

# Industrial Property

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

9<sup>th</sup> Year

No. 4

April 1970

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# INTERNATIONAL UNIONS

## Preparatory Study Group on the Draft Patent Cooperation Treaty Regulations

(Geneva, March 9 to 19, 1970)

### Note \*

Within the framework of the program of BIRPI as decided by the competent organs of the Paris Union concerning the BIRPI Plan for a Patent Cooperation Treaty (PCT), a "Preparatory Study Group on the Draft Patent Cooperation Treaty Regulations" met in Geneva, at the *Palais des Nations*, from March 9 to March 19, 1970.

This was the first meeting since the 1968 Committee of Experts (see *Industrial Property*, 1969, p. 13) to which all member countries of the Paris Union were invited. Smaller meetings were held in the spring of 1969 and resulted in the publication, in July 1969, of the Draft Treaty and the Draft Regulations prepared for the diplomatic (or negotiating) conference scheduled for the spring of 1970 (see *Industrial Property*, 1970, p. 4).

The task of the Study Group consisted of examining the Draft Regulations (document PCT/DC/5).

Forty States, nine intergovernmental organizations, and eleven non-governmental organizations were represented. The list of the some 130 participants appears at the end of this Note.

The meeting was chaired by Mr. G. Borggård, Head of the Delegation of Sweden.

As usual in all PCT meetings organized by BIRPI, all participants, whether representing Governments or organizations, had equal opportunities to participate in the discussions.

The Study Group considered, paragraph by paragraph, each of the 95 Rules of the PCT Draft Regulations. When the discussion on any Rule made consideration or the changing of the corresponding Article of the Draft Treaty (document PCT/DC/4) necessary, the Study Group also dealt with such Article.

The Study Group reached general agreement on a number of changes affecting some two-thirds of the Draft Rules. Many of these changes are in the nature of drafting changes but some of them go to substance. In the case of a number of Rules, the Study Group, without proposing changes in the Draft Regulations, agreed on the interpretation which one ought to give to such Rules. Both these changes and interpretations, as well as the major proposals on which no general agreement has been reached, are reported on in a 57-page report that the Study Group adopted on the last day of its meeting (document PCT/WGR/17). Copies of this report may be obtained from BIRPI in English and French.

The meeting was without any doubt very useful in preparing the solutions of a great number of questions which

await final agreement in the course of the Diplomatic Conference of Washington in May and June 1970.

## List of Participants

### I. States

#### Algeria

- Mr. S. Bouzidi, Head of Division, National Industrial Property Office, Algiers
- Mr. A. A. Acheheb, Head of Service, National Industrial Property Office, Algiers
- Mr. A. Boussaïd, Administrator, Ministry of Industry and Energy, Algiers
- Mr. K. Lokmane, Secretary of Embassy, Permanent Mission of Algeria, Geneva

#### Argentina

- Mr. L. M. Laurelli, Secretary of Embassy, Permanent Mission of Argentina, Geneva

#### Australia

- Mr. P. F. Kildea, Assistant Commissioner of Patents, Australian Patent Office, Canberra

#### Austria

- Mr. T. Lorenz, Vorsitzender Rat, Austrian Patent Office, Vienna
- Mr. G. Gall, Kommissär, Austrian Patent Office, Vienna

#### Belgium

- Mr. J. D. P. Degavre, Secretary, Industrial and Commercial Property Service, Brussels
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- Mr. M. S. Couto, First Secretary, Permanent Mission of Brazil, Geneva

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- Mr. D. C. Atanasov, Deputy Director, Institute of Inventions and Rationalization, Sofia
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\* This Note has been prepared by BIRPI.

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Mr. H. Vanderborgh, Head of Department of Technical Documentation and Patents, UCB (Union chimique - Chemische Bedrijven) S. A., Brussels

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### *International Federation of Patent Agents (FICPI)*

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 Mr. J. P. Simon, Head of Legal Service, Syndicat Général de la Construction Electrique, Paris  
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**IV. Officers of the Meeting**

- Chairman: Mr. G. Borggård (Sweden)  
 Vice-Chairmen: Mr. E. Tasnádi (Hungary)  
 Mr. P. F. Kildea (Australia)  
 Secretary: Dr. Arpad Bogsch (BIRPI)  
 Assistant Secretary: Mr. K. Pfanner (BIRPI)

**VI. United International Bureaux for the Protection of Intellectual Property (BIRPI)**

- Professor G. H. C. Bodenhause, Director  
 Dr. Arpad Bogsch, First Deputy Director  
 Mr. K. Pfanner, Senior Counsellor, Head of the Industrial Property Division  
 Mr. I. Morozov, Counsellor, Industrial Property Division  
 Mr. R. Wipf, Counsellor, Industrial Property Division  
 Mr. S. Hayashi (Patent Office of Japan)  
 Mr. H. D. Hoinkes (U. S. Patent Office)  
 Mr. J. Kohnen, Project Officer, Industrial Property Division

**BIRPI/UNIDO Meeting on the Organization and Administration of Industrial Property Offices**

(Vienna, October 6 to 10, 1969)

**Note \***

An Expert Group Meeting on the Organization and Administration of Industrial Property Offices, convened jointly by BIRPI and the United Nations Industrial Development Organization (UNIDO), was held in Vienna from October 6 to 10, 1969, at UNIDO headquarters. The purpose of the meeting was to study the various aspects of the organization and administration of industrial property offices in developing countries.

Attending the meeting were experts from Austria, France, Hungary, India, Ireland, Switzerland, the United Arab Republic, the United Kingdom, Venezuela, the International Patent Institute (IIB) and the African and Malagasy Industrial Property Office (OAMPI). In addition, the following States sent observers: Austria, Bolivia, Bulgaria, China, Germany (Fed. Rep.), Ghana, the Holy See, Honduras, Italy, Ivory Coast, Liberia, Morocco, Poland, Portugal, Rumania, Spain, Sweden, Thailand, Togo, Tunisia, the Union of Soviet Socialist Republics and the United States. The list of participants is annexed to this Note (see Annex 2). BIRPI was represented by Mr. Joseph Voyame, Second Deputy Director, and Mr. Klaus Pfanner, Senior Counsellor, Head of the Industrial Property Division.

\* This Note has been prepared by BIRPI on the basis of the documents of the meeting.

Mr. Abdel Rahman, Executive Director of UNIDO, opened the meeting with a welcoming address. Mr. Denis Ekani, Director General of OAMPI, was chairman of the meeting.

The meeting heard and discussed a series of reports prepared by participating experts. The reports dealt with administration of industrial property offices, particularly as an element of the investment climate, use of protected inventions to promote industrialization in developing countries, examination of inventions as to novelty, OAMPI's experience as regional industrial property office for a group of developing countries, special problems of administration and organization of industrial property offices in countries with planned economies, and technical assistance as a means of improving administration of industrial property offices.

The meeting then drew up conclusions and recommendations which were adopted unanimously at its last sitting. The text of these conclusions and recommendations is annexed to this Note (see Annex 1).

One of the most important conclusions of the meeting was that protection of industrial property, particularly the patent system, constitutes one of the important factors in the promotion of industrial development. The participants in the meeting stressed the importance of international collaboration in the form of regional groups to ensure effective and fruitful functioning of the system for the protection of industrial property in developing countries.

To ensure more effective assistance to developing countries in this field, the meeting recommended closer cooperation between the international organizations concerned. The meeting recommended that developing countries should envisage more active participation in the development of international conventions in the field of industrial property and should examine the usefulness of their accession to any such conventions, particularly to the conventions of universal and general character and to those of a technical character, and to take these conventions into account when adapting their national legislation to their needs in the light of the model laws prepared by BIRPI.

**ANNEX 1****Conclusions and Recommendations**

The meeting adopted the following conclusions and recommendations:

**Conclusions**

- (i) The protection of industrial property, especially the system of inventor's patents, is one of the most important factors in promoting industrial development.
- (ii) To enable this system to achieve its purposes more rapidly in the developing countries, a number of conditions must be fulfilled, of which the most important is the transfer of technology, including know-how, to these countries.
- (iii) To ensure the effective and fruitful operation of the system of industrial property protection in developing countries, international collaboration in the form of groupings at the regional level is desirable.

- (iv) The structures and procedures of industrial property offices in developing countries should be changed so as to develop a system of investigation which would enable information on the "state of the art" and on the usefulness of the inventions for industrialization purposes to be obtained.
- (v) Co-operation between existing international agencies appears to be necessary, in particular with a view to granting increased assistance to developing countries.

### *Recommendations*

#### *The Expert Group*

- (i) Recommends that UNIDO, BIRPI and IIB, as well as OAMPI and all international organizations concerned, should co-operate with a view to ensuring the co-ordination of their efforts so as to render their aid to developing countries more effective;
- (ii) Recommends that the developing countries should consider participating in the drawing up of international conventions in the field of industrial property and should study the advisability of acceding to any such convention, more particularly general conventions intended for universal application and conventions of a technical nature, and to take these into account when adapting national legislation to their needs in the light of the model laws drafted by BIRPI;
- (iii) Recommends that UNIDO, in co-operation with IIB and BIRPI, should assist developing countries with a view to enabling them to assess the technical value and economic usefulness of inventions for which patent protection is sought;
- (iv) Recommends that UNIDO should:
  - (a) Take, within the framework of assistance granted to developing countries, all necessary measures:
    - to organize vocational training in the sphere of licensing;
    - to prepare a guide-book on licensing agreements;
    - to prepare a guide-book on the organization and administration of industrial property offices adapted to the needs of developing countries;
    - to increase the number of industrial property training courses;
    - to organize the sending of experts to developing countries;
    - to provide material technical assistance in equipping industrial property offices in developing countries;
  - (b) Take all necessary measures to assist existing or future regional offices, for example OAMPI on an experimental basis;
  - (c) Continue the studies already begun on the establishment of a technology bank;
  - (d) Undertake an immediate survey on the establishment of technological centres for the dissemination and transfer of technology, including know-how, and establish such centres without delay, if practicable;

- (v) Recommends that UNIDO, in preparing its future programmes, should take into consideration the list of recommendations made by the representative of India which will be attached to the report of the Expert Group.

## ANNEX 2

### **List of Participants**

#### **I. Experts**

- Mr. Jean-Louis Comte, Chief of Section I. a and President of a Patents Section, Federal Office of Industrial Property, Berne, Switzerland
- Mr. Denis Ekani, Director of the African and Malagasy Industrial Property Office, Yaoundé, Cameroon
- Mr. Guillaume Finnis, Director-General, International Patent Institute, The Hague, Netherlands
- Mr. Philippe Guérin, Legal Adviser, attached to the Directorate of the National Institute of Industrial Property, Paris, France
- Mr. John Joseph Lennon, Consultant and Hearing Officer, Patents Office, Dublin, Ireland
- Mr. George Pálos, Legal Adviser, National Office for Inventions, Budapest, Hungary
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- Mr. Gottfried Hanno Thaler, President of the Austrian Patent Office, Vienna, Austria
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##### *International Association for the Protection of Industrial Property (IAPIP)*

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##### *International Patent Institute (IIB)*

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#### **III. Observers**

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##### *Bulgaria*

- Mr. Dimo Kamburov, First Secretary and alternate representative to UNIDO, Vienna

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##### *Holy See*

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**LEGISLATION****HUNGARY****Law on the Protection of Inventions by Patents**

(No. II of 1969) \*

**PART I****Inventions and Patents****CHAPTER I****Subject of Patent Protection****Article 1***Patentable Inventions*

Any solution which is new, represents progress, is of a technical nature, and is capable of practical application, is a patentable invention.

**Article 2***Novelty*

A solution is new if it has not been made available to the public to such an extent that it can be carried out by a person skilled in the art.

**Article 3***Progress*

A solution represents progress in comparison with the given state of the art if it satisfies needs which remained unsatisfied before or if it satisfies needs more advantageously than before.

**Article 4***Technical Nature*

A solution is of a technical nature if it brings about a change in the product or the manufacturing process.

**Article 5***Practical Applicability*

A solution is capable of practical application if it can be carried out repeatedly with the same result.

**Article 6***Patent Protection*

(1) The applicant shall be granted patent protection for his invention if:

- (a) the invention satisfies the requirements prescribed in Articles 1 to 5 of the Law at the date of priority (Article 43) and if it is not excluded from patent protection under the terms of paragraph (3);
- (b) the application complies with the formal requirements prescribed by this Law.

(2) Plant varieties and animal breeds and the processes for obtaining them shall be patentable if the variety or breed is new, homogenous and relatively stable (Article 67).

\* BIRPI translation.



- (3) The invention cannot be granted patent protection if:
- (a) it relates to a medicine, a product produced chemically or, with the exception of cases mentioned under paragraph (2), food used for human or animal consumption; the process by which they are manufactured shall be patentable;
  - (b) the use thereof is contrary to law or socially accepted morals, unless trade in such products is merely restricted by law;
  - (c) the subject matter thereof is identical with that of a patent having an earlier date of priority; where identity is only partial, a patent may be granted with the appropriate limitations.

## CHAPTER II

### Rights and Obligations Deriving from an Invention and from Patent Protection

#### Article 7

##### *Personal Rights of the Inventor*

(1) The inventor is the person who created the invention. So long as a final court judgement does not rule to the contrary, the person named as such in the application filed at the National Office of Inventions with the earlier date of priority shall be presumed to be the inventor.

(2) The inventor shall be entitled to be named as such in the documents concerning the patent.

(3) The inventor shall be entitled to institute proceedings under the Civil Code against anybody disputing his quality of inventor or infringing his other personal rights deriving from the invention.

(4) Prior to the publication effected during the course of the patent application procedure, the invention may only be disclosed with the consent of the inventor or his successor in title.

#### Article 8

##### *Right to a Patent*

(1) The right to a patent shall belong to the inventor or his successor in title.

(2) So long as a final court judgement or another decision by an authority does not rule to the contrary, the person having filed a patent application at the National Office of Inventions with the earliest date of priority shall be considered the person in whom the right is vested.

(3) If two or more persons have jointly made an invention, the right to a patent shall belong to them, or their successors in title, jointly. If two or more persons have created the invention independently of each other, the right to a patent shall belong to the inventor, or his successor in title, who filed the application at the National Office of Inventions with the earliest date of priority.

#### Article 9

##### *Employee Inventions*

(1) An employee invention is an invention made by a person who, either on the basis of his employment or by virtue of other legal relations, is under obligation to develop solutions in the field of the invention.

(2) The right to a patent for an employee invention shall belong to the employer or the person entitled by other legal relations (hereinafter referred to as "the employer"). If the employer does not claim the patent or the invention, and gives his consent, the inventor or his successor in title may dispose of the invention.

(3) Disputes concerning the question whether an invention is an employee invention shall be settled by the court.

(4) The inventor of an employee invention shall be entitled to remuneration which shall be fixed by separate regulation.

#### Article 10

##### *Establishing Patent Protection*

(1) Patent protection shall be established by the publication of the patent application; the effect of protection shall be retroactive to the date of application.

(2) Protection arising out of the publication shall be provisional. It shall become definitive with the granting of the patent to the applicant.

#### Article 11

##### *Effects of Patent Protection*

(1) On the basis of patent protection, the owner of the patent (hereinafter referred to as "the patentee") shall have, as provided for by legislation, the exclusive right to work the invention or to grant a license of exploitation to another person. The exclusive right of working shall include systematic manufacture and exploitation as well as putting the subject of the invention on the market within the framework of economic activity.

(2) If the patent has been granted for a process, its effects shall extend to the products obtained directly by means of such process.

(3) The patentee shall be obliged to work the invention in the manner and to the extent required in order to satisfy the needs of national economy, or to grant a license to another person for that purpose. In the event of non-fulfilment of that obligation, the patent may be exploited under a compulsory license (Article 21).

#### Article 12

##### *Duration of Patent Protection*

(1) Definitive patent protection shall have a duration of twenty years beginning on the date of filing of the application.

(2) During the period of patent protection, annual patent fees, to be fixed by a special regulation, shall be payable. These fees shall be due each year on the date corresponding to the date of filing.

(3) Any annual fee may also be paid within a period of grace of six months beginning on the date when it became due, together with a surcharge fixed by the relevant regulation.

#### Article 13

##### *Scope of Patent Protection*

The scope of patent protection shall be determined by the claims (Article 41(2)). Claims may only be interpreted on the basis of the description and drawings.

## Article 14

*Limitations of Patent Protection*

(1) Any person who, in the territory of the country, before the date of priority, was, in good faith and within the framework of his economic activities, already systematically manufacturing or using the subject of the invention or had made serious preparations with a view to doing so, shall have a right of prior use. Patent protection shall have no effect against a person entitled to a right of prior use, to the extent that such manufacture, use or preparations are concerned. The right to prior use (working) shall only be transferable with the undertaking or the production unit to which it belongs.

(2) Where reciprocity exists, the effects of patent protection shall not extend to means of movement and transport which are in transit in the territory of the country and to foreign goods which are not intended to be put on the market in the country.

## Article 15

*Transfer of Rights*

(1) Rights deriving from an invention and from patent protection, with the exception of personal rights, may be transferred, assigned, or restricted.

(2) Transfer by contract may be invoked against a third party who acquired his right in good faith and for a consideration only if the transfer is recorded in the Patent Register.

## Article 16

*Joint Patent Application and Joint Patent*

(1) Where there are two or more patentees for the same patent, each joint patentee may dispose of his share only. If a share is alienated, the other joint patentees shall have a right of pre-emption.

(2) Each joint patentee may also exploit the patent by himself, but he must give appropriate remuneration to the other joint patentees, in proportion to their shares.

(3) Joint patentees may only jointly grant a license to a third party for the exploitation of the patent. A judicial decision may be substituted for consent under the general rules of civil law (Civil Code, Article 5(3)).

(4) In case of doubt, the shares of joint patentees shall be equal. If one of the joint patentees renounces patent protection (Article 31), the rights of the other joint patentees shall cover his share in proportion to their shares.

(5) Each joint patentee may take steps, also individually, in order to maintain and protect the patent right. Costs concerning the patent are to be acquitted by the joint patentees in proportion to their shares. If one of the joint patentees, despite being notified, does not acquit the cost charged to him, the joint patentee hearing the cost may claim the transfer of the share of the joint patentee who did not fulfil his obligation.

(6) The provisions concerning patents in joint ownership shall apply to joint patent applications as well.

## CHAPTER III

*Contracts of Exploitation*

## Article 17

*Conclusion of Contracts of Exploitation*

(1) On the basis of a contract of exploitation (contract granting a license under a patent) the patentee grants a license for the exploitation of the invention; in exchange, the user is under obligation to pay royalties.

(2) A contract of exploitation may be invoked against a third party who acquired his right in good faith and for a consideration only if it is recorded in the Patent Register.

## Article 18

*Rights and Obligations of the Parties*

(1) The patentee shall guarantee, for the duration of the contract of exploitation, that third parties shall have no right in the patent which would prevent or limit its exploitation. This guarantee shall be subject to the same rules as those applying to a vendor for the transfer of his right of ownership, with the difference that the user, instead of withdrawing, may rescind the contract with immediate effect.

(2) The contract of exploitation shall cover all points of the patent claims and every mode of exploitation to any extent whatever, without limitation in time or space. However, a right of exploitation under a license contract shall be exclusive only if expressly stipulated.

(3) The patentee shall inform the user of any rights deriving from the patent, as well as of important circumstances. Nevertheless, he shall be obliged to transfer technical know-how for the carrying out (working) of the invention only if this has been expressly agreed.

(4) The license may be assigned by the user to a third party only with the express consent of the patentee.

(5) The patentee shall be obliged to ensure maintenance of the patent.

## Article 19

*Expiration of the Contract of Exploitation*

(1) The contract of exploitation shall expire, with effect for the future, when the period of its duration comes to an end or if certain specified circumstances occur.

(2) If the patent ceases to exist with retroactive effect to its origin, the user may claim only the portion of the royalties he paid that was not covered by the useful results derived from the exploitation of the invention.

## Article 20

*Effect of the Provisions Relating to Contracts of Exploitation*

(1) The parties, by mutual consent, may lay down terms that differ from the provisions relating to contracts of exploitation, where this is not prohibited by legislation.

(2) Matters relating to contracts of exploitation and not covered by this Law shall be governed by the provisions of the Civil Code.

## CHAPTER IV

## Compulsory Licenses. Exploitation by the State

## Article 21

*Compulsory License for Non-Working of the Patent*

If the patentee, within four years from the date of filing of the patent application, or within three years from the grant of the patent, whichever period last expires, has not worked the invention in the territory of the State to the extent and in the way required to meet the needs of the national economy, or if he has not undertaken serious preparations or has not granted a license for that purpose, an enterprise in the country may apply for and receive a compulsory license, unless the patentee justifies the failure in question.

## Article 22

*Compulsory License in the Case of Dependent Patents*

If the patented invention cannot be exploited without infringing another patent, a compulsory license to the extent necessary for exploitation shall be granted under the patent impeding exploitation.

## Article 23

*Common Provisions on Compulsory Licenses*

(1) The application for a compulsory license shall establish that the requirements for a compulsory license are complied with, namely, that

- (a) the patentee was unwilling to grant a license on his own for exploitation of the patent, even under appropriate conditions, and that
- (b) exploitation of the invention to the required extent is ensured.

(2) A compulsory license, unless renounced or cancelled, shall be in effect until the expiration of patent protection; it may be granted with or without limitations. Compulsory licenses shall be non-exclusive; they shall be recorded in the Patent Register.

(3) The patentee shall receive adequate compensation for the compulsory license, which shall be fixed, failing agreement between the parties, by the court.

(4) The holder of a compulsory license shall have the same right as the patentee in regard to the maintenance of the patent and the exercise of the rights deriving from protection.

(5) A compulsory license may only be assigned or transferred with the enterprise (production unit) concerning which it was granted. The holder of a compulsory license may not grant a license for exploitation.

(6) The holder of a compulsory license may renounce his compulsory license at any time. If, within one year from the definitive grant of the compulsory license, the holder thereof does not start exploitation, the patentee may claim modification or cancellation of the compulsory license.

## Article 24

*Exploitation for the Needs of National Defense*

(1) The President of the National Office of Inventions may, on the request of the Minister of National Defense, order

that any filed or patented invention shall be exploited for the needs of national defense.

(2) Such exploitation shall give rise to compensation, the amount of which, failing agreement, shall be fixed by the court.

## CHAPTER V

## Infringement of Inventions and Patents

## Article 25

*Infringement of an Invention*

Where the subject of a patent application or of a patent has been taken unlawfully from the invention of another person, the injured party or his successor in title may claim partial or total assignment of the patent application or of the patent.

## Article 26

*Patent Infringement*

(1) Any person who unlawfully exploits an invention under patent protection commits patent infringement.

(2) The patentee may, according to the circumstances of the case, have recourse to the following civil remedies:

- (a) request that the fact of infringement be declared by the court;
- (b) request an injunction in order to stop the infringement and enjoin the infringer to discontinue the infringement;
- (c) demand satisfaction from the infringer by way of a declaration, or by other appropriate means; if necessary, the declaration shall be made public by the infringer or at his expense;
- (d) demand restitution of the enrichment obtained by infringement of the patent;
- (e) request the court to order the seizure of the instruments used for the infringement and of the infringing products.

(3) The court may rule, according to the circumstances of the case, that the instruments and products seized be divested of their infringing character or be auctioned according to court procedure; in the latter case the court shall fix the sum to be collected.

(4) If the patent infringement has caused material damage, damages shall be payable under the relevant provisions of the Civil Code.

## Article 27

*Rights of the Applicant and of the User in the Event of Patent Infringement*

(1) An applicant whose invention benefits from provisional protection may also institute proceedings for patent infringement; the proceedings shall be deferred, however, until the decision to grant the patent has become final.

(2) In the event of patent infringement, the user may call upon the patentee to take appropriate action in order to put a stop to the infringement. If the patentee, within thirty days from the notification, fails to take action, the user recorded in the Patent Register may institute proceedings, in his own name, for patent infringement.

## Article 28

*Decision of Non-Infringement*

(1) Any person who fears that proceedings for patent infringement will be instituted against him, may, prior to the institution of such proceedings, request a decision ruling that the product manufactured or intended to be manufactured by him, or the process applied or intended to be applied, does not infringe a particular patent specified by him.

(2) A definitive decision of non-infringement bars the institution, on the basis of the patent concerned, of infringement proceedings in respect of the same product or process.

## CHAPTER VI

*Expiration of Patent Protection*

## Article 29

*Expiration of Provisional Patent Protection*

Provisional patent protection (Article 10(2)) shall expire with retroactive effect to the date of origin if:

- (a) the application is definitively rejected;
- (b) in the case of deferred examination, if such examination is not requested within the period of four years prescribed by this Law (Article 47(3)) or is not ordered ex officio;
- (c) the annual fees have not been paid, even during the period of grace (Article 12(3));
- (d) the applicant surrenders his rights.

## Article 30

*Expiration of Definitive Patent Protection*

Definitive patent protection shall expire,

- (a) when the period of protection comes to an end, on the day following the date of expiration;
- (b) if the annual fees have not been paid, even during the period of grace (Article 12(3)), on the day following the date when the fee became due;
- (c) if the patentee surrenders his patent, on the day following receipt of the surrender, or on an earlier date specified by the person surrendering the patent;
- (d) if the patent is declared null and void, with retroactive effect to the date of filing of the application (Article 32(1)).

## Article 31

*Surrender of Patent Rights*

(1) The applicant, appearing in the list of published patent applications, or the patentee listed in the Patent Register, may surrender his patent rights by written declaration addressed to the National Office of Inventions. If the surrender affects the rights of third parties based on legislation, on decisions of an authority, on a license contract recorded in the Patent Register, or if proceedings are recorded in the Patent Register, it shall only take effect with the consent of the parties concerned.

(2) It shall also be possible to surrender certain claims of the patent.

## Article 32

*Nullity of and Limitations on Patents*

(1) The patent shall be declared null and void with retroactive effect to its origin if:

- (a) the subject of the patent does not satisfy the requirements laid down in Article 6(1)(a);
- (b) the description does not satisfy the legal requirements (Article 41).

(2) Where conditions of nullity exist only partially, the patent shall be limited accordingly.

(3) Nullity, as well as limitation, shall be recorded in the Patent Register and published in the Official Gazette of the National Office of Inventions.

## PART II

*Procedure in Patent Matters*

## CHAPTER VII

*General Regulations for Procedure before the National Office of Inventions*

## Article 33

*Powers of the National Office of Inventions*

The National Office of Inventions shall be empowered to:

- (a) grant patents;
- (b) declare that patent protection has expired;
- (c) pronounce a patent null and void;
- (d) pronounce non-infringement;
- (e) interpret the description in a patent;
- (f) deal with matters concerning the maintenance and registration of patents.

## Article 34

*Application of the General Provisions on Administrative Procedure*

(1) The National Office of Inventions shall proceed in patent matters, with the exceptions prescribed in this Law, by applying Law No. IV of 1957 on the General Provisions on Administrative Procedure. In the cases specified in special legislation, the National Office of Inventions shall take decisions in sittings in chambers.

(2) The National Office of Inventions may retract or modify its decisions on patent matters taken on merits. Its decisions may not be invalidated or changed by a supervisory authority; they shall be without appeal.

(3) A decision in patent matters taken by the National Office of Inventions may be changed by the court, in conformity with the provisions of Article 57.

## Article 35

*Access to the Files*

(1) Until the publication of the patent application, only the applicant, his representative, or the expert or the body called upon to give an expert opinion shall have access to the files, be allowed to make copies or be allowed to participate in the procedure. The inventor shall have access to the files and may make remarks even if he is not the applicant.

(2) Proceedings before the National Office of Inventions shall be public only if there is an adverse party participating.

(3) The President of the National Office of Inventions may order, on the request of the competent Minister and in the interest of national defense, that the patent application shall be dealt with as a State secret. In that case, publication of the application, grant of the patent, and printing of the description shall be waived; the other proceedings relative to the patent shall also be qualified as a State secret.

#### Article 36

##### *Power of Attorney*

(1) The National Office of Inventions may order the party, where warranted, to give power of attorney to a patent attorney in order to represent him, jointly or alone.

(2) An alien shall be obliged to give power of attorney to an attorney-at-law, a patent attorney or other qualified person, having domicile in the country, in order to represent him in proceedings before the National Office of Inventions.

#### Article 37

##### *Registration of Patent Matters*

(1) The National Office of Inventions shall keep a list of published patent applications as well as a Register concerning patents and the rights relative thereto; all proceedings and other circumstances concerning published patent applications and patents shall be recorded therein.

(2) Any right relative to patent protection may be invoked against a third party who acquired his right in good faith and for a consideration, only if it is recorded in the list or Register.

(3) Information shall be recorded in the list of published patent applications or in the Patent Register only on the basis of definitive decisions of the National Office of Inventions or of a court.

(4) The Patent Register shall be accessible to anyone; copies of the information it contains shall be available on request.

(5) All decisions and all facts the publication of which is prescribed by legislation shall be published in the *Official Gazette* of the National Office of Inventions.

#### Article 38

##### *Restoration of Rights*

In patent proceedings — unless prohibited by legislation — a request for the restoration of rights may be submitted within fifteen days from the unobserved time limit, or the last day of the unobserved period.

#### Article 39

##### *Use of Languages*

In patent proceedings, documents in foreign languages may also be submitted; the National Office of Inventions may however, require a translation into the Hungarian language.

## CHAPTER VIII

### Patent Application Procedure

#### Article 40

##### *Patent Application*

(1) The procedure for the grant of a patent shall begin with the filing of a patent application with the National Office of Inventions.

(2) The patent application shall consist of the claim, the description of the invention, and other relevant documents. Detailed regulations concerning the formalities to be complied with in patent applications shall be published, by the President of the National Office of Inventions, in the *Official Gazette* in the form of an announcement.

(3) Rights can only be based on an application which contains at least the name and address of the applicant as well as a description of the essential features of the invention (Article 41(1)). The description can also be made by reference to a priority document.

#### Article 41

##### *Description*

(1) The description shall make it possible for a person skilled in the art to carry out the invention on the basis of the description and drawings.

(2) At the end of the description one or more claims shall define, in accordance with other parts of the description, the scope of the protection applied for.

#### Article 42

##### *Unity of Invention*

In any patent application, patent protection may only be sought for a unitary invention. More than one invention may only be included in a single application if the subjects thereof are directly linked to each other.

#### Article 43

##### *Priority*

(1) The date of priority giving rise to a right of priority shall be:

- (a) generally, the day on which the application (priority by application) or the amendment extending the scope of protection (priority by amendment) arrived at the National Office of Inventions;
- (b) in the cases defined by special legislation, the filing date of the foreign application (convention priority);
- (c) in the cases determined by an announcement of the President of the National Office of Inventions published in the *Official Gazette*, the day of the exhibition of the invention (priority by exhibition).

(2) The order of priority of applications which arrived on the same day shall be determined by their serial number in the list of applications.

(3) Different claims may have different priorities.

(4) The priority defined in paragraph (1)(b) and (c) can only be claimed by a person who has submitted his declaration

of priority simultaneously with the patent application. Nevertheless, the document justifying the priority shall be submitted, on pain of loss of the right of priority, within three months of the filing of the application.

(5) If the applicant, on request or on his own initiative, divides his patent application, all divisional applications shall have the original date of filing as their filing date and may also retain, where applicable, the right of priority.

#### Article 44

##### *Formal Examination of the Patent Application*

(1) The National Office of Inventions shall, in all cases, undertake an examination of the patent application in order to ascertain whether it complies with the requirements prescribed in Article 40(2) and (3).

(2) If the patent application is so incomplete that no right can be based on it (Article 40(3)), the application shall be rejected without further procedure.

(3) If the patent application does not comply with the requirements prescribed in Article 40(2), the applicant shall be so notified and invited to remedy the insufficiencies. If the notification produces no result, the patent application shall be rejected.

#### Article 45

##### *Scope of the Examination of the Substance of the Patent Application*

The National Office of Inventions shall examine the substance of the patent application in regard to the following points:

- (a) whether the subject of the application is of a technical nature and capable of practical application;
- (b) whether the subject of the application is eligible for patent protection under Article 6(3)(a) or (b);
- (c) whether the description and patent claims comply with legal requirements;
- (d) whether the invention is unitary;
- (e) whether the application benefits from the claimed right of priority;
- (f) whether the subject of the application is new and represents progress;
- (g) whether there is no other patent application or patent relating to the same invention and having an earlier right of priority.

#### Article 46

##### *Complete Examination*

Before the patent application is published, the National Office of Inventions shall undertake a complete examination including points (a) to (g) of Article 45:

- (a) if the applicant so requests;
- (b) with regard to the field in respect of which the President of the National Office of Inventions, acting with the consent of the competent Minister, orders a complete examination in an announcement published in the *Official Gazette*;
- (c) if the National Office of Inventions otherwise orders a complete examination ex officio.

#### Article 47

##### *Deferred Examination*

(1) In the absence of the conditions set forth in Article 46, the National Office of Inventions shall undertake an examination of the application prior to publication only as regards points (a) to (e) of Article 45.

(2) The next stage of the deferred examination (subsequent examination) shall include examination of the requirements set forth in points (f) and (g) of Article 45.

(3) Subsequent examination shall be ordered by the National Office of Inventions within the period of four years from the publication of the patent application at the request of any person; it may also be ordered ex officio. Subsequent examination shall begin three months after publication of the order of the National Office of Inventions in the *Official Gazette*.

#### Article 48

##### *Procedure of Examination as to Substance*

(1) If the examination as to substance reveals insufficiencies, the applicant shall be so notified and invited to remedy the insufficiencies; depending on the character of the latter, the application shall be divided or a declaration made.

(2) If the National Office of Inventions finds, at the expiration of the time limit fixed, that the patent application does not comply with the requirements of the examination, because insufficiencies have not been remedied, the division or the declaration not having been made, or despite these, it shall reject the application with the exception of the case mentioned in paragraph (3).

(3) If a patent application relating to the same subject and having an earlier priority date has also been filed, until the procedure relating to it is terminated, the other procedure shall be stayed.

(4) If proceedings have been instituted in order to settle the right to a patent application, the patent procedure shall be stayed until such proceedings are definitively terminated.

(5) If an employer who has filed an application in respect of an employee's invention does not remedy the insufficiencies, or does not make the declaration requested, despite repeated notifications, his attitude shall be regarded as signifying his consent that the inventor may dispose of his invention. In such a case, the inventor shall be notified to remedy the insufficiencies or to make the declaration within a new, appropriately fixed time limit. If he enters the procedure, it shall be continued with his participation.

#### Article 49

##### *Amendment and Division*

(1) The applicant shall be entitled to amend the description (claims) and drawings; once the decision ordering publication has become definitive, the amendment may not broaden the scope of protection.

(2) If the applicant has claimed patent protection for two or more inventions in one application, he may divide his application.

## Article 50

*Publication*

(1) If the patent application complies with the requirements of the examination, the National Office of Inventions shall order publication of the patent application. If there is reason to do so — on the request of the applicant or ex officio — publication may be postponed.

(2) If the decision ordering publication becomes definitive, the essential features of the application shall be published in the next issue of the *Official Gazette* of the National Office of Inventions.

(3) After publication, any person shall have access to the patent application and its annexes and copies may be obtained by paying a fee.

## Article 51

*Opposition*

(1) In the case of deferred examination, within three months of the announcement of the subsequent examination or, in the case of a complete examination, within three months of publication, any person may file, with the National Office of Inventions, opposition to the grant of the patent, invoking non-compliance with the requirements listed in points (a) to (g) of Article 45.

(2) If, by the end of the period of time granted for opposition, opposition to the patent application has been filed, an opposition procedure shall be opened in order to clarify the positions of the opponent and of the applicant. The decision regarding grant of the patent shall be taken on the basis of the results obtained.

(3) If the opposition is rejected, the patent application procedure shall be continued ex officio. No agreement may be entered into during the course of the procedure.

(4) The losing party shall be enjoined to pay the costs of the procedure; the opponent may be enjoined to pay the costs only if there was obviously no basis for his opposition.

## Article 52

*Grant of Patent*

(1) Depending on the results of the examination as to substance and of any opposition procedure, the National Office of Inventions shall grant a patent in respect of the subject of the application, or it shall reject the application.

(2) The patentee shall receive a patent document from the National Office of Inventions. To the document shall be appended the printed description and drawings. The grant of the patent shall be recorded in the Patent Register and published in the *Official Gazette* of the National Office of Inventions.

## CHAPTER IX

## Procedure in the National Office of Inventions in Matters of Granted Patents

## Article 53

*Declaration of Expiration of Patent Protection*

Expiration of patent protection under Article 29 and items (a) to (c) of Article 30 shall be pronounced by a decision of

the National Office of Inventions; it shall be recorded in the list of published applications or in the Patent Register, whichever applies, and published in the *Official Gazette* of the Office.

## Article 54

*Revocation Procedure*

(1) Any person may request the revocation of a patent. The request, together with the documents in proof, shall be filed at the National Office of Inventions with a copy for each patentee plus one additional copy. The request shall state the grounds (Article 32(1)) upon which it is based; the originals of the documents in proof or certified copies thereof shall be appended to the request.

(2) The National Office of Inventions shall forward the request for revocation with its appendices to the patentee and shall invite him to make a statement. Following the written preparatory work, the National Office of Inventions shall pronounce its decision on revocation in a hearing.

(3) If the request for revocation has been refused, the procedure may be continued ex officio. No agreement may be entered into during the course of the procedure.

(4) The losing party shall be enjoined to pay the cost of the revocation procedure.

## Article 55

*Procedure for a Decision on Non-Infringement*

(1) The petitioner shall submit his request for a decision on non-infringement to the National Office of Inventions, together with a description of the product manufactured or to be manufactured, or of the process applied or to be applied and an indication of the patent in question. The National Office of Inventions shall pronounce its decision on non-infringement in a hearing.

(2) The costs of the procedure for a decision on non-infringement shall be borne by the petitioner.

## Article 56

*Interpretation of the Description*

In the event of controversy concerning the interpretation of the patent description, the National Office of Inventions shall, at the request of the competent court or other authority, give an expert opinion.

## CHAPTER X

## Court Procedure in Patent Cases

## Article 57

*Review of Decisions Taken by the National Office of Inventions*

(1) On request, the court may review the decisions of the National Office of Inventions taken with regard to:

- (a) granting a patent;
- (b) declaring patent protection to have expired;
- (c) revoking a patent;
- (d) ruling on non-infringement.

(2) Any person who took part, as a party, in the proceedings at the National Office of Inventions may request that the



decision be reviewed; the public prosecutor may also request that the decision be reviewed.

(3) The period within which such a request shall be submitted shall be thirty days from the day on which the party was notified of the decision.

(4) The request shall be submitted either to the National Office of Inventions or to the court. The National Office of Inventions shall forward the request, together with the documents of the patent, within eight days.

#### Article 58

##### *Jurisdiction*

(1) Court proceedings for the review of decisions taken by the National Office of Inventions shall be under the exclusive jurisdiction of the Metropolitan Court of Budapest.

(2) The Supreme Court shall be competent to deal with appeals lodged against decisions of the Metropolitan Court of Budapest.

#### Article 59

##### *Composition of the Court*

In such proceedings, the bench of the Metropolitan Court of Budapest shall consist of three professional judges, two of whom shall possess a superior technical, or equivalent, qualification.

#### Article 60

##### *Application of the Provisions of the Code of Civil Procedure*

(1) In cases involving requests for the review of a decision on a patent, the Court shall proceed in accordance with the rules of "non-contentious" civil procedure, subject to the exceptions mentioned in this Chapter. The public prosecutor shall enjoy all rights which he otherwise has under such procedure.

(2) The court of first instance shall take evidence in accordance with provisions of the Code of Civil Procedure and shall conduct a trial. If the case can be settled on the basis of documentary evidence, the court may take a decision without a trial, but the party, on request, shall be heard.

(3) The decision taken by the said court shall be subject to appeal before the court of second instance in accordance with the provisions of the Code of Civil Procedure; that court may also take evidence within certain limits.

#### Article 61

##### *Incompatibility*

(1) In addition to the persons listed in Articles 13 to 15 and 21 of the Code of Civil Procedure, no one shall consider the case and shall act as judge if he

- (a) participated in taking the decision at the National Office of Inventions;
- (b) is a relative, former husband or wife — as stated by Article 13(2) of the Code of Civil Procedure — of a person mentioned under (a) above.

(2) The provisions of paragraph (1) shall also apply to court reporters and experts.

#### Article 62

##### *Restoration of Rights*

The provisions of Article 38 shall apply to claims for the restoration of rights in "non-contentious" proceedings of the court.

#### Article 63

##### *Representation*

In addition to the persons listed in Article 67(1) of the Code of Civil Procedure, patent attorneys may also act as representatives.

#### Article 64

##### *Decisions*

(1) If the court changes a decision taken in a patent case, the court judgement shall replace the decision of the National Office of Inventions.

(2) The court shall invalidate the decision and order the National Office of Inventions to start a new procedure if a person against whom incompatibility can be invoked participated in the taking of the decision or if important rules of procedure were infringed during the procedure which cannot be remedied by the court.

#### Article 65

##### *Review to Safeguard Legality*

As to the review to safeguard legality, the provisions of the Code of Civil Procedure shall apply, provided that final decisions dismissing a patent application, declaring a patent protection to have expired, pronouncing a patent null, or limiting a patent, cannot be repealed on merits, and that the Supreme Court shall be restricted to a ruling of infringement of the law.

### CHAPTER XI

#### Patent Litigation

#### Article 66

##### *Jurisdiction*

(1) Court proceedings concerning the grant, modification or revocation of a compulsory license, fixing the amount of damages for exploitation, the establishment of a right of prior working of the patent, and proceedings for patent infringement shall be under the exclusive territorial and material jurisdiction of the Metropolitan Court of Budapest.

(2) In such proceedings, the bench of the Metropolitan Court of Budapest shall be composed as prescribed in Article 59.

(3) In the court proceedings referred to in paragraph (1), the provisions of the Code of Civil Procedure shall apply, as well as the provisions of Articles 61 and 63 of this Law.

(4) In any other patent litigation not mentioned in paragraph (1), the courts of *comitats* (or the Metropolitan Court) or the economic commission of arbitration shall proceed in accordance with the general rules.



## PART III

Special Provisions Concerning Plant Varieties  
and Animal Breeds

## Article 67

*Requirements for Protection of Plant Varieties by Patents*

The requirements concerning the novelty, homogeneity and relative stability of plant varieties shall be laid down by special regulations which shall take the scientific developments into consideration.

## Article 68

*Effect of Protection of Plant Varieties by Patents*

(1) On the basis of a patent granted for a plant variety, the patentee shall have the exclusive right — within the limits set by legislation — to produce for commercial purposes, to sell, or to put on the market, the sexual or asexual propagating material of the new plant variety — as such — or to grant a license to any third party for such activities.

(2) Only with the permission of the patentee may the propagating material of the protected plant be exported to foreign countries in which protection for plants similar to the protection specified by this Law does not exist.

## Article 69

*Examination of the Substance of Applications Concerning Plant Varieties*

The National Office of Inventions shall examine the substance of the application in regard to the following points:

- (a) whether the subject of the application is not excluded from patent protection under Article 6(3)(a) and (b);
- (b) whether the description and the patent claims comply with the legal requirements;
- (c) whether the invention is unitary;
- (d) whether the application benefits from the claimed right of priority;
- (e) whether the subject of the application is new, homogeneous and stable;
- (f) whether there is no other patent application or patent relating to the same plant, and having an earlier right of priority.

## Article 70

*Application of the General Provisions*

Otherwise, the provisions of Chapters I to XI shall apply *mutatis mutandis* to plant varieties and with the following additions:

- (a) if the invention concerning a plant variety was elaborated with a State organ (research or training institute, State enterprise or State farm, etc.), the rights of invention shall be vested in the State of Hungary and shall be exercised by the Minister of Agriculture and Food or by an organ designated by him;
- (b) the patented plant variety may only be put into public production after having been certified by the State.

## Article 71

*Application of the Provisions on Plant Varieties to Animal Breeds*

The provisions of Articles 67 to 70 shall apply *mutatis mutandis* to animal breeds.

## PART IV

## Final Provisions

## Article 72

(1) This Law shall enter into force on January 1, 1970.

(2) Simultaneously with the entry into force of this Law, the following shall be repealed:

- the provisions of Law XXXVII/1895 on patented inventions still in force, legislation completing and amending that Law; provisions concerning patents of Laws XI/1911, LV/1912, XII/1913, XXXV/1920, XVII/1932 as well as the provisions implementing that legislation;
- Decree Law No. 8/1949 on the amendment of certain legislative provisions on patents, trademarks, and industrial designs;
- paragraph (3) of Article 11 of Law III/1952, defined by Law VIII/1957, Article 14 of Decree Law No. 5/1958.

(3) In the legislation passed before November 1, 1949, concerning trademarks, and industrial designs, the competence of the Department of Applications of the Patent Tribunal shall be taken over by the National Office of Inventions; the jurisdiction of the Judicial Department shall pass to the Metropolitan Court of Budapest, the bench of which shall be as defined by the present Law.

(4) The Government shall be authorized to issue regulations on the remunerations for inventions, as well as on the fulfilment of international obligations.

(5) Provisions on the certification by the State of plant varieties and animal breeds shall be laid down by the Government.

(6) The President of the National Committee of Technical Development and the Minister for Justice shall be authorized to issue, by decree and in cooperation with the President of the National Office of Inventions, transitional provisions concerning the entry into force of this Law and other rules of implementation.

(7) The Minister for Justice shall be authorized to issue, in cooperation with the President of the National Committee of Technical Development and with the President of the National Office of Inventions, detailed rules on court procedure in patent cases, as well as regulations concerning the qualifications of the members of the bench dealing with cases concerning the protection of industrial property.

## FRANCE

## I

## Decree

Issued in Implementation of Law No. 68-1 of January 2, 1968, to Promote Inventive Activity and Revise the Patent System, and Concerning Compulsory Licenses, Licenses of Right, Expropriation of Inventions, and Various Procedural Provisions (No. 69-975 of October 18, 1969) \*

## CHAPTER I

## Compulsory Licenses

## Article 1

Applications for the grant of a compulsory license under Articles 32 to 35 or under Article 36 of the above-mentioned Law of January 2, 1968, shall be submitted to the *tribunaux de grande instance* which have been designated pursuant to the provisions of Article 68 of the said Law. Such applications shall be made, examined, and adjudged, subject to the following provisions, in accordance with ordinary legal procedure.

## Article 2

Subject to inadmissibility, the summons and statement of claims must, within fifteen days of the service of documents or notification, be communicated by registered letter, with a request for advice of receipt, to the National Institute of Industrial Property by the party having so served or notified.

## Article 3

The Minister responsible for Industrial Property may, by means of a statement addressed to the clerk's office, present to the *tribunal* his observations concerning the application for a license.

The Director of the National Institute of Industrial Property, or an official under him appointed by the Minister responsible for Industrial Property, shall be heard by the *tribunal* if he so desires.

## Article 4

The provisions of the foregoing Articles shall apply to proceedings before the Court of appeal.

## Article 5

All judgments rendered by the *tribunaux*, the Courts of Appeal, and the Court of Cassation, concerning compulsory licenses, shall be notified forthwith by the clerk secretary to the Director of the National Institute of Industrial Property. Final judgments shall be recorded automatically in the National Register of Patents.

## Article 6

Applications for the assignment of a compulsory license, for the cancellation thereof, or for a revision of the terms under which it was granted shall be subject to the provisions of the foregoing Articles.

## CHAPTER II

## Licenses of Right in the Interest of Public Health

## Article 7

The orders provided for in Articles 37 and 38 of the above-mentioned Law of January 2, 1968, made by the Minister responsible for Industrial Property shall be issued upon the reasoned advice of a Commission having the following membership:

1. a Counsellor of State, chairman;
2. the Under-Secretary for Public Health or his representative;
3. the Director of the National Institute of Health and Medical Research or his representative;
4. the Director of the National Institute of Industrial Property or his representative;
5. the Director of Chemical Industries or his representative;
6. the Head of the Central Service for Pharmacy and Medicine or his representative;
7. two doctors from Paris hospitals or their deputies, appointed for a period of three years by the Minister responsible for Public Health;
8. two professors from the faculties of pharmacy or their deputies, appointed for a period of three years by the Minister responsible for Public Health;
9. two members appointed by the Minister responsible for Industrial Property.

The secretariat of the Commission shall be provided by the National Institute of Industrial Property.

On initial convocation, sittings of the Commission shall be valid only if at least seven members are present. If a quorum has not been reached, reconvened sittings shall be valid regardless of the number of members present.

The Chairman shall cast the deciding vote in the event of a tie.

## Article 8

Reports presented to the Commission shall be turned over either to the members of the latter or to the members of the Council of State, Audit Office, General Inspectorate of Finance, or Inspectorate of Pharmacy who have been designated by order of the Minister responsible for Industrial Property.

The Chairman shall appoint one or, where required, two rapporteurs for each case.

The rapporteurs shall receive compensation, the amount of which shall be fixed by joint order of the Minister responsible for Industrial Property and the Minister for Economics and Finance.

## Article 9

The Commission may appoint experts; their remuneration, paid under the same conditions as that of experts called before the courts, shall be the subject of a fee order issued by the Chairman of the Commission.

\* BIRPI translation.

## Article 10

The cases described in Article 37 of the Law of January 2, 1968, shall be referred to the Commission pursuant to a reasoned decision of the Minister responsible for Industrial Property, taken upon the request of the Minister responsible for Public Health.

This decision, together with the grounds therefor, shall be notified to the owner of the patent and, where applicable, to holders of any licenses under the patent which are recorded in the National Register of Patents, or to their representatives in France.

The terms of the decision shall be published forthwith in the *Bulletin officiel de la propriété industrielle*.

## Article 11

The owner of the patent and the holders of licenses may, within a period of fifteen days following receipt of the notification prescribed in the foregoing Article, or, if such notification has not reached them, following the publication prescribed in the same Article, submit their observations to the Commission.

## Article 12

The proposals of the rapporteur and the file he has put together shall be communicated to the owner of the patent and, where applicable, to holders of licenses.

The Chairman shall decide what the terms, date, and form of such communication shall be, as well as the period of time during which the parties concerned may present their observations.

## Article 13

The Commission shall state its advice within a period of two months from the date on which the decision to refer the case to it reached the secretariat of the Commission.

## Article 14

The order prescribed in Article 37 of the Law of January 2, 1968, shall be issued immediately after the Commission has stated its advice. It shall be notified to the owner of the patent, to holders of licenses, and to the Director of the National Institute of Industrial Property. It shall be recorded automatically in the National Register of Patents.

## Article 15

Applications, under Article 38 of the Law of January 2, 1968, for a license to exploit a patent shall be submitted to the Minister responsible for Industrial Property.

They shall indicate:

- (a) the surname, given names, occupation, address, and nationality of the applicant and, possibly, the name of the person representing or assisting him;
- (b) the patent in respect of which a license is applied for;
- (c) proof that the applicant is qualified, in particular from the legal, technical, industrial, and financial point of view.

Within 48 hours of receipt thereof by the Minister, the application shall be notified to the owner of the patent and,

where applicable, to holders of licenses recorded in the National Register of Patents.

## Article 16

Within a maximum period of two months from receipt of the application, the Commission referred to in Article 7 of this Decree shall state its advice regarding the terms of grant of the license to exploit a patent, in particular as regards the duration and scope thereof.

Such advice shall be notified to the applicant for the license as well as to the owner of the patent and, where applicable, to holders of licenses recorded in the National Register of Patents. The Chairman of the Commission shall set the period of time during which the applicant for the license, the owner of the patent, and holders of licenses may make known their observations regarding the terms of grant of the license, as proposed by the Commission.

Such observations shall be submitted to the Commission.

## Article 17

The Minister responsible for Industrial Property shall take a decision in the light of the final advice of the Commission and after examining the observations of the parties concerned.

## Article 18

The order provided for in Article 38 of the Law of January 2, 1968, granting a license to exploit a patent shall be notified to the owner of the patent, to holders of licenses and to the beneficiary of the license sought.

It shall be recorded automatically in the National Register of Patents.

## Article 19

The applicant for a license, the owner of the patent and the holders of licenses, or their representatives, may be heard by the Commission charged with giving the advice prescribed in Articles 7 and 16 of this Decree, either on their request or on ex officio convocation by the Commission.

Convocations shall be dispatched to them at least eight days in advance.

## Article 20

In the event that the time limits prescribed in Articles 11, 12 and 16 (second paragraph) above are not observed, the Commission shall proceed with the case without issuing a reminder or formal notice.

## Article 21

In proceedings for the fixing of royalties as provided for in Article 38 (second paragraph) of the Law of January 2, 1968, the writ of summons shall be issued on a fixed day.

## Article 22

Amendments to the clauses of a license to exploit a patent, requested either by the owner of the patent or by the holder of the license, shall be adjudged and published in accordance with the procedure prescribed for the grant of the said license.

If they relate to the amount of royalties, they shall be adjudged in accordance with the procedure prescribed for initially fixing that amount.

The procedure for the grant of licenses shall also apply to requests for cancellation of such license made by the owner of the patent on the ground of non-fulfilment of the obligations imposed on the holder of the license.

### CHAPTER III

#### *Licenses of Right in the Interest of Economic Development*

##### Article 23

The formal notice provided for in Article 39 (first paragraph) of the Law of January 2, 1968, shall be the subject of a reasoned decision of the Minister responsible for Industrial Property, taken after consultation with the Minister for Economics and Finance and the Minister responsible for Scientific Research and Atomic and Outer-Space Questions. Such decision shall indicate the requirements of the national economy that have not been satisfied.

The decision, with the grounds therefor, shall be notified to the owner of the patent and, where applicable, to holders of licenses recorded in the National Register of Patents or their representatives in France.

##### Article 24

The period of one year prescribed in the second paragraph of Article 39 of the Law of January 2, 1968, shall begin on the day on which the notification prescribed in Article 23 above of this Decree is received. The legitimate reasons provided for in the third paragraph of Article 39 aforesaid must be presented within that period.

The additional period that the Minister responsible for Industrial Property may grant to the party concerned pursuant to the said third paragraph shall begin as from the date of expiration of the period of one year referred to above.

The decision to grant such additional period shall be taken and notified in accordance with the procedure and subject to the formalities prescribed in Article 23 above for the decision regarding the formal notice.

##### Article 25

The decree issued upon the advice of the *Conseil d'Etat* and making the system governing the grant of licenses of right applicable to patents in respect of which formal notice has been given shall be taken on the basis of a joint report of the Minister responsible for Industrial Property, the Minister for Economics and Finance, the Minister responsible for Scientific Research and Atomic and Outer-Space Questions and, where applicable, the Minister directly concerned having regard to the subject matter of the patent.

It shall lay down the requirements to be met by applicants for licenses of right, taking into account any proposals for exploitation that might be made by the owner of the patent.

It shall be notified to the owner of the patent and to holders of licenses. It shall be recorded automatically in the National Register of Patents and published in the *Journal officiel*.

##### Article 26

Applications, under Article 39 (fourth paragraph) of the Law of January 2, 1968, for a license to exploit a patent shall be submitted to the Minister responsible for Industrial Property.

They shall indicate:

- (a) the surname, given names, and occupation of the applicant and, possibly, the name of the person representing or assisting him;
- (b) the patent in respect of which a license is applied for;
- (c) proof that the applicant is qualified, from the technical, industrial, and financial point of view, to exploit the patent concerned, with respect to the requirements referred to in the second paragraph of the foregoing Article.

##### Article 27

A copy of the application for a license shall be notified by the Minister responsible for Industrial Property to the owner of the patent and, where applicable, to holders of licenses under the patent. The latter parties shall have a period of two months from receipt of the notification in which to submit their observations to the said Minister.

##### Article 28

The order prescribed in Article 39 (fourth paragraph) of the Law of January 2, 1968, shall be notified to the owner of the patent, to holders of licenses, and to the beneficiary of the license sought. It shall be recorded automatically in the National Register of Patents.

##### Article 29

Proceedings for fixing royalties as provided for in Article 39 of the Law of January 2, 1968, shall be held before the *Tribunal de grande instance* of Paris.

In such proceedings, the writ of summons shall be issued on a fixed day.

##### Article 30

Amendments to the clauses of a license to exploit a patent, requested either by the owner of the patent or by the holder of the license, shall be adjudged and published in accordance with the procedure prescribed for the grant of the said license. If they relate to the amount of royalties, they shall be adjudged in accordance with the procedure prescribed for initially fixing that amount.

The procedure for the grant of licenses to exploit a patent shall also apply to requests for cancellation of that license made by the owner of the patent on the ground of non-fulfilment of the obligations imposed on the holder of the license.

### CHAPTER IV

#### *Inventions of Interest to National Defense*

##### Article 31

A request sent by the Minister responsible for National Defense to the Minister responsible for Industrial Property with a view to obtaining a license of right, under Article 40 of the Law of January 2, 1968, shall, in order to meet the require-

ments of national defense, include all pertinent information regarding the terms that are necessary in order to ensure that such requirements will be met and concerning inter alia:

- (a) the total or partial character of the license with respect to the applications of the invention to which the patent application or patent relates;
- (b) the duration of the license;
- (c) the respective rights and obligations of the State and the owner of the patent application or patent as regards improvements to or modifications of the invention effected by either one of them.

#### Article 32

The order of the Minister responsible for Industrial Property granting the license shall fix the terms thereof having regard to the items of the request specified above. The Minister responsible for Industrial Property shall notify the order forthwith to the Minister responsible for National Defense and to the owner of the patent application or patent. It shall be recorded automatically in the National Register of Patents. In the case of patent applications, entry of such record shall be effected only after the said application has been made available to the public.

#### Article 33

Following the notifications prescribed in the foregoing Article, the owner of the patent application or patent shall inform the Minister responsible for National Defense, by registered mail with a request for advice of receipt, of the amount of his claim to remuneration for the license granted to the State.

The matter of fixing the amount of remuneration may not be referred to the *tribunal de grande instance* pursuant to Article 40 (third paragraph) of the Law of January 2, 1968, prior to the expiration of a period of four months from the date of receipt of the registered letter mentioned above.

#### Article 34

Where the license of right relates to the exploitation of an invention covered by a patent application which, under Article 25 or 26 of the Law of January 2, 1968, may not be disclosed or freely worked, judgments, both final and interlocutory, of the court to which has been referred the matter of fixing the remuneration payable for the license of right shall not include any analysis of the invention likely to entail disclosure thereof.

Such judgments shall be delivered in camera. Only the State Attorney, the parties or their agents may receive a copy thereof.

In cases where the license of right relates to the working of an invention covered by a patent or by a patent application other than the application referred to in the first paragraph of this Article and there are applications of the invention, already effected or contemplated, which are of a secret nature, the judgments of the court dealing with the case shall contain no indications likely to disclose such applications and shall be subject to the provisions of the second paragraph above.

If expert testimony is ordered in the cases referred to in the first and third paragraphs of this Article, it may be given only by persons who have received the approval of the Minister responsible for National Defense and, if necessary, before his representatives.

#### Article 35

The provisions of Article 34 shall apply, independently of the action filed with a view to fixing the remuneration payable for the license of right, to any proceedings concerning disputes that come about as a result of an order granting such a license.

#### Article 36

A decree by which an invention covered by a patent application or patent is expropriated, subject to the conditions prescribed in Article 45 of the Law of January 2, 1968, shall be notified to the owner of the patent application or patent by the Minister responsible for Industrial Property.

#### Article 37

Following the notification prescribed in the foregoing Article, the amount of compensation for the expropriation shall be fixed in accordance with the procedure prescribed, in Articles 33 and 34 of this Decree, for fixing the remuneration payable for licenses of right.

#### Article 38

Where the civil action provided for in Article 59 of the Law of January 2, 1968, is based on a patent application which is the subject of a prohibition laid down in Articles 25 or 26 of the said Law or where it concerns research or manufacture as referred to in the second and third paragraphs of the said Article 59, the resulting judgments shall be subject to the provisions of Article 34 of this Decree.

#### Article 39

Where an appeal is brought from an order issued under Article 26 of the Law of January 2, 1968, or from an order or decree issued under Article 40 or Article 45 of the said Law, in the event that such order or such decree concerns an invention in respect of which disclosure and free working are prohibited, the administrative decisions, both final and interlocutory, shall not contain any analysis of the invention likely to entail disclosure thereof.

The debates shall be held and the decisions rendered in non-public sittings. Only the parties or their agents may receive communication of the decision rendered.

If expert testimony is ordered, it may be given only by persons who have received the approval of the Minister responsible for National Defense and, if necessary, before his representatives.

### CHAPTER V

#### Miscellaneous Provisions

#### Article 40

Notifications and communications to the owner of the patent or patent application and prescribed in Chapters II to IV of this Decree shall be valid if dispatched either to the address indicated in the patent application or the last ad-

dress notified by the owner of the patent to the Administration, or to the address of his representative in France. The agent designated by the applicant for a patent when filing his application shall be considered such representative, unless the Administration has been notified that another agent has been designated.

All notifications and communications addressed under the above-mentioned provisions to the owner of the patent or patent application, his successors in title, or to applicants for or beneficiaries of licenses of right must be made by registered mail with a request for advice of receipt.

#### Article 41

The provisions of this decree shall apply to certificates of utility and to patents of addition.

#### Article 42

The time limit referred to in the second paragraph of Article 44 of the Law of January 2, 1968, shall be fifteen days from the date on which the instrument concerning seizure is served pursuant to the first paragraph of that Article.

#### Article 43

Provisions contrary to those of this Decree are hereby repealed.

#### Article 44

This Decree shall apply to the overseas territories of New Caledonia, French Polynesia, St. Pierre and Miquelon, Wallis and Futuna, and the French Austral and Antarctic territories.

#### Article 45

The State Minister responsible for National Defense, the Keeper of the Seals and Minister for Justice, the Minister for Foreign Affairs, the Minister for Economics and Finance, the Minister under the Prime Minister responsible for Overseas *Départements* and Territories, the Minister for Industrial and Scientific Development, the Minister for Public Health and Social Security, the State Secretary for Economics and Finance, and the State Secretary for Medium and Small Industry and for Handicrafts are entrusted, each in respect of what concerns him, with the enforcement of this Decree, which shall be published in the *Journal officiel* of the French Republic.

## II

### Order

#### Applications for Patents and for Patents of Addition Involving a Documentary Report (of September 8, 1969) \*

#### Article 1

In addition to those provided for in the Order of December 5, 1968<sup>1</sup>, patent applications and applications for patents of addition related to patent applications or to patents

which are principally classified in the technical branches of the International Classification of Patents for Inventions listed below shall be subject to the provisions of Chapter VI of Decree No. 68-1100 of December 5, 1968<sup>2</sup>.

Classification symbols (IPC)	Technical branches
A 01 n	Preserved animals or plants or parts thereof; chemical treatment, e.g. disinfection, of soil or living plant material; pesticides or herbicides.
A 47 l	Domestic washing or cleaning; suction cleaners in general.
A 61 k 5/00 and 7/00	Preparations for dentistry; cosmetics or like preparations.
B 03 b	Separation of solid materials using liquids or using pneumatic tables or jigs.
B 03 c	Magnetic or electrostatic separation of solids, liquids or gases.
B 03 d	Flotation; differential sedimentation.
B 21 d	Working and processing of sheet metal, metal tubes, rods, or profiles without essentially removing materials; punching.
B 21 j	Forging; hammering; pressing; riveting; forge furnaces.
B 21 k	Making forged or pressed products.
B 22 c	Foundry moulding.
B 22 d 1/00 to 9/00 and 13/00 to 47/00	Casting of metals other than by continuous casting.
B 25 j	Manipulators; chambers provided with manipulation devices.
B 29 d 27/00	Producing porous or cellular articles or sheets from plastics.
B 60 b	Vehicle wheels; castors; axles; increasing wheel adhesion.
B 60 f	Vehicles for use both on rail and on road; amphibious or like vehicles; convertible vehicles.
B 60 j	Windows, windscreens, non-fixed roofs, doors or similar devices for vehicles; protective coverings for vehicles not in use.
B 60 t	Vehicle brake control systems or parts thereof; brake control systems or parts thereof, in general.
B 65 d 1/00, 17/00 and 39/00 to 55/00	Containers formed in one piece, e.g. by casting, moulding, blowing or throwing; containers specially constructed to be opened by cutting, piercing, or tearing off wall portions; closures for containers.
B 66 c	Cranes.
B 66 d	Capstans, winches, tackles.
B 66 f	Hoisting, lifting, or hauling, not otherwise provided for.
C 03 b 1/00 to 35/00 and 39/00	Manufacture, shaping, and treatment of glass.
C 05 g	Mixtures of fertilisers with other fertilisers or other materials.
C 07 c 17/00 to 25/00	Halogenated hydrocarbons.
C 08 f 3/00	Polymers of acyclic compounds containing carbon-to-carbon double bonds.
C 08 g 17/00 and 39/00	Polyester condensates and compositions based essentially on polyester condensates.
C 21 b	Manufacture of iron and steel.
C 22 d	Electrolytic and electrothermic production and refining of metals and non-ferrous alloys.
C 23 b	Electrolytic surface treatment of or with metals; electroplating; coating metals by electrophoresis.
D 01 h	Spinning or twisting of textile fibers.
D 04 h	Non-woven fabrics and their manufacture.
D 06 n	Covering materials consisting of a fibrous web coated with a layer of macromolecular material.

\* BIRPI translation.

<sup>1</sup> See *Industrial Property*, 1969, p. 129.

<sup>2</sup> *Ibid.*, 1969, p. 115.



Classification symbols (IPC)	Technical branches
E 01 c	Construction of and surfaces for roads, sports grounds, or the like.
E 04 b 1/00	Constructions in general; insulation and other protection of buildings.
E 21 b	Deep drilling; obtaining oil, gas, water, or soluble materials from deep wells.
F 02 k	Jet-propulsion plants.
F 25 d	Refrigerators; cold-rooms; ice-houses; cooling or freezing apparatus, not otherwise provided for.
G 01 f	Measuring volume, volume flow, or liquid level; metering by volume.
G 01 p	Measuring linear or angular speed, acceleration, deceleration, or shock; indicating presence, absence, or direction, of movement.
G 01 s	Radio direction-finding, locating, distance or velocity measuring; radio navigation systems; analogous systems employing other waves.
G 02 b	Optical elements, systems, or apparatus.
G 05 b	Control or regulating systems in general; functional elements of such systems; monitoring or testing arrangements for such systems or elements.
G 06 c	Digital computers in which all the computation is effected mechanically.
G 06 d	Digital fluid-pressure computing devices.
G 06 m	Counting mechanisms; counting of objects not otherwise provided for.
G 11 c	Static stores for information storage.
G 21 b	Fusion reactors.
G 21 d	Nuclear power plant.
G 21 f	Protection against X-radiation, gamma radiation, corpuscular radiation, or particle bombardment; decontamination arrangements; treating radioactive waste material.
G 21 g	Conversion of chemical elements; producing neutrons; moderating neutrons.
G 21 h	Obtaining energy from radioactive sources; utilizing cosmic radiation.
G 21 j	Nuclear explosives; applications thereof.
G 21 k	Techniques for handling particles or electromagnetic radiation, not otherwise provided for.
H 01 b	Cables; conductors; insulators; selection of materials for their conductive, insulating or dielectric properties.
H 01 h 7/00, 43/00 and 69/00 to 87/00	Time or time-program switches; protective devices operated by abnormal electrical conditions.
H 01 i 19/00	Monolithic integrated circuits comprising at least one semiconductor device or one piece of material exhibiting semiconductivity.
H 01 p	Waveguides; resonators, lines, or other devices of the waveguide type.
H 01 s	Devices using stimulated emission, e.g. masers, lasers.
H 02 h	Emergency protective circuit arrangements.
H 02 m	Apparatus for electric power conversion.
H 03 b	Generation of oscillations.
H 03 c	Modulation of oscillations.
H 03 d	Demodulation or transference of modulation from one carrier to another.
H 03 k 13/00	Coding and decoding of electrical impulses.
H 04 r	Electromechanical transducers.

### Article 2

The classification symbols which are assigned by the National Institute of Industrial Property to applications for patents and for patents of addition, and they alone, shall be decisive as regards applying the provisions of Chapter VI of Decree No. 68-1100 of December 5, 1968, subject to the conditions laid down in Article 101 of that Decree.

### Article 3

The Director of the National Institute of Industrial Property is entrusted with the enforcement of this Order, which shall be published in the *Journal officiel* of the French Republic to take effect as from the first of January, 1970.

### BELGIUM

#### I

#### Law

Approving The Hague Agreement of June 6, 1947, Concerning the Establishment of an International Patent Bureau, as Revised at The Hague on February 16, 1961

(of June 30, 1969) \*

#### Single Article

The Hague Agreement of June 6, 1947, concerning the Establishment of an International Patent Institute, as revised at The Hague on February 16, 1961, shall have full force and effect.

#### II

#### Law

Approving the Benelux Convention Concerning Trademarks, and Annex, signed in Brussels on March 19, 1962

(of June 30, 1969) \*

### Article 1

The Benelux Convention concerning trademarks, signed in Brussels on March 19, 1962, shall have full force and effect.

### Article 2

The Uniform Benelux Trademark Law, annexed to the Convention referred to in Article 1, above, is hereby incorporated into the legislation of Belgium, in the French and Dutch texts.

### Article 3

The following legislation is hereby repealed:

- (1) Articles 1 to 7 and 16 to 20 of the Trademark Law of April 1, 1879, as amended by the Law of August 30, 1913, the Law of December 30, 1925, the Law of July 23, 1932, the Law of June 30, 1933, Royal Decree No. 89 of January 29, 1935, and Royal Decree No. 182 of July 2, 1935;
- (2) Articles 1 to 12 of Royal Decree No. 90 of January 29, 1935, providing for the protection of collective marks, as amended by Royal Decree No. 85 of November 17, 1939, and Royal Decree No. 86 of November 23, 1939;
- (3) Articles 1 and 2 of Royal Decree No. 85 of November 17, 1939, on trademarks, patents and industrial property in general;
- (4) the provisions of the Law of July 15, 1957, to facilitate filing of patent applications and applications for the registration of trademarks and industrial designs on the

\* BIRPI translation.

occasion of official or officially recognized international exhibitions organized in Belgium, to the extent that such provisions apply to trademarks.

#### Article 4

The provisions of Articles 8 to 15 of the Law of April 1, 1879, are hereby made applicable to collective marks as well as individual marks.

#### Article 5

The Law of June 5, 1868, concerning freedom to fashion gold and silver is hereby amended, as follows: in Articles 11(2) and 12 providing for compulsory guaranty of the titre of precious metal objects, as amended by Royal Decree No. 80 of November 28, 1939, and the Decree-Law of February 28, 1947, the words "Article 4 of the Trademark Law of April 1, 1879" are replaced by the words "Article 6 of the Uniform Benelux Trademark Law"; in Article 15, the words "Article 4 of the Law of April 1, 1879" are replaced by the words "Article 17 of the Uniform Benelux Law"; in Article 17, the words "as provided in Article 4 of the Law of April 1, 1879" are replaced by the words "as provided in Article 8 of the Uniform Benelux Law."

#### Article 6

The King shall designate the Office responsible for discharging the duties entrusted to the national authorities by Articles 6, 20 and 25 of the Uniform Benelux Trademark Law.

#### Article 7

Articles 2, 3, 4 and 5 of this Law shall enter into force on the date provided for in Article 13 of the Convention regarding entry into force of the Uniform Law.

### ITALY

#### Decrees Concerning the Temporary Protection of Industrial Property Rights at Two Exhibitions

(of February 19 and 24, 1970)<sup>1</sup>

#### Single Article

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

*I<sup>a</sup> Mostra del regalo novità — I<sup>a</sup> Rassegna dei viaggi e delle vacanze* (Genova, March 18 to 30, 1970);  
*Rassegna internazionale elettronica nucleare e teleradiocinematografica* (Rome, March 7 to 22, 1970)

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>.

<sup>1</sup> Official communications 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.

## GENERAL STUDIES

### Assigning and Licensing Trademarks in Rumania

By Stelian MARINESCU









MAISONNIER (Jean). *Avis (L') documentaire dans la loi française du 2 janvier 1968 sur les brevets d'invention*. Lyon, 1969. - 426 p. Thesis.

USSR. KOMITET PO DELAM IZOBRETIENII I OTKRYTII PRI SOVETE MINISTROV SSSR. *Okhrana otkrytii, izobretenii i ratsionalizatorskikh predlozhenii (Normativnye akty)* [USSR. COMMITTEE FOR INVENTIONS AND DISCOVERIES ATTACHED TO THE COUNCIL OF MINISTERS OF THE USSR. Protection of Inventions, Discoveries and Rationalization Proposals (Laws and Regulations)]. Moscow, 1969. - 42 p.

WALEWSKI (Waclaw). *Zagadnienie priorytetu zgłoszeń patentowych* [Problems of Priority of Patent Applications]. Wrocław, Ossolińskich, 1969. - 36 p. Extr. *Studia prawnicze*, No. 22, 1969, pp. 115-150.

*Zakonski propisi i međunarodni ugovori o zaštiti industriske svojine* [Laws and International Conventions for the Protection of Industrial Property]. Belgrade, 1969. - 81 p. Extr. "Patentni Glasnik," Vol. 19, No. 4, 1969, pp. 511-591.

\* \* \*

Problemi giuridici della pubblicità commerciale [Legal Problems of Commercial Advertising], by Luigi Sordelli. A. Giuffrè, ed., Milan, 1968. 277 pages. (In Italian)

Advertising today plays an increasingly important economic role. It therefore comes into contact with a number of different areas of law. For instance, protection of advertisements may involve copyright, trademark or industrial designs law. Consumers are protected by laws prohibiting false advertising. Protection of slogans is a branch of the law of unfair competition. These few examples show the importance of a study in depth of all of the legal problems of commercial advertising. This is the task undertaken by the author, who has assembled a certain number of documents capable of guiding the reader through the maze of diverse problems involved. In addition, the author provides extremely thorough and detailed notes, comments, extracts from court decisions and quotations from pertinent textbooks and articles.

This is a work not to be missed by all students of the modern socioeconomic phenomenon known as advertising and, consequently, of a new field of law — the law of advertising — which is now developing before our very eyes.

G. R. W.

## BOOK REVIEWS

### Selection of New Publications

BUCZKOWSKI (Stefan). *Wpływ postępu technicznego w przemyśle na postać i treść unormowań prawnych* [The influence of Technological Progress in Industry on the Form and Substance of Legal Standards]. Wrocław, Ossolińskich, 1969. - 13 p. Extr. *Studia prawnicze*, No. 22, 1969, pp. 5-17.

BUSSE (Rudolf). *Warenzeichengesetz in der Fassung vom 2. Januar 1968 nebst Pariser Unionsvertrag und Madrider Abkommen. Kommentar*. Berlin, W. de Gruyter, 1970. - 872 p. Fourth Edition.

CONFÉRENCE INTER-INDUSTRIES SUR LA COOPÉRATION INTERNATIONALE EN MATIÈRE DE BREVETS. Paris, 1968. *Documents de la Conférence*, Vol. 7. Paris, EIRMA, 1969. - 139 p. [European Industrial Research Management Association. International Chamber of Commerce. Council of European Industrial Federations. National Association of Manufacturers. Union of Industries of the European Community.]

GAUL (Dieter) and BARTENBACH (Kurt). *Handbuch des gewerblichen Rechtsschutzes, praktische Rechtshilfe für die Patent-, Rechts- und Lizenzabteilung der Unternehmen sowie deren Berater*. Cologne-Marienburg, O. Schmidt, 1969. - 734 p.

GÓRSKI (Józef) and SOLTYSIŃSKI (Stanisław). *Projekty racjonalizatorskie* [Rationalization Plans]. Wrocław, Ossolińskich, 1969. - 45 p. Extr. *Studia prawnicze*, No. 22, 1969, pp. 70-114.

GRZYBOWSKI (Stefan) and KOPFF (Andrzej). *Umowy licencyjne. Postać prawna i treść* [License Agreements: Legal Form and Substance]. Wrocław, Ossolińskich, 1969. - 52 p. Extr. *Studia prawnicze*, No. 22, 1969, pp. 18-69.

## NEWS ITEMS

### VENEZUELA

#### *Appointment of a New Registrar of Industrial Property*

We have been informed that Dr. Zenda Torrealba P. has been appointed *Registrador de la Propiedad Industrial* (Registrar of Industrial Property) of Venezuela.

We take this opportunity of congratulating Dr. Zenda Torrealba P. on her appointment.

# CALENDAR OF MEETINGS

## BIRPI Meetings

**April 7 to 10, 1970 (Paris) — Joint ad hoc Committee on the International Classification of Patents (3rd Session)**

*Object:* Study of Draft Agreement for the revision of the European Convention on the International Classification of Patents for Invention of December 19, 1954 — *Invitations:* Czechoslovakia, France, Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Spain, Switzerland, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe

**April 8 to 10, 1970 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) — Technical Committee IV (Microform) (3rd Session)**

**April 13 and 14, 1970 (Geneva) — ICIREPAT — Technical Committee V (Patent Format and Printing) (3rd Session)**

**April 13 to 17, 1970 (Geneva) — Committee of Experts for the Revision of the Madrid Agreement (Marks)**

*Object:* Study of the revision of the Agreement — *Invitations:* All member States of the Madrid Agreement (Marks); Denmark, Finland, Japan, Norway, Soviet Union, Sweden, United Kingdom, United States of America — *Observers:* African and Malagasy Industrial Property Office, International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Patent Agents

**April 15 to 17, 1970 (Geneva) — ICIREPAT — Technical Committee II (Technical Fields: Forward Planning) (3rd Session)**

**April 20 and 21, 1970 (Geneva) — ICIREPAT — Advisory Board for Cooperative Systems (ABCS) (12th Session)**

**April 20 to 22, 1970 (The Hague) — ICIREPAT — Technical Committee VI (Systems Implementation) (3rd Session)**

**April 22 to 24, 1970 (Geneva) — ICIREPAT — Technical Committee I (Retrieval Systems, Design and Testing) (3rd Session)**

**April 27 to 29, 1970 (Geneva) — Committee of Directors of National Industrial Property Offices of the Madrid Union (Marks)**

*Object:* Finalization and possible adoption of revised Regulations under the Madrid Agreement — *Invitations:* All member States of the Madrid Agreement (Marks)

**April 28, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group I (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**April 29, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group II (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**April 30, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group III (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**May 1st, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group IV (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**May 11 to 15, 1970 (Geneva) — Working Group concerning the International Classification of Figurative Elements in Marks**

*Object:* Elaboration of a draft Classification — *Invitations:* Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Netherlands, Rumania, Spain, Sweden, Switzerland, United Kingdom — *Observers:* International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Patent Agents

**May 12 and 13, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee (4th Session)**

**May 19 to 21, 1970 (Geneva) — Ad Hoc Preparatory Committee for the Revision of the Berne Convention**

*Object:* To prepare a draft text of the proposals for revision of the Berne Convention — *Invitations:* France, Germany (Fed. Rep.), India, Italy, Mexico, Tunisia, United Kingdom, Yugoslavia — *Observers:* Kenya, United States of America — *Non-participating Observers:* All other States members of the Berne Union or party to the Universal Copyright Convention; representatives from international non-governmental organizations to be appointed

**May 25 to June 19, 1970 (Washington) — Diplomatic Conference for the Adoption of the Patent Cooperation Treaty (PCT)**

*Object:* Negotiations and Conclusion of the Patent Cooperation Treaty — *Invited with the right to vote:* The member countries of the Paris Union — *Observer States:* Member States of the United Nations and the U.N. Specialized Agencies, not member countries of the Paris Union — *Observer Intergovernmental Organizations:* United Nations, International Labour Organization, United Nations Educational, Scientific and Cultural Organization, United Nations Conference on Trade and Development, United Nations Industrial Development Organization, International Institute for the Unification of Private Law, International Patent Institute, African and Malagasy Industrial Property Office, Commission of the European Communities, Council of Europe, European Free Trade Association, Industrial Development Centre for Arab States, Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents, Latin American Free Trade Association, Organization of American States, Permanent Secretariat of the General Treaty for Central American Economic Integration — *Observer International Non-Governmental Organizations:* Asian Patent Attorneys' Association, Committee of National Institutes of Patent Agents, Council of European Industrial Federations, European Industrial Research Management Association, Inter-American Association of Industrial Property, International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Inventors' Associations, International Federation of Patent Agents, Pacific Association for Industrial Property, Union of European Patent Agents, Union of Industries of the European Community

**June 29 and 30, 1970 (Geneva) — Sub-Committee of the Committee of Experts for the International Classification of Goods and Services (Marks)**

*Object:* Consideration of proposals for amendments and additions to the International Classification — *Invitations:* Members of the Sub-Committee

- June 29 to July 3, 1970 (London) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (2<sup>nd</sup> Session)  
*Object:* Supervision of the uniform application of the Classification — *Invitations:* Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Note:* Meeting convened jointly with the Council of Europe
- July 1 to 10, 1970 (Geneva) — Committee of Experts for the International Classification of Goods and Services (Marks)  
*Object:* Decisions concerning the proposals for amendments and additions to the International Classification — *Invitations:* All member States of the Nice Union — *Observers:* All member States of the Paris Union
- July 13 to 17, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Bureau (3<sup>rd</sup> Session)  
*Object:* Supervision and coordination of the activities of the Working Groups — *Invitations:* Czechoslovakia, Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe
- September 14 and 15, 1970 (Geneva) — BIRPI Headquarters Building Subcommittee (a Subcommittee of the Interunion Coordination Committee) (2<sup>nd</sup> Session)  
*Object:* Plans for the extension of the Headquarters Building of BIRPI — *Invitations:* Argentina, Cameroon, France, Germany (Fed. Rep.), Italy, Japan, Netherlands, Soviet Union, Switzerland, United States of America
- September 16 to 18, 1970 (Geneva) — ICIREPAT — Plenary Committee (2<sup>nd</sup> Session)
- September 21 to 29, 1970 (Geneva) — Administrative Bodies of WIPO and of the Paris, Berne, Nice and Lisbon Unions (Bodies to be specified later)  
*Object:* Constitution of the new organs on the basis of the entry into force of some of the Stockholm (1967) texts; elections; budget and program; other administrative questions — *Invitations:* Member States of WIPO and the Paris, Berne, Nice and Lisbon Unions — *Observers:* To be announced later
- October 6 to 9, 1970 (Madrid) — Joint ad hoc Committee on the International Classification of Patents — (4<sup>th</sup> Session)  
*Object:* Supervision and coordination of the activities of the Working Groups — *Invitations:* Czechoslovakia, France, Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Spain, Switzerland, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe
- November 2 to 6, 1970 (Geneva) — Committee of Experts for an Agreement on the Protection of Type Faces
- November 23 to 27, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (3<sup>rd</sup> Session)  
*Object:* Supervision of the uniform application of the Classification — *Invitations:* Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Note:* Meeting convened jointly with the Council of Europe
- December 7 and 8, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee (4<sup>th</sup> Session)
- December 14 to 18, 1970 (The Hague) — Joint ad hoc Committee on the International Classification of Patents — Temporary Working Group VI  
*Object:* Harmonization of French and English texts — *Note:* Meeting convened jointly with the Council of Europe

## Meetings of Other International Organizations Concerned with Intellectual Property

- April 1 to 3, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group I (4<sup>th</sup> Session)
- April 2, 1970 (Paris) — International Chamber of Commerce — Commission on International Protection of Industrial Property
- April 7 to 10, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group III (1<sup>st</sup> Session)
- April 21 to 24, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — 3<sup>rd</sup> Session
- May 3 to 6, 1970 (Istanbul) — International League Against Unfair Competition (LICCD) — Symposium
- May 4 to 6, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group IV (1<sup>st</sup> Session)
- May 4 to 8, 1970 (Cairo) — Industrial Development Centre for Arab States — Working Group on Industrial Property
- May 4 to 9, 1970 (Asunción) — 8<sup>th</sup> Interamerican Meeting on Copyright
- May 11 to 16, 1970 (Paris) — United Nations Educational, Scientific and Cultural Organization (Unesco) — Ad Hoc Preparatory Committee for the Revision of the Universal Copyright Convention
- June 22 to 27, 1970 (Las Palmas) — International Confederation of Societies of Authors and Composers (CISAC) — 27<sup>th</sup> Congress
- June 30 to July 2, 1970 (The Hague) — International Patent Institute (IPI) — Administrative Council (103<sup>rd</sup> Session)
- July 7 to 9, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group IV (2<sup>nd</sup> Session)
- September 2 to 5, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group II (2<sup>nd</sup> Session)
- September 9 to 11, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group I (5<sup>th</sup> Session)
- October 6 to 8, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group II (3<sup>rd</sup> Session)
- October 19 to 24, 1970 (Madrid) — International Association for the Protection of Industrial Property (IAPIP) — Executive Committee

## VACANCY FOR A POST IN BIRPI

Applications are invited for the following post:

*Competition No. 117*

*Head of the Periodicals and Legislation Section*

(Industrial Property Division)

Category and grade: P. 3

*Principal duties:*

Under the general supervision of the Head of the Industrial Property Division, the incumbent will in particular be responsible for the following tasks:

- (a) Preparation and editing of the monthly periodicals *Industrial Property* and *La Propriété industrielle*;
- (b) Preparation of a complete collection of industrial property laws and regulations covering all countries of the world;
- (c) Studying questions concerning industrial property legislation, both as regards its national aspects (especially reform measures) and international harmonization;
- (d) Preparation of documents related to industrial property meetings and seminars;
- (e) Representation of BIRPI in international meetings.

*Qualifications:*

- (a) University degree in law or legal qualification equivalent to such degree.
- (b) Professional experience in the field of industrial property (including its international aspects).
- (c) Ability in editorial work.

- (d) Excellent knowledge of one of the official languages (English and French) and at least a good knowledge of the other. Working knowledge of other languages would be an important advantage.

*Nationality:*

Candidates must be nationals of one of the member States of the Paris or Berne Unions. Qualifications being equal, preference will be given to candidates who are nationals of States of which no national is on the staff of BIRPI.

*Age limit:*

Candidates must be less than 50 years of age at date of appointment.

*Date of entry on duty:*

As mutually agreed.

*Applications:*

Candidates should immediately forward *complete* curriculum vitae (including details of linguistic knowledge) to the Head of the Administrative Division, BIRPI, 32, chemin des Colombettes, 1211 Geneva, Switzerland. Please refer to the number of the competition.

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