

# Industrial Property

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documents may be identified as being connected (Patent Classification Service);

- (2) provide a copy service for patent documents.

### Article III

(1) The documentation service referred to in Article II(1) shall cover at least the following bibliographic data of the patent documents:

1. country of publication;
2. kind of the document (patent, application, etc.);
3. number of the document;
4. number of the application, unless such number is identical with the number of the document;
5. date of the application;
6. date of publication of the document or, if such date is not available, date of the document;
7. International Patent Classification symbol where it is indicated on the document or is furnished in machine-readable form;
8. country of the priority;
9. number of the application which is the basis of the priority;
10. date of priority.

(2) The International Patent Documentation Center shall furthermore strive to cover also the following additional data:

1. name of the applicant, owner of patent, or successor at law;
2. name of the inventor;
3. title of the invention.

### Article IV

The World Intellectual Property Organization shall, in the accomplishment of its tasks, give the following assistance to the International Patent Documentation Center:

1. The World Intellectual Property Organization shall endeavor that the presentation of the bibliographic data given in patent documents be uniform to the maximum extent possible.

2. The World Intellectual Property Organization shall endeavor that the presentation of such data on machine-readable carriers (that is, on magnetic tape, punch cards, etc.), where such data carriers are produced by Patent Offices and the International Patent Institute, be uniform to the maximum extent possible.

3. The World Intellectual Property Organization shall endeavor that the contacts of the International Patent Documentation Center with the competent authorities of the member States of the said Organization and with international organizations dealing with patent questions be facilitated and that the communication of information on behalf of such authorities and organizations to the International Patent Documentation Center be expeditiously handled.

4. The World Intellectual Property Organization shall furthermore promote the use of the services of the International Patent Documentation Center to the maximum extent practicable by the competent authorities of its member States,

klassifikation als zusammengehörig erkannt werden können (Patentklassifikationsdienst);

2. einen Kopierdienst für Patentedokumente vorsehen.

### Artikel III

(1) Der im Artikel II Z. 1 genannte Dokumentationsdienst wird zumindest folgende bibliographische Daten der Patentedokumente erfassen:

1. Land der Veröffentlichung
2. Art des Dokuments (Patent, Anmeldung usw.)
3. Nummer des Dokuments
4. Aktenzeichen der Anmeldung, sofern nicht mit Nummer des Dokuments identisch
5. Anmeldungstag
6. Veröffentlichungstag oder, wenn dieses Datum nicht verfügbar ist, das Datum des Dokuments
7. Symbole der internationalen Patentklassifikation, sofern auf dem Dokument angegeben oder in maschinenlesbarer Form geliefert
8. Prioritätsland
9. Aktenzeichen der prioritätsbegründenden Anmeldung
10. Prioritätsdatum.

(2) Das Internationale Patentdokumentationszentrum wird sich ferner bemühen, darüber hinaus folgende zusätzliche Daten zu erfassen:

1. Anmelder, Patentinhaber oder Rechtsnachfolger
2. Erfinder
3. Titel der Erfindung.

### Artikel IV

Die Weltorganisation für geistiges Eigentum wird dem Internationalen Patentdokumentationszentrum bei der Erfüllung seiner Aufgaben folgende Unterstützung gewähren:

1. Die Weltorganisation für geistiges Eigentum wird sich für eine grösstmögliche Vereinheitlichung des formalen Aufbaues der bibliographischen Daten in Patentedokumenten einsetzen.

2. Die Weltorganisation für geistiges Eigentum wird sich für eine grösstmögliche Vereinheitlichung des formalen Aufbaues solcher Daten auf maschinenlesbaren Trägern (Magnetbändern, Lochkarten und dergleichen) der von den Patentämtern und dem Internationalen Patent-Institut hergestellten Datenträger einsetzen.

3. Die Weltorganisation für geistiges Eigentum wird darauf einwirken, dass die Kontakte des Internationalen Patentdokumentationszentrums mit den zuständigen Behörden der Mitgliedstaaten der Organisation sowie mit internationalen Organisationen, die sich mit Patentfragen befassen, erleichtert werden und die Weitergabe von Informationen dieser Behörden und Organisationen an das Internationale Patentdokumentationszentrum beschleunigt behandelt wird.

4. Die Weltorganisation für geistiges Eigentum wird sich ferner dafür einsetzen, dass die Dienste des Internationalen Patentdokumentationszentrums von den zuständigen Behörden ihrer Mitgliedstaaten, insbesondere von internationalen

particularly by International Searching and Examining Authorities under the Patent Cooperation Treaty as well as by other interested persons in such States and by international organizations.

#### Article V

Whenever the World Intellectual Property Organization should exercise some activity pursuant to a request of the International Patent Documentation Center, the World Intellectual Property Organization shall indicate to the International Patent Documentation Center the estimated amount of those expenses which would be connected with the compliance of such a request. If the International Patent Documentation Center maintains its request, it shall reimburse to the World Intellectual Property Organization the expenses which, in actual fact and in a proven manner, have been undertaken by the World Intellectual Property Organization, provided that such expenses do not exceed their estimated amount.

#### Article VI

Ten percent of the net profits of the International Patent Documentation Center shall be put at the disposal of the World Intellectual Property Organization to finance such research and development activities of the latter which concern patent documentation.

#### Article VII

(1) The Republic of Austria shall make the necessary arrangements that the Director General and another representative of the World Intellectual Property Organization be members of that organ of the International Patent Documentation Center which establishes the general policy of the Center, it being understood that the majority inside such organ, including its president, shall be reserved to the representatives of the Republic of Austria.

(2) Complete information concerning the management of the International Patent Documentation Center shall be made available to the World Intellectual Property Organization by the International Patent Documentation Center.

#### Article VIII

(1) This Agreement shall enter into force pursuant to an exchange of notes between the representative of the Republic of Austria empowered to this effect and the Director General of the World Intellectual Property Organization<sup>1</sup>.

(2) The Republic of Austria may, in writing, through diplomatic channels, and subject to 6 months' notice, denounce the present Agreement after the expiration of three years from its entry into force.

(3) The Republic of Austria may in writing, through diplomatic channels, and subject to 3 months' notice, denounce the present Agreement after the expiration of two years after

<sup>1</sup> The exchange of notes was effected on June 22, 1973.

Recherchen- und Prüfungsbehörden nach dem Patentreuearbeitsvertrag, von sonstigen Interessenten dieser Staaten und von internationalen Organisationen, die sich mit Patentfragen befassen, in grösstmöglichem Umfang in Anspruch genommen werden.

#### Artikel V

Wenn die Weltorganisation für geistiges Eigentum auf Grund eines Ersuchens des Internationalen Patentdokumentationszentrums tätig werden soll, so teilt die Weltorganisation für geistiges Eigentum gegebenenfalls dem Internationalen Patentdokumentationszentrum die geschätzte Höhe jener Kosten mit, die mit der Erfüllung des Ersuchens verbunden sind. Hält daraufhin das Internationale Patentdokumentationszentrum sein Ersuchen aufrecht, so hat es die tatsächlich aufgelaufenen und nachgewiesenen Kosten der Weltorganisation für geistiges Eigentum zu ersetzen, soweit sie nicht über die geschätzte Höhe der Kosten hinausgehen.

#### Artikel VI

10 v. H. des Reingewinnes des Internationalen Patentdokumentationszentrums werden der Weltorganisation für geistiges Eigentum zur Finanzierung von Forschungs- und Entwicklungsarbeiten auf dem Gebiet der Patentdokumentation zur Verfügung gestellt.

#### Artikel VII

(1) Die Republik Österreich wird dafür Vorsorge treffen, dass der Generaldirektor und ein weiterer Vertreter der Weltorganisation für geistiges Eigentum jenem Organ angehört, das die allgemeinen Richtlinien des Internationalen Patentdokumentationszentrums festlegt, wobei die Mehrheit innerhalb dieses Organs einschliesslich seines Vorsitzes der Republik Österreich vorbehalten bleibt.

(2) Der Weltorganisation für geistiges Eigentum werden vom Internationalen Patentdokumentationszentrum vollständige Informationen über dessen Geschäftsbetrieb zugänglich gemacht werden.

#### Artikel VIII

(1) Dieser Vertrag tritt nach einem Notenwechsel zwischen dem hierfür gehörig bevollmächtigten Vertreter der Republik Österreich und dem Generaldirektor der Weltorganisation für geistiges Eigentum in Kraft<sup>1</sup>.

(2) Die Republik Österreich kann den Vertrag nach Ablauf von drei Jahren nach seinem Inkrafttreten unter Einhaltung einer sechsmonatigen Kündigungsfrist schriftlich im diplomatischen Weg kündigen.

(3) Die Republik Österreich kann den Vertrag nach Ablauf von zwei Jahren nach seinem Inkrafttreten unter Einhaltung einer dreimonatigen Kündigungsfrist schriftlich im

<sup>1</sup> Der Notenwechsel fand am 22. Juni 1973 statt.

its entry into force unless, by that time, at least eight agreements of cooperation with Patent Offices have been concluded, among them four agreements with such Patent Offices in which, according to the latest published yearly statistics of the World Intellectual Property Organization, the number of patent applications exceeds 30,000. The same shall, subject, however, to 6 months' notice, apply when because of the termination of any agreement of cooperation, the said condition is no longer fulfilled.

(4) As far as the provisions of paragraph (3) are concerned, the International Patent Institute shall be considered to be a Patent Office.

(5) The World Intellectual Property Organization may, in writing, through diplomatic channels, denounce this Agreement not earlier than January 1, 1974, if by that date the International Patent Documentation Center is not established or if, any time after the said date, the services provided for in Article II are not, or are no longer, furnished; such denunciation shall become effective 6 months after it has been made.

In witness whereof the Plenipotentiaries have signed the present Agreement and affixed the seals.

Done at Vienna on May 2, 1972, in three originals, in German, English and French, equally binding both parties.

For the Republic of Austria:  
(signed) J. Staribacher  
Federal Minister of Trade and Industry

For the World Intellectual Property Organization:  
(signed) G. H. C. Bodenhausen  
Director General

diplomatischen Weg kündigen, sofern zu diesem Zeitpunkt nicht zumindest acht Kooperationsabkommen mit Patentämtern abgeschlossen worden sind, darunter vier Abkommen mit Patentämtern, bei denen nach den jüngsten von der Weltorganisation für geistiges Eigentum veröffentlichten Jahrestatistiken die Zahl der Patentanmeldungen 30 000 überschritten hat. Dasselbe gilt, allerdings unter Einhaltung einer sechsmonatigen Kündigungsfrist, wenn durch Beendigung von Kooperationsabkommen diese Bedingung nicht mehr erfüllt ist.

(4) Hinsichtlich der Bestimmungen des Absatzes 3 ist das Internationale Patent-Institut einem Patentamt gleichgestellt.

(5) Die Weltorganisation für geistiges Eigentum kann diesen Vertrag ab dem 1. Januar 1974 schriftlich im diplomatischen Weg kündigen, wenn zu dem genannten Zeitpunkt das Internationale Patendokumentationszentrum nicht errichtet ist, oder wenn die gemäss Artikel II vorgesehenen Dienste zu irgendeinem späteren Zeitpunkt nicht oder nicht mehr erbracht werden; die Kündigung wird nach sechs Monaten wirksam.

Zu Urkund dessen haben die Bevollmächtigten diesen Vertrag unterschrieben und mit Siegeln versehen.

Geschehen zu Wien, am 2. Mai 1972, in drei Urschriften in deutscher, englischer und französischer Sprache, wobei die drei Texte gleichermaßen verbindlich sind.

Für die Republik Österreich:  
(unterzeichnet) J. Staribacher  
Bundesminister für Handel, Gewerbe und Industrie

Für die Weltorganisation für geistiges Eigentum:  
(unterzeichnet) G. H. C. Bodenhausen  
Generaldirektor







13. — (1) Provisional patents shall be issued for inventions after a restricted examination (Section 34) and patents after a complete examination (Section 35).

(2) In this Law, unless provided otherwise, the term "patent" includes a provisional patent.

14. — (1) An inventor's certificate shall be issued to the inventor or joint inventors, except in the cases specified in Section 12(1).

(2) A person who has merely assisted in making an invention shall not be considered a joint inventor.

(3) Where the applicant is a foreign national or foreign legal entity, the inventor's certificate shall be issued only at the request of the applicant or the inventor.

(4) In this Law, the term "inventor" includes a joint inventor.

15. — (1) The competent authority for the grant of patents and the issue of letters patent (Section 36) and inventors' certificates shall be the Patent Office of the Polish People's Republic, hereinafter referred to as the "Patent Office."

(2) Grants of patents and inventors' certificates shall be entered in the Register of Patents.

16. — (1) A patent shall confer the exclusive right to work the invention, for the purposes of gain or in the course of trade, on all the territory of the State.

(2) The term of a provisional patent shall be five years and the term of a patent 15 years, starting from the date when the application was filed at the Patent Office.

(3) The scope of protection shall be determined by the claims contained in the patent specification.

(4) A patent granted for a manufacturing process shall also cover products directly obtained from that process.

(5) The exploitation of an invention concerning means of transport, or their parts or accessories, temporarily located on the territory of the State, or concerning articles which are in transit through the territory of the State, shall not be considered as an infringement of the patent.

17. — (1) A patentee may obtain a patent of addition for improvements or additions to the invention where such improvements and additions have the characteristics of an invention but cannot be applied separately. A patent of addition may also be obtained for a patent of addition already obtained.

(2) The patent of addition shall lapse together with the principal patent. However, where the principal patent lapses for reasons not affecting the invention covered by the patent of addition, the first patent of addition shall become independent and remain in force for the period for which the principal patent was granted.

(3) Subsections (1) and (2) shall apply *mutatis mutandis* to inventors' certificates.

18. — (1) An invention whose exploitation would encroach upon the exploitation of an invention for which a patent having priority (earlier patent) is already in existence may be the subject of a dependent patent.

(2) The dependent patent shall become independent on the lapse of the earlier patent.

(3) Subsections (1) and (2) shall apply *mutatis mutandis* to a patent granted for an invention whose exploitation would encroach upon the right of protection of a utility model having priority.

19. — Any person having a legal interest therein may apply to the Patent Office for a declaration that a specified manufacture is not covered by a particular patent.

## II. *Right to Obtain a Patent and an Inventor's Certificate*

20. — (1) An invention which has been made in the execution of a commission or with the assistance of a unit of the national economy or by an employee of such a unit in its sphere of activity and in connection with his occupation in that unit, whether the employee is the inventor or a joint inventor, shall be an employee's invention. The right to obtain a patent for such invention (the right to a patent) shall belong to the unit of the national economy.

(2) The agreements concluded between units of the national economy may designate the unit which is entitled to the right to a patent where the invention is made in connection with the implementation of such agreements.

21. — (1) The units of the national economy shall file at the Patent Office invention proposals which have the characteristics of an employee's invention, except where this is unjustified for economic reasons.

(2) Where a unit of the national economy has not filed an application for an employee's invention at the Patent Office in a case which does not come under subsection (1), the inventor may himself file the application at the Patent Office. The Patent Office shall notify such filing to the unit of the national economy concerned.

(3) Where an employee's invention is filed by the inventor, the patent shall be granted in favor of the unit of the national economy entitled to the patent or of its successor in title.

(4) Where the unit referred to in subsection (3) declares that it does not desire a patent for the employee's invention filed by the inventor, the Patent Office shall grant the patent in favor of the inventor.

22. — (1) An invention made in conditions other than those set out in Section 20(1) shall not be an employee's invention. The right to a patent for such invention shall belong to the inventor or his successor in title; where the invention was made by more than one person, the right shall belong to them jointly.

(2) Where an enterprise which is not a unit of the national economy has concluded a working agreement with respect to inventions in its field of activity, the right to a patent for the invention shall belong to the enterprise.

(3) Where, in the case referred to in subsection (2), the remuneration specified in the agreement is manifestly too low

as compared with the benefits acquired by the enterprise from the invention, the employee may claim a corresponding increase in the remuneration.

23. — Subject to the exceptions provided for in Sections 24 and 25, priority for the grant of a patent or an inventor's certificate shall be determined according to the date when the application was filed at the Patent Office.

24. — (1) Priority for the grant of a patent and an inventor's certificate shall be determined on the basis of the date on which the invention was displayed at a public exhibition in Poland or abroad, provided the application is filed at the Patent Office within six months of this date.

(2) The President of the Patent Office shall, by an order issued on the proposal of the Minister responsible or in agreement with him, determine the public exhibitions and the conditions for the display of the invention which are to be fulfilled for the invention to enjoy the priority referred to in subsection (1).

25. — Foreign nationals and foreign legal entities of member countries of the International Union for the Protection of Industrial Property, as well as nationals and legal entities of other countries, provided that they have their domicile or headquarters or a real and effective industrial or commercial establishment in one of the member countries of the Union, shall in accordance with the principles established in the international agreements enjoy priority, for the purpose of obtaining a patent in the Polish People's Republic, on the basis of the date of the first regular application for protection in one of those countries, provided that the application is filed at the Patent Office within twelve months of such date.

### III. Filing of Patent Applications at the Patent Office

26. — (1) Applications for patents shall be in the form of a request filed at the Patent Office together with a description of the invention disclosing its nature, claims, an abstract of the description, and, where necessary, drawings.

(2) In the request the applicant shall state the kind of patent that he is seeking (whether a provisional patent or a patent).

(3) An applicant who has filed an application for a provisional patent may, within four years from the filing date, file a petition for the grant of a patent, subject to the payment of the fee for a complete examination.

(4) An application for a patent shall be deemed to have been filed at the time when it is submitted to the Patent Office or handed in at a Polish post office for dispatch to the Patent Office.

(5) Where an invention which was filed together with another invention has, at the request of the Patent Office, subsequently been filed in a separate application within the time specified by the Office, such filing shall be deemed to have been made on the date of the first filing, provided that the basic nature of the invention has not been altered.

27. — (1) If the applicant is not the inventor, he must name the inventor in his request and state the basis of his right to a patent.

(2) The President of the Patent Office shall specify the special requirements to be fulfilled by patent applications.

28. — The applicant must state in his request whether he wishes to exercise the right of priority deriving from the display of the invention at a public exhibition or from filing the application abroad (Sections 24 and 25).

29. — (1) During the examination of the patent application, the Patent Office may direct the applicant to complete the application within a given time limit or to remedy any specified omission or major defect. These directions shall be subject to appeal. Any such appeal shall suspend the time limit fixed in the directions.

(2) Where the directions referred to in subsection (1) are not complied with in time, the application shall be deemed withdrawn and the proceedings shall be discontinued.

30. — Up to the time when a decision is taken on the grant of a patent, the applicant may amend the application, provided that such amendments do not alter the basic nature of the invention or entail a change in the priority for obtaining the patent.

31. — In his request or during the examination procedure or within two months from the date when a decision to refuse a patent takes effect, the applicant may apply for a right to utility model protection. The utility model application shall be deemed to have been filed on the filing date of the original application.

### IV. Examination of the Application

32. — During the procedure preceding the publication of the application (Section 33(1)), the files relating to the application may not, without the applicant's consent, be disclosed or made available to unauthorized persons. However, the Patent Office may, if necessary, during the examination of the application seek the opinion of qualified persons. Anyone taking part in the preparation and the elaboration of these opinions shall not disclose the data concerning the application.

33. — (1) The Patent Office shall publish the application after having checked that:

- (i) the application is regular;
- (ii) the application relates to a solution of a technical character;
- (iii) the invention is not ineligible for protection (Section 12(1));
- (iv) the invention is capable of practical application;
- (v) the invention is not obviously lacking in novelty.

(2) The publication of the application shall contain the name and given names or the designation of the applicant, the name of the inventor, an abstract of the description of the invention and other particulars.

(3) From the day of the publication referred to in subsection (1), any person shall be entitled to see the description of

the invention, claims and drawings and, within six months from such publication, to submit to the Patent Office his observations regarding the existence of possible obstacles to the grant of a patent.

(4) If, within the prescribed time limit, the applicant does not express his views on the basic objections of the Patent Office regarding the non-fulfillment of the statutory requirements for the grant of a patent, the application shall be deemed withdrawn and the procedure shall be discontinued.

34. — (1) Where the applicant is seeking a provisional patent, the Patent Office shall decide on such grant, after examining the application for compliance with Section 33(1)(i) to (v), after publishing the application and after checking that the invention has not been disclosed either in the description of an invention for which a patent has already been granted in the Polish People's Republic, or in the description of a protected utility model, or in a published patent or utility model application.

(2) After the applicant has paid the fee for the first and any further periods of protection, the Patent Office shall issue a provisional patent. Where such payment is not made within the prescribed time limit, the application shall be deemed withdrawn and the procedure shall be discontinued.

(3) In the case referred to in subsection (1), the Patent Office may carry out a complete examination.

(4) If the complete examination shows that the statutory requirements for the grant of a patent are not fulfilled, the Patent Office shall refuse the provisional patent or shall revoke the decision to grant it.

35. — (1) Where an application for a patent is filed, the applicant shall make a petition for a complete examination and pay the corresponding fee (verification of the fulfillment of the statutory requirements for the grant of a patent) before the expiry of six months from the publication of the application. Where such payment is not made within the prescribed time limit, the application shall be deemed withdrawn and the procedure shall be discontinued.

(2) After the complete examination, the Patent Office shall notify its decision on the grant of a patent. Section 34(2) and (4) shall apply *mutatis mutandis*.

36. — (1) The grant of a patent shall be evidenced by the issue of letters patent.

(2) Simultaneously with the letters patent, an inventor's certificate shall be issued, except in the cases referred to in Section 14(3).

(3) The description of the invention together with the claims and drawings (patent specification) shall constitute an integral part of the letters patent and the inventor's certificate. The specification shall be published.

(4) The applicant shall bear the cost of publishing the specification.

(5) The President of the Patent Office shall specify the special requirements for the examination of a patent application as well as the method and dates of payment of the fee for the publication of the specification.

37. — (1) Any rectification of the specification may only relate to misprints and other obvious mistakes.

(2) The Patent Office shall decide on the rectification, determining at the same time whether and to what extent a new publication of the specification is to be made and whether and to what extent the patentee should bear the cost of republishing the specification. This determination may be the subject of an objection.

38. — (1) Where, after the grant of a patent for an invention, an application having priority is filed for the same invention, the patentee shall be invited to express his views on the validity of the new application within the time limit laid down by the Patent Office.

(2) Where the patentee contests the validity of the new patent application, the matter shall be settled in *inter partes* proceedings.

(3) Where the patentee fails to express his views on the validity of the new patent application, the decision to grant the patent to him shall be revoked.

39. — The organ of the Patent Office *Wiadomości Urzedu Patentowego* shall publish notices concerning the grant of a patent and an inventor's certificate and, where the patent application has been published, notices concerning the withdrawal of an application, the refusal of a patent, the revocation of a decision to grant a patent, a petition for the grant of a patent on the basis of an application for a provisional patent, and the rectification of a specification.

#### V. Rights and Duties arising from a Patent

40. — (1) Within four years from the filing date of the application or three years from the grant of the patent, whichever period expires last, the patentee shall begin to work the invention on the territory of the State on a scale appropriate to the needs of the national economy and shall continue to work the invention satisfactorily until the patent expires. Working the invention shall be deemed to include working by other persons under a license. Where the working of an invention depends upon the existence of certain conditions, the period prescribed for working the invention shall begin as soon as such conditions have come into existence. The existence of such conditions shall be confirmed by the Patent Office.

(2) The Patent Office may request a patentee or a licensee to state whether, in what manner and to what extent he is working the invention on the territory of the State and, where applicable, the reasons for his failure to work the invention or to work it satisfactorily.

41. — (1) Any person who, at the date determining the priority for the grant of a patent, has worked the invention on the territory of the State in good faith, may continue to work it in his enterprise free of payment to the extent to which he had previously worked the invention. This right shall also be available to a person who at the same date had already made substantial preparations for working the invention.

(2) The right referred to in subsection (1) may, at the request of the person concerned, be recorded in the Register

of Patents. The right may be assigned but only together with the enterprise.

42. — (1) The right to a patent and a patent may be assigned or be transmitted by succession.

(2) The assignment agreement shall be in writing and the date shall be officially certified. Such certification shall not be necessary in the case of agreements between units of the national economy.

(3) The transfer of a patent shall be binding on third persons from the date of its entry in the Register of Patents.

(4) The Council of Ministers shall, by an order referred to in Section 7, determine the principles governing the conclusion of assignment agreements between the units of the national economy.

43. — Unless otherwise specified in the agreement relating to a joint patent, each joint owner of such a patent may:

- (i) without the consent of the other joint owners, work the invention himself and take steps against anybody infringing the patent;
- (ii) with the consent of all the joint owners, assign his rights in the patent or allow another person to work the invention, in whole or in part.

44. — (1) A patentee may by contract give another person authorization (a license) to work his invention (license agreement).

(2) The license agreement shall be in writing and the date shall be officially certified. Such certification shall not be necessary in the case of agreements between units of the national economy.

(3) The license may, at the request of the parties, be recorded in the Register of Patents. The owner of an exclusive license entered in the Register of Patents may, to the same extent as the patentee, institute proceedings for infringement, unless the license agreement provides otherwise.

(4) Unless otherwise provided in the license agreement, the grant of a license shall not preclude the grant of a further license to work the invention or prevent the patentee from working the invention at the same time.

(5) The licensee shall be entitled to work the whole of the invention, unless the license agreement provides for only partial working.

45. — (1) A person authorized under a license to work an invention may grant a sub-license only with the consent of the patentee; he may not grant a further sub-license.

(2) Section 44 shall apply *mutatis mutandis* to sub-licenses.

46. — (1) The Patent Office may give a person authorization (a compulsory license) to work an invention for which a patent has been obtained by another person if:

- (i) working of the invention is necessary for the implementation of the tasks forming part of economic planning and the patentee is not willing to conclude a license agreement (Section 44);

- (ii) it has been proved that the invention is not being satisfactorily worked (Section 40);

- (iii) the owner of a dependent patent requests the issue of a compulsory license in his favor in order to work an invention which is the subject of an earlier patent (Section 18).

(2) In the case referred to in subsection (1)(ii), the Patent Office shall decide that application may be made for a compulsory license and shall publish this decision in the *Wiadomości Urzedu Patentowego*.

(3) The person working the invention under a compulsory license shall make appropriate payments (royalties) in favor of the patentee.

(4) The decision regarding the grant of a compulsory license shall specify, in particular, the scope and duration of the license, the detailed conditions for its exercise, the amount of the royalty and the method of payment.

(5) Sections 44(5) and 45 shall apply to compulsory licenses.

(6) A compulsory license may be assigned by the licensee only together with the enterprise in which it is worked.

47. — In the cases referred to in Section 46(1), a compulsory license may also be granted for the rights deriving from a license agreement (compulsory sub-license). Section 46(6) shall apply *mutatis mutandis*.

48. — The provisions in a decision to grant a compulsory license or sub-license which relate to the terms of the license or sub-license or to the amount of the royalty may be varied after two years, at the request of the interested party or *ex officio*, if this should prove necessary for reasons of equity owing to substantial changes in the circumstances.

49. — A compulsory license shall not give the licensee an exclusive right to work the invention.

50. — (1) The conclusion of agreements concerning the exercise of rights acquired in the Polish People's Republic by foreign nationals and foreign legal entities shall be carried out through the intermediary of units of the national economy as authorized by the Minister for Foreign Trade.

(2) The Council of Ministers shall, by an order referred to in Section 7, determine the procedure in the cases referred to in subsection (1).

51. — Where a patent or an inventor's certificate has been applied for or obtained by a person not entitled, the person entitled may demand that the application for a patent be refused or, where a patent or inventor's certificate has already been granted, that it be declared invalid. He may also request that the patent or inventor's certificate be granted to himself or that the patent already granted be transferred to him, against reimbursement of the cost of the application or the grant of the patent and inventor's certificate.

52. — The person who has wrongfully filed the application or obtained the patent and inventor's certificate shall, in accordance with the general principles of law, surrender the profits realized to the person entitled and compensate any

damage caused to him. At the request of the person entitled, he shall also publish in the press an explanatory statement and, if he had acted intentionally, pay a suitable sum of money to the Central Technical Organization for the purpose of encouraging inventive activity.

53. — (1) A person whose patent has been infringed may, in accordance with the general principles of law, demand the cessation of the infringement, the remedying of its consequences and the surrender of any profits realized or the payment of damages.

(2) At the request of the person entitled, the person infringing the patent shall also publish in the press an explanatory statement and, if he had acted intentionally, pay a suitable sum of money to the Central Technical Organization for the purpose of encouraging inventive activity.

(3) In the case of a patent for a process of manufacturing a new product, any product which can be obtained by means of the patented process shall be presumed to have in fact been produced by that process.

(4) At the request of the person entitled, the court or the State board of arbitration may, in its decision on the question of infringement of a patent, give directions concerning any articles manufactured unlawfully and on any elements used in their manufacture.

(5) Proceedings for the infringement of a provisional patent may be instituted when the Patent Office has checked, after a complete examination, that the statutory requirements for obtaining the patent have been fulfilled.

54. — The limitation period for actions based on the infringement of a patent shall be three years. The period shall run, separately for each infringement, from the date when the respective cause of action arose. The period shall be suspended for the time between the filing of the application at the Patent Office and the grant of the patent, and during the complete examination by the Patent Office.

## VI. Secret Inventions

55. — (1) An invention made by a Polish national shall be deemed to be a secret invention if it concerns national defense, or if the interests of the State require that it be kept secret.

(2) The sphere of national defense shall include inventions concerning, in particular, new categories of weapons, military equipment, methods of combat or other strictly military matters.

(3) The Minister for National Defense may specify in detail the kinds of inventions which fall within the sphere of national defense.

(4) A secret invention shall constitute a State secret.

(5) The secrecy of inventions in the field of national defense shall be determined by the Minister for National Defense, and in other cases by the Minister responsible in respect of the subject covered by the invention.

56. — (1) Any work concerning a secret invention, the filing of the patent application concerned and the examination procedure may be undertaken only with due regard to secrecy.

(2) The obligation of secrecy in the case of an invention lies with the inventor and the persons working on the invention, as well as with the head of the unit of the national economy which is, or has been, carrying out work on the secret invention.

57. — The author of an invention embodying elements of secrecy regarding national defense shall, when filing an application at the Patent Office, immediately notify the Ministry of National Defense of the invention. With regard to employees' inventions, this obligation shall lie with the heads of the competent units of the national economy.

58. — (1) The Patent Office shall send to the Ministry of National Defense lists of the applications filed at the Office and, at the request of the Ministry, the descriptions and drawings of the inventions submitted to it which fall within the category of national defense.

(2) The documents concerning the application relating to the secret invention, together with the description and drawings, may be consulted by the organs which have been so authorized by the Minister responsible (Section 55(5)).

59. — (1) The patent application relating to a secret invention shall not be published.

(2) The Minister responsible (Section 55(5)) may demand the postponement, for a given period, of the publication of a patent application if there is a presumption that the invention concerned has the characteristics of a secret invention.

60. — (1) The right to a patent for a secret invention concerning matters affecting national defense shall be transferred to the State Treasury.

(2) The principles governing the amount and method of payment of compensation to those entitled to the patent, as well as the competent organs and the procedure in these cases, shall be determined by the Council of Ministers by an order referred to in Section 7.

61. — (1) The patent specification of a secret invention shall not be published.

(2) The grant of a patent for a secret invention shall be registered in the secret part of the Register of Patents.

(3) The disclosure of a secret invention or the filing of a patent application abroad for such invention, the communication of the invention to aliens or the assignment of the right to a patent to aliens shall be unlawful without the prior consent of the Minister responsible (Section 55(5)). The grant of approval for filing the application or assigning the invention abroad shall require the consent of the Minister for Foreign Trade.

62. — In accordance with the procedure specified in Section 55(5), an invention may be removed from the category of secret inventions.

63. — The procedure in cases concerning secret inventions shall be determined in detail by regulations to be issued by the Minister for National Defense and the Minister for the Interior.

#### VII. *Annulment and Lapse of Patents*

64. — (1) A patent may be declared null and void, in whole or in part, by the Patent Office, at the request of any person having a legal interest therein, if the statutory requirements for the grant of the patent have not been fulfilled.

(2) The Public Prosecutor of the Polish People's Republic may, in the public interest, request that a patent be declared null and void or intervene in an annulment action already in course.

(3) Subsections (1) and (2) shall apply *mutatis mutandis* to inventors' certificates.

65. — (1) Any person in good faith who has been granted or acquired a patent which has subsequently been declared null and void on the ground referred to in Section 38 or has been transferred to the person entitled in accordance with Section 51, or a licensee under such patent may — where he was working the invention for at least one year before the proceedings were instituted for the annulment of the patent or for its transfer to the person entitled or where, during such period, he had made substantial preparations for working the invention — continue to work the invention in his enterprise to the extent to which he was working it up to the time when the proceedings were instituted, subject to the obligation on his part to make an appropriate payment to the patentee. In the absence of agreement between the parties, the amount of payment shall be settled in quasi-judicial proceedings.

(2) The rights, set out in subsection (1), which allow the working of the invention shall be recorded in the Register of Patents at the request of an interested party. These rights may be assigned only together with the enterprise concerned.

66. — In the cases referred to in Section 46, the Patent Office may declare a patent to have lapsed where:

- (i) after two years from the grant of the first compulsory license the invention is still not being satisfactorily worked;
- (ii) no compulsory license has been issued within one year from the public announcement of the possibility of obtaining such a license.

67. — (1) The Patent Office shall decide that a patent has lapsed where:

- (i) the person entitled, with the consent of any persons having rights in the patent, surrenders the patent by notification to the Patent Office, or
- (ii) if payment of the fee (Section 115) is overdue by more than six months.

(2) The Patent Office shall revoke the decision declaring a patent to have lapsed in the case specified in subsection (1)(ii), where the time limit for the payment of the overdue fee has been reinstated.

68. — The decision relating to the annulment and lapse of a patent shall be recorded *ex officio* in the Register of Patents and published in the *Wiadomości Urzędu Patentowego*.

69. — Any person who has begun to work, or has made the necessary preparations for working, an invention for which the patent has lapsed owing to the delay in payment of the fee (Section 67(1)(ii)), shall be entitled to work the invention even if the decision regarding the patent's lapse has been revoked (Section 67(2)), subject to the payment to the patentee of an appropriate indemnity as from the date of the revocation referred to. Such matters shall be decided by the Patent Office in quasi-judicial proceedings. Section 65(2) shall apply *mutatis mutandis*.

70. — (1) Patents not owned by the State Treasury or a State unit may in appropriate cases be expropriated in favor of the State Treasury for the purpose of national defense or for the implementation of tasks forming part of economic planning.

(2) The expropriation of patent rights shall be subject to the payment of compensation.

(3) The expropriated patentee may demand that the expropriation also cover his patents of addition.

(4) The principles governing the expropriation of patent rights and the amount and method of payment of compensation, as well as the competent organs and the procedure in these cases, shall be determined by the Council of Ministers by an order referred to in Section 7.

#### VIII. *Exercise of Patent Rights Abroad*

71. — An application for a patent in favor of a unit of the national economy, a Polish legal entity which is not a unit of the national economy, or a Polish citizen may be filed abroad only after it has been filed at the Patent Office.

72. — (1) The filing abroad of an application referred to in Section 71, as well as the conclusion of agreements for the exercise of patent rights obtained abroad, shall be effected through the intermediary of units of the national economy authorized by the Minister for Foreign Trade.

(2) The Council of Ministers shall, by an order referred to in Section 7, determine the conditions under which the principle laid down in subsection (1) may be waived and the conditions and procedure to be adopted in matters referred to in subsection (1).

### PART III

#### *Utility Models and the Right to Protection*

73. — Any new and useful solution of a technical nature affecting the shape, construction or permanent assembly of an object shall be a utility model eligible for protection.

74. — (1) A right to protection shall be granted for utility models.

(2) The grant of a right to protection shall be confirmed by the issue of a certificate of protection.

75. — (1) The competent authority for the grant of rights to protection and the issue of certificates of protection

and inventors' certificates for utility models shall be the Patent Office.

(2) Grants of rights to protection and inventors' certificates for utility models shall be entered in the Register of Rights to Utility Model Protection.

76. — (1) The grant of a right to protection shall confer the exclusive right to exploit the utility model, in the course of trade, on all the territory of the State.

(2) The term of the right to protection shall be five years starting from the date when the application for protection was filed at the Patent Office. At the request of the person entitled to the protection, the term may be extended for a further period of up to five years.

(3) The scope of the protection shall be determined by the claims contained in the description of the utility model.

77. — (1) Whenever a patented invention has also the characteristics of a utility model, the patentee may file a petition for the conversion of the patent into a right to utility model protection. This provision shall not apply in the case of a provisional patent.

(2) On application by the person concerned, and after payment of the fee for a complete examination, the right to utility model protection may in appropriate cases be converted into a patent. Section 35(2) shall apply *mutatis mutandis*.

78. — The provisions concerning inventions and patents contained in Sections 11, 12(1), 14, 16(5), 17 to 25, 26(1), (4) and (5), 27 to 30, 32 to 34 and 36 to 72 shall apply *mutatis mutandis* to utility models and to rights to utility model protection.

#### PART IV

##### Rationalization Proposals

79. — Any new solution of a technical character, or relating to technical organization, which is capable of use in a unit of the national economy but which does not have the characteristics of an invention or a utility model and which relates in particular to

- (a) machines, installations and products;
- (b) methods of production;
- (c) methods of measurement and control;
- (d) improvements or developments relating to machines, installations and products, methods of production and methods of measurement and control,

especially if such technical solution enables increased performance or an improved use of the means of production or if it is effective in the field of safety and work hygiene, or in the protection of the natural environment.

80. — (1) A rationalization proposal shall be considered as new if it has not previously been submitted by another person within the same unit of the national economy, or if it has not been used in that unit or included in the plans of the said unit, or recommended for use by the superior unit, together with an indication of its nature and of the solution which it has provided.

(2) A rationalization proposal may also be based on the inventive adaptation of a known solution to the needs of a unit of the national economy.

81. — Rationalization proposals which cannot be used independently of each other shall be regarded as forming part of one proposal.

82. — A rationalization proposal fulfilling the requirements set out in Sections 79 and 80 which constitutes an improvement or a development of another proposal used in a given unit of the national economy shall be regarded as an independent rationalization proposal only with respect to that part of it which constitutes the said improvement or development.

83. — Where a rationalization proposal submitted to a unit of the national economy is the same as one which has previously been submitted to the same unit by another person but which was not accepted for use at the time, the person who made the earlier submission shall be considered the author.

84. — (1) A rationalization certificate shall be issued to the author, or co-authors of a rationalization proposal which has been accepted for use. Section 14(2) shall apply *mutatis mutandis*.

(2) The rationalization certificate shall be issued by the unit of the national economy in which the proposal was first accepted for use.

85. — Where it has been established that the subject of a rationalization proposal is a solution which is also the subject of an invention or a utility model protected in the Polish People's Republic, the rationalization certificate shall be declared invalid at the request of the interested party. The decision concerning the invalidation of the rationalization certificate shall be made by the Patent Office.

86. — Sections 55(1) to (4), 56 and 63 shall apply *mutatis mutandis* to rationalization proposals.

#### PART V

##### Application of Invention Proposals in the National Economy

87. — (1) Units of the national economy may use protected inventions and utility models, as well as invention proposals which are secrets of other units of the national economy, on the basis of agreements concerning the use of invention proposals. These agreements shall be made for consideration unless the parties agree otherwise.

(2) Under the agreement concerning the use of an invention proposal, the unit of the national economy which owns the patent, or is the beneficiary of the right to utility model protection, shall entitle another unit of the national economy to use the invention or the utility model and shall make available the technical and organizational know-how in its possession regarding the said invention or utility model.

(3) Subsection (2) shall apply *mutatis mutandis* to agreements concerning the use of inventions or utility models submitted to the Patent Office for which no patent or right to

utility model protection has yet been granted, as well as to agreements for making available an unprotected invention, utility model or rationalization proposal which are secrets of a unit of the national economy.

(4) The Council of Ministers shall, by an order referred to in Section 7, determine the principles governing the conclusion of agreements concerning the use of invention proposals between units of the national economy.

88. — The author of an employee's invention proposal shall notify the proposal to the unit of the national economy in which the proposal was elaborated. The proposal shall constitute a trade secret, unless the head of the unit decides otherwise.

89. — (1) The author of an invention which does not have the characteristics of an employee's invention may submit the invention to a unit of the national economy according to the principles provided for employees' invention proposals. The right to a patent shall pass at the time the invention is submitted to the said unit.

(2) Subsection (1) shall apply *mutatis mutandis* to the author of a utility model which does not have the characteristics of an employee's utility model.

90. — (1) The unit of the national economy shall examine whether the submitted invention proposal can be used.

(2) The costs of examination and of any trials required for the assessment of the invention proposal shall be borne by the unit of the national economy. The unit shall moreover complete all the formalities required for the submission of the proposal, at its own expense, if the author of the proposal is unable to do so himself.

(3) The unit of the national economy, after examination of the submitted invention proposal (subsection (1)), shall decide to accept the proposal for use as a whole or on a limited scale or to reject the proposal as being of no use to the unit.

91. — (1) The author of the invention proposal may or, where necessary, shall participate in the work relating to the assessment of the utility of his proposal and to its application in the units of the national economy.

(2) An author of an invention proposal who is not employed by the unit of the national economy which is using the proposal may demand the conclusion of an agreement providing for his participation in the work relating to the use of his proposal. The author may appeal to the superior unit against any decision refusing to conclude such an agreement.

(3) In the case of an agreement for participation in the work referred to in subsection (1), the author shall have the right in the enterprise employing him to unpaid leave for the duration of the agreement, whilst retaining all the additional benefits to which he is entitled. The period of unpaid leave shall be counted in his favor in the calculation of the period of his employment as far as all employee's rights are concerned whose acquisition and scope are determined by the number of years of service or by the continuity of work in the given profession or function or in special conditions. In the

unit which is using the invention proposal, the author shall be entitled to leave and to the benefits of social security under the same conditions as those existing in the institution employing him from which he has received unpaid leave.

92. — (1) Where an employee's invention has been found to be unusable in the unit of the national economy entitled to or in possession of the patent for the invention and where an agreement has not been concluded for the transfer of the right or for the use of the invention proposal, the unit may transfer the right to a patent or the patent itself to the inventor, free of payment.

(2) Subsection (1) shall apply *mutatis mutandis* to employees' utility models.

## PART VI

### Remuneration for Employees' Invention Proposals

93. — (1) The author of an employee's invention proposal accepted for use by one or more units of the national economy shall be entitled to remuneration in accordance with the principles laid down in this Law.

(2) The amount of remuneration for an employee's invention proposal shall be determined by reference to the results obtained from the use of the proposal.

(3) Whenever this Law refers to the results obtained from the use of an invention proposal, it includes the results of the use of the right to a patent or to utility model protection or of the working of the patent or the exploitation of the right to utility model protection.

(4) The lump-sum remuneration determined in the agreements concluded between the author and the unit of the national economy in which the invention proposal has been accepted for use may also be established for employees' invention proposals, on the basis of the foreseeable results.

(5) The Council of Ministers shall, by an order referred to in Section 7, determine the cases where the provisions of subsections (1) to (4) shall not apply to certain authors of rationalization proposals employed by units of the national economy.

94. — (1) The remuneration for an employee's invention shall be paid annually in respect of the period during which the invention has actually been in use in the national economy, but only for the first five years of its use.

(2) In cases where this is justified, remuneration on an appropriately reduced scale may be paid in respect of an employee's invention for a further period not exceeding five years.

(3) The period during which trials are being carried out with respect to the invention shall not be counted in the periods specified in subsections (1) and (2), nor shall any period in which the invention is used after the expiration of 15 years from the date of submission to the Patent Office, unless an extension of the period is warranted by special circumstances.

(4) The provisions concerning the remuneration for an invention shall apply *mutatis mutandis* where a proposal having the characteristics of an employee's invention has not

been submitted to the Patent Office for economic reasons (Section 21(1)).

95. — Remuneration for an employee's invention shall continue to be payable where the patent has lapsed as a result of surrender or arrears in the payment of fees (Section 67(1)).

96. — (1) The remuneration for an employee's utility model or for a rationalization proposal shall be payable for the period in which the utility model or rationalization proposal is actually in use in the national economy, but it shall not relate to a period exceeding twelve months.

(2) The amount of remuneration shall be based on the maximum results achieved by the use of the utility model or the rationalization proposal over a period of twelve months during the first two years of its use. Section 94(3) shall apply *mutatis mutandis*.

(3) Remuneration for an employee's utility model shall not be payable after a period of ten years from the date of submission of the utility model to the Patent Office. Sections 94(4), 95 and 97 shall apply *mutatis mutandis*.

97. — (1) Until a patent is granted for an employee's invention, the inventor shall be paid a provisional remuneration in accordance with the principles relating to remuneration for rationalization proposals. The amount of provisional remuneration shall in due course be deducted from the remuneration paid in respect of the invention.

(2) Subsection (1) shall not apply in the cases referred to in Sections 93(4) and 94(4).

98. — If the remuneration provided for in an agreement relating to the use of an employee's invention proposal is lower than that which would be payable under Sections 93 to 97, the author of the proposal shall be entitled to remuneration in accordance with those provisions.

99. — Where an employee's invention proposal which has been accepted cannot be used immediately and is intended for use at a future date, the author of the proposal shall be entitled to a provisional remuneration on a scale determined by the superior unit. The provisional remuneration shall be deducted from the remuneration paid to the author after the proposal has been put into use. If the proposal is eventually not used, the provisional remuneration shall not be liable to be refunded.

100. — Where the national economy derives any advantages from the filing of an application for protection abroad for an invention or a utility model (Section 72), or from making it available abroad, the author of the invention or utility model shall be entitled to an additional remuneration, which shall be determined in accordance with the profit obtained.

101. — The author of an employee's invention proposal shall be entitled to a separate remuneration for providing documentation helpful to the utilization of the proposal.

102. — (1) Remuneration paid for employees' invention proposals shall not be liable to be refunded.

(2) Subsection (1) shall not apply where remuneration has been paid to a person who has acted in bad faith, or as a result of a punishable act.

103. — The provisions of the civil law shall apply *mutatis mutandis* to the remuneration for employees' invention proposals with regard to matters not provided for in this Law.

104. — Remuneration payable in respect of an employee's invention proposal shall be determined and paid by the unit of the national economy in which the proposal has been accepted for use.

105. — (1) An author of an employee's invention proposal who is not satisfied with the decision of the unit of the national economy regarding the amount of remuneration to be paid for his proposal may appeal to the superior unit.

(2) Where the author is not satisfied with the decision of the superior unit (subsection (1)), he may contest the amount of remuneration for the invention proposal before the district court (*Wojewódzki Sad*) having jurisdiction on the basis of the location of the unit of the national economy liable to make the payment. The author shall not be liable for the costs of the legal proceedings.

106. — (1) Any person assisting the author of an employee's invention proposal in the elaboration or development of the proposal in a unit of the national economy shall be entitled to remuneration.

(2) Persons who have collaborated in the realization of an employee's invention proposal or who have contributed to the acceleration of its application or promotion shall be entitled to an award.

(3) Awards may also be given to authors of rationalization proposals who are not entitled under Section 93(5) to remuneration.

107. — (1) The Council of Ministers shall, by an order referred to in Section 7, determine in detail the principles governing:

- (i) the establishment of the amount of remuneration for employees' invention proposals and the remuneration provided for in Section 106(1), as well as the units responsible for paying such remuneration;
- (ii) the allocation of the awards referred to in Section 106(2) and (3);
- (iii) the entry into effect of new labor rules, resulting from the application of an invention proposal, with respect to the author of the proposal and the persons referred to in Section 106(2).

(2) The Minister for Education, Higher Education and Technology shall determine the principles for the assessment of results on the basis of which the amount of remuneration for employees' invention proposals is determined.

## PART VII

### Procedure; Registers; Fees

108. — (1) The Patent Office, the organs of national administration and the units of the national economy which are to make decisions and determinations under this Law shall

apply the provisions of the Administrative Procedure Code; in the case of quasi-judicial proceedings, the same provisions shall apply to the extent provided for in Section 110(2)(ii).

(2) The units of the national economy shall proceed before the Patent Office only through a patent agent in all matters concerning the filing of applications and the examination of inventions and utility models.

109. — (1) The Patent Office shall apply the quasi-judicial procedure when making decisions on:

- (i) the annulment of a patent, of a right to utility model protection, of an inventor's certificate and of a rationalization certificate;
- (ii) the lapse of a patent or of a right to utility model protection;
- (iii) the transfer of a patent or of a right to utility model protection accorded to a person not entitled thereto (Section 51);
- (iv) the recognition of the dependence of a patent or of a right to utility model protection;
- (v) the right to work an invention or a utility model in the cases referred to in Sections 41, 65 and 69;
- (vi) the declaration that a specified manufacture is not covered by a particular patent or a particular right to utility model protection (Section 19);
- (vii) the declaration that an invention or a utility model is an employee's invention or employee's utility model;
- (viii) the declaration that a proposal submitted and used in a unit of the national economy is a rationalization proposal;
- (ix) any other matters which, in accordance with the provisions, come under the competence of the Patent Office when applying the quasi-judicial procedure.

(2) The Patent Office shall take decisions, in the matters referred to in subsection (1), in boards on which trade unions and technical associations shall be represented.

110. — (1) Appeals against decisions and objections to determinations, made by the Patent Office in the exercise of its powers under Section 108, and appeals against decisions and objections to determinations, made by the Office when applying the procedure referred to in Section 109, shall be heard by the Appeal Commission of the Patent Office. The Appeal Commission shall reach its decisions in boards on which trade unions and technical associations shall be represented.

(2) The Council of Ministers shall, by an order referred to in Section 7:

- (i) set up the Appeal Commission and determine its composition and manner of appointment as well as the remuneration of its members;
- (ii) determine the principles of the quasi-judicial procedure before the Patent Office, and the principles of the procedure before the Appeal Commission.

111. — (1) In the hearing of matters by the Patent Office in boards, in accordance with the procedure referred to in Section 109, the chairmen shall be judges appointed by

the Minister for Justice from the judges of the district courts (*Sady Wojewódzkie*) of the Warsaw area.

(2) In the hearing of matters by the Appeal Commission of the Patent Office in boards, in accordance with the procedure referred to in Section 110, the chairmen shall be judges appointed by the First President of the Supreme Court from the judges of that Court.

112. — The President of the Patent Office, the First President of the Supreme Court and the Public Prosecutor of the Polish People's Republic may initiate an extraordinary procedure for review in the case of any final decision of the Patent Office and the Appeal Commission which terminates the procedure and is clearly contrary to law. The provisions of the Civil Procedure Code shall apply *mutatis mutandis* to such extraordinary procedure.

113. — Cases which do not fall within Sections 108 to 112 and which relate to civil law claims concerning inventions shall be settled by the courts or by arbitration.

114. — (1) The Patent Office shall maintain a register of patents and a register of rights to utility model protection in which entries provided for by this Law shall be made.

(2) Everyone shall be deemed to know the contents of the entries in the Registers.

(3) The President of the Patent Office shall lay down the rules governing the maintenance of the Registers, the conditions and manner of making entries therein, the consultation of the Registers and the obtaining of extracts therefrom.

115. — (1) The protection of inventions and utility models shall be subject to single fees and periodic fees payable at prescribed intervals throughout the term of protection.

(2) The Council of Ministers shall, by an order referred to in Section 7, determine the principles governing the payment and the amount of such fees, the dates of payment and the cases when a total or partial exemption from such fees may be granted, as well as the principles under which payment may be deferred and time limits reinstated.

## PART VIII

### Penal Provisions

116. — (1) Anyone who falsely claims to be the author of another's invention proposal shall be liable to imprisonment for a term not exceeding one year, limitation of freedom or a fine.

(2) The same penalty shall apply to anyone who infringes in any other way the rights of the author of an invention proposal.

117. — (1) Anyone marking articles which do not enjoy patent or utility model protection with statements or signs calculated to give the false impression that the articles do enjoy such protection shall be liable to imprisonment for a term not exceeding three months, limitation of freedom for a term not exceeding one year or a fine of up to 5,000 zlotys.

(2) Anyone who puts up for sale, or prepares or stocks for the purpose of sale, the articles mentioned in subsection (1), in the knowledge that they are falsely marked, or provides, by advertisements, communications or other means, information calculated to give the impression that the articles enjoy legal protection shall be liable to the same penalties.

**118.** — (1) Anyone who usurps another's right to a patent or to utility model protection and who submits an invention or utility model with a view to obtaining a patent or a right to utility model protection shall be liable to imprisonment for a term not exceeding two years, limitation of freedom or a fine.

(2) Anyone infringing in any other way another's right to a patent or to utility model protection shall be liable to imprisonment for a term not exceeding one year, limitation of freedom or a fine.

#### PART IX

##### Transitional Provisions and Final Clauses

**119.** — (1) The provisions of this Law concerning units of the national economy shall apply to units of the national economy having legal personality and also, *mutatis mutandis*, to State organizational units without legal personality and to professional and cooperative organizations, associations and other social organizations, in connection with their economic and scientific activities.

(2) State organizational units without legal personality shall exercise, in the name of the State Treasury, the rights relating to their spheres of activity.

**120.** — The Minister for National Defense and the Minister for the Interior shall, each in his own sphere of activity, issue provisions designed to adapt to the structure of their subordinate units the provisions concerning the application of this Law.

**121.** — In the field governed by this Law, the provisions relating to deliveries made and to work and services performed for the benefit of State units shall not apply to work and services performed for the benefit of units of the national economy.

**122.** — (1) All remuneration for employees' invention proposals and for technical assistance shall be exempt from taxes and fees. This provision shall also apply to remuneration for invention proposals which are not employees' invention proposals and which have been submitted under Section 89.

(2) Remuneration, royalties and any other payment made in return for the transfer or the establishment of the right to work an invention or utility model which is not an employee's invention or an employee's utility model, in favor of a unit of the national economy, shall be taxable in accordance with the regulations relating to income tax to the same extent as remuneration paid for creative work.

**123.** — In this Law, the term "Minister" includes the chairmen of commissions and committees who exercise the

functions of the supreme organs of State administration, as well as heads of central offices.

**124.** — (1) The rights concerning inventions, utility models, rationalization proposals and technical improvements existing at the time of entry into force of this Law shall remain in force. Such rights shall be governed by the provisions applied before the entry into force of this Law, unless it is provided otherwise below.

(2) Legal relationships established before the entry into force of this Law shall be governed by the provisions applied hitherto, unless it is provided otherwise below.

(3) The consequences of any legal event shall be determined on the basis of the provisions in force at the time the event occurred. However, from the date of its entry into force, the provisions of this Law shall govern:

- (i) the statutory requirements for obtaining a patent and a right to utility model protection, unless the procedure for the grant of the patent or the right to protection has been terminated by a final decision;
- (ii) the obligations of persons entitled to a patent or to a right to utility model protection, as set out in Section 40(1);
- (iii) the effects of the entry of a license in the Register of Patents, as set out in Section 44(3);
- (iv) the principles relating to the transfer of compulsory licenses and sub-licenses, as set out in Sections 46(6) and 47, as well as the principles relating to the transfer of the right to work an invention and utility model, as set out in Sections 41(2) and 69;
- (v) the principles and method of transfer of the right to a patent or the patent itself as well as of the entitlement to the right to utility model protection or the right itself, as set out in Section 92;
- (vi) the principles relating to the establishment of the amount of remuneration for employees' invention proposals, as set out in Section 93(4).

(4) Patents and rights conferred by utility model registrations granted before the entry into force of this Law to units of the national economy, in favor of the State, shall belong to those units which are mentioned in the letters patent or certificate of protection. The provisions of this Law shall apply to such rights. However, other units of the national economy which have started to work the invention or which have made substantial preparations for working the invention or the utility model, during the year following the entry into force of this Law, shall be entitled to work the invention or utility model in their enterprise free of payment. Section 41(2) shall apply *mutatis mutandis* to such right.

(5) The procedure for the filing of applications relating to an invention or a utility model at the Patent Office, as well as the quasi-judicial procedure referred to in Sections 108 to 111, shall be governed by the provisions of this Law from the date of its entry into force, with the exception of proceedings already started concerning the question of authorship or co-authorship of an employee's invention proposal and the ques-

tion whether the author of an employee's invention proposal is entitled to remuneration.

(6) The procedure for the payment of remuneration for an employee's invention proposal, as set out in Section 105, shall be governed by the provisions of this Law from the date of its entry into force, with the exception of proceedings already started before a board of conciliation.

(7) Anyone who has submitted an invention to the Patent Office before the entry into force of this Law may, during the six months following the entry into force, apply for a provisional patent. This provision shall not apply where the procedure has been terminated by a final decision.

125. — (1) The Inventions Act of May 31, 1962<sup>1</sup> is hereby repealed (Official Journal No. 33, item 156).

(2) Until the implementing provisions provided for in this Law have been issued, the existing provisions issued under the Law referred to in subsection (1) shall remain in force.

(3) Until provisions concerning the protection of industrial designs have been adopted, the provisions issued under Section 142 of the Law referred to in subsection (1) shall remain in force.

126. — This Law shall enter into force on January 1, 1973.

<sup>1</sup> *Industrial Property*, 1962, p. 278; 1963, p. 95.

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## GENERAL STUDIES



### **The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration**

By A. DEVLÉTIAN \*















## UPOV Meetings

November 6 and 7, 1973 (Geneva) — Technical Steering Committee

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

November 5 to 9, 1973 (Abidjan) — African and Malagasy Industrial Property Office — Governing Body

November 12 to 14, 1973 (Mexico City) — Inter-American Association of Industrial Property — Administrative Council

November 12 to 14, 1973 (Vienna) — International Confederation of Societies of Authors and Composers — Legal and Legislative Commission

December 10 to 14, 1973 (Brussels) — European Economic Community — "Community Patent" Working Party

February 24 to March 2, 1974 (Melbourne) — International Association for the Protection of Industrial Property — Executive Committee

May 6 to 30, 1974 (Luxembourg) — Conference of the Member States of the European Communities concerning the Convention on the European Patent for the Common Market

May 3 to 10, 1975 (San Francisco) — International Association for the Protection of Industrial Property — Congress

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