

# Industrial Property

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## Nice Agreement

### Ratification of the Stockholm Act

#### FRANCE

The Government of France deposited on May 2, 1975, its instrument of ratification of the Stockholm Act (1967) of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of June 15, 1957.

This instrument of ratification contains the following declaration:

"The Government of the French Republic, referring to Article 14 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, declares that the said Agreement shall be applicable to the territory of the French Republic in Europe, to the departments of Guyane, Guadeloupe, Martinique and Reunion, and to the overseas territories of New Caledonia, French Polynesia, St. Pierre and Miquelon, Wallis and Futuna Islands and the French Southern and Antarctic Territories." (*Translation*)

Pursuant to the provisions of Article 9(4)(b), the Stockholm Act of the Nice Agreement will enter into force with respect to France on August 12, 1975.

Nice Notification No. 31, of May 12, 1975.

## Lisbon Agreement

### I. Accession

#### BULGARIA

The Government of Bulgaria deposited on April 29, 1975, its instrument of accession to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958, as revised at Stockholm on July 14, 1967.

This instrument of accession contains the following declaration:

"The People's Republic of Bulgaria considers that the terms of Article 14, paragraph (4), providing the right for colonial States to extend the application of the Agreement referred to above to the territories which are subordinated to them, are in contradiction with current international law and with the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly of the United Nations on December 14, 1960." (*Translation*)

Pursuant to the provisions of Article 14(5)(b), the Lisbon Agreement as revised at Stockholm will enter into force with respect to Bulgaria on August 12, 1975.

Lisbon Notification No. 13, of May 12, 1975.

## II. Ratification of the Stockholm Act

#### FRANCE

The Government of France deposited on May 2, 1975, its instrument of ratification of the Stockholm Act (1967) of the Lisbon Agreement.

This instrument of ratification contains the following declaration:

"The Government of the French Republic, referring to Article 14, paragraph (4), of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration declares that the said Agreement shall be applicable to the territory of the French Republic in Europe, to the departments of Guyane, Guadeloupe, Martinique and Reunion, and to the overseas territories of New Caledonia, French Polynesia, St. Pierre and Miquelon, Wallis and Futuna Islands and the French Southern and Antarctic Territories." (*Translation*)

Pursuant to the provisions of Article 14(5)(b), the Stockholm Act of the said Agreement will enter into force with respect to France on August 12, 1975.

Lisbon Notification No. 14, of May 12, 1975.

## Locarno Agreement

### Ratification

#### ITALY

The Government of Italy deposited on May 2, 1975, its instrument of ratification of the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on October 8, 1968.

Pursuant to the provisions of Article 9(3)(b), the Locarno Agreement will enter into force with respect to Italy on August 12, 1975.

Locarno Notification No. 16, of May 12, 1975.

## Strasbourg Agreement

### Ratification

#### FINLAND

The Government of Finland deposited on May 14, 1975, its instrument of ratification of the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971.

This instrument of ratification was accompanied by the following declaration:

"With reference to Article 14(4)(i), Finland declares that it does not undertake to include the symbols relating to groups or subgroups of the Classification in applications as referred to in Article 4(3) which are only laid open for public inspection and in notices relating thereto." (*Original*)

Pursuant to the provisions of Article 13(1)(b), the Strasbourg Agreement will enter into force with respect to Finland on May 16, 1976.

Strasbourg Notification No. 21, of May 16, 1975.



## WIPO MEETINGS

### WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property

#### Permanent Committee

#### Second Session

(Geneva, March 17 to 21, 1975)

#### Note\*

The WIPO Permanent Committee established under the Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property held its second session in Geneva from March 17 to 21, 1975<sup>1</sup>.

At the time of its session, the Permanent Committee comprised 47 members: Algeria, Argentina, Australia, Austria, Brazil, Cameroon, Chile, Congo, Cuba, Czechoslovakia, Denmark, Egypt, Finland, France, Gabon, Germany (Federal Republic of), Hungary, Indonesia, Israel, Italy, Ivory Coast, Japan, Jordan, Kenya, Malta, Mauritania, Mexico, Netherlands, Poland, Portugal, Romania, Senegal, Soviet Union, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, United Kingdom, United States of America, Uruguay, Yugoslavia, Zaire.

Thirty-four of the member States and 17 observer States were represented; two United Nations organizations, four other intergovernmental organizations and ten non-governmental organizations were represented by observers. A list of participants follows this Note.

The Permanent Committee elected Mr. J. M. Rodríguez Padilla (Cuba) Chairman, and Mr. L. Inosemtzev (Soviet Union) and Mr. I. J. G. Davis (United Kingdom) Vice-Chairmen. Mr. I. Thiam (Head, WIPO Technical Assistance Section), acted as Secretary of the Permanent Committee.

After an introductory discussion, in which attention was drawn to the importance for the work of the Permanent Committee of WIPO having become a United Nations specialized agency, the Permanent Committee considered the following items of its agenda, on the basis of documentation prepared by the International Bureau:

*New Model Law for Developing Countries on Inventions and Know-How:* At its first session the Permanent Committee had recommended the establishment of a Working Group on the Model Law for Developing Countries on Inventions and Know-How; the first session of the Working Group had been held in November 1974, and had considered provisions on

special types of patents, licensing contracts, and know-how. Two further sessions, devoted to the remaining topics to be included in the new Model Law, were scheduled for 1975, and it was planned that the work would be completed at two sessions in 1976 when a consolidated draft of the full text and a draft of a commentary on it would be considered. The Working Group was composed of experts coming from 17 countries, together with observers from intergovernmental and non-governmental organizations concerned.

After a full discussion based on a report on the first session of the Working Group, the Permanent Committee endorsed the plans for the future sessions of the Working Group and recommended that in its future work it should be guided by the discussion in the Permanent Committee and should have before it, in addition to the draft texts prepared by the International Bureau, the report prepared jointly by the United Nations, the United Nations Conference on Trade and Development (UNCTAD) and WIPO on "The Role of the Patent System in the Transfer of Technology to Developing Countries" (together with the comments made by governments thereon) and the report of the first session of the WIPO Ad Hoc Group of Governmental Experts on the Revision of the Paris Convention, together with the report to be prepared by the Director General for the Ad Hoc Group's second session. The Permanent Committee also fixed the composition of the Working Group.

*Licensing Seminar and Licensing Guidelines:* The Permanent Committee considered a report on the Licensing Seminar held in November 1974, in accordance with a recommendation of its first session, with the purpose of providing training for participants from developing countries.

Lectures had been given at the Seminar by experts nominated by governments and by international non-governmental organizations, and there had been a full discussion on the questions to be considered by developing country licensees in negotiating and drafting license agreements.

The Permanent Committee recommended that the texts of the lectures given at the Seminar and the detailed summary of the proceedings prepared by the Chairman should be distributed not only to the participants but also to the governments of the member States of the Permanent Committee. It also endorsed the plans of the International Bureau for further work in the field of licensing, which include the preparation of draft guidelines appropriate to the needs of developing countries, with illustrative examples of the drafting of specific provisions and possibly also with draft model provisions, to be submitted to a committee of experts.

*Proposal by Cuba:* At the first session of the Permanent Committee the Delegation of Cuba had made a written proposal for future work relating, in particular, to the use by

\* This Note has been prepared by the International Bureau.

<sup>1</sup> A Note on the first session of the Permanent Committee was published in *Industrial Property*, 1974, p. 175.

developing countries of the International Patent Classification (IPC) as a means of identifying technology to be acquired, and to technical advisory services for such countries. After this proposal had been discussed also by the WIPO Coordination Committee, the Delegation of Cuba presented a revised text, in the form of a draft decision, to the second session of the Permanent Committee.

After this draft had been fully discussed and certain modifications had been made, the Permanent Committee adopted a decision recommending that an expert working group should examine practical steps (including training) to assist developing countries in making full use of the IPC as a means of identifying documents relating to given technologies, and in obtaining additional information concerning the legal status and the working of particular patents; the expert working group should also study the possible need for supplementary classifications or indexes to the IPC; WIPO should propose to the United Nations Industrial Development Organization (UNIDO) and the United Nations Conference on Trade and Development (UNCTAD) that the three organizations examine jointly the possibility of services being established and maintained on a cooperative basis to provide technical advice relating to alternative technologies and means of choosing among them and to customary conditions in various types of contracts for the acquisition of technology; the same cooperative services would also be designed to provide patent and patent-related information, information on licensing opportunities, and training. The decision also recommended that the Permanent Committee should give assistance in the preparation of proposals by countries or groups of countries for the establishment of patent and patent-related documentation centers, that the financial assistance of the United Nations Development Programme (UNDP) and other sources of development financing should be sought and that the appropriate intergovernmental committees of the Paris Union, the Patent Cooperation Treaty and the IPC should be asked to help in the technical work.

