 to 28, 1967	Inter-American Association of Industrial Property (ASIPI)	Executive Committee
Helsinki	August 28 to September 1, 1967	International Association for the Protection of Industrial Property (IAPIP)	Executive Committee
Stockholm	September 18 to 29, 1967	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	7th Annual Meeting