*Proposal by Austria:* The Delegation of Austria presented a proposal containing an offer by the Austrian authorities to provide free of charge 100 searches of the state of the art in given fields of technology in order to enable an experiment to be conducted concerning the usefulness of such searches to developing countries. The Permanent Committee, having unanimously complimented and commended the Government of Austria for its generous proposal, recommended that developing countries, members of the Permanent Committee, should cooperate in the proposed experiment by submitting search requests in response to the invitation to be circulated by WIPO; it decided to review the results of the experiment at its next session, on the basis of a questionnaire to be addressed to the countries participating in the experiment, and of an analysis of the methodology applied and the results of the experiment.

*Publication of Licensing Opportunities:* The Permanent Committee considered a report of a Group of Editorial Consultants established to advise on a possible publication to pro-

vide information on opportunities for developing countries to acquire technology through license agreements. In its report the Group analysed the content which any publication should have for this purpose, and drew attention to the need for it to form part of wider services and facilities. Taking into account its decision on the Cuban proposal, referred to above, the Permanent Committee, having thanked the Group of Editorial Consultants for the quality of its work, decided to defer a decision on convening a further meeting of the Group until after the results of the envisaged consultations with UNCTAD and UNIDO on possible cooperative services could be assessed.

*Other Technical Assistance Matters:* The Permanent Committee also noted other activities in the field of training in access to patent documentation (specifically, participation by developing countries in the Moscow Symposium on "The Role of Patent Information in Research and Development", held in October 1974 and a Training Course on the Use of the International Patent Classification (IPC) to be held in May 1975) and cooperation by WIPO with the Industrial Development Centre for Arab States (IDCAS) in carrying out a study on a proposed patent documentation center and in preparing a Model Law for Arab States on Trademarks.

*Recommendations of the First Session of the Permanent Committee; Activities in 1976:* Finally, the Permanent Committee noted with approval the effect given to its recommendations and decisions at its first session, made proposals to be taken into account in the draft program and budget of WIPO for 1976 and decided to place on the agenda of its next session the question of the transfer of technology between developing countries, with particular reference to the needs of the least developed among the developing countries and to the contribution to be made to the establishment of a new international economic order by cooperation among developing countries.

## List of Participants \*

### I. Member States

Algeria: G. Sellali (Mrs.). Argentina: J.R. Sanchis Munoz; E. Pareja; C.A. Passalacqua. Austria: T. Lorenz. Brazil: J.F. da Costa; A.L.F. Barbosa. Chile: P. Barros. Cuba: J.M. Rodriguez Padilla; M. Jimenez Aday; V. Crespo. Czechoslovakia: V. Vaniš; A. Ringl; M. Kasaly. Denmark: J.J.P. Irgens; H.J. Riis-Vestergaard; T. Lehmann. Egypt: S.A. Abou-Ali. France: J. Fernand-Laurent; A. Teissier; J.P. de Molliens; S. Balous (Mrs.). Germany (Federal Republic of): R. von Schleussner (Mrs.); W. Pitzer. Hungary: Z. Szilvassy; G. Pusztai. Italy: G. Trotta; M. Tomajuoli. Ivory Coast: B. Nioupin; M.-L. Boa (Miss). Japan: S. Hayashi. Jordan: Z. Sakkijha. Kenya: J.N. King'Arui. Mexico: J. Alvarez Soberanis. Netherlands: W. Neervoort; J. Rottinghuis. Poland: T. Opalski; W. Dytry. Portugal: J. Mota Maia. Romania: V. Tudor; M. Costin (Mrs.). Senegal: A.M. Diop. Soviet Union: L. Inosemtezev; I. Vedernicova (Mrs.); P. Nomokonov; A. Zaitsev. Spain: J. Delicado Montero-Rios. Sri Lanka: S. de Alwis; K.K. Breckenridge. Sweden: L.O. Assarsson; C. Sandgren. Switzerland: R. Kämpf; J. Mirimanoff-Chilikine. Tunisia: A. Jerad. Turkey: A. Erman. United Kingdom: I.J.G. Davis; V. Tarnofsky. United States

\* A list containing the titles and functions of the participants may be obtained from the International Bureau.

of America: H. J. Winter; J. J. Sheehan, Jr.; J. M. Lightman; G. J. Klein. Uruguay: R. Rodríguez-Larreta de Pesaresi (Mrs.). Yugoslavia: D. Čemalović; I. Janković.

## II. Observer States

Belgium: J. Verlinden; R. Philippart de Foy. Canada: D. MacPhee. Colombia: A. Trejos; A. Morales. Ecuador: W. Herrera; A. Ontaneda. German Democratic Republic: D. Schack; C. Micheel (Mrs.). Greece: A. Sideris. Guatemala: E. L. Herrarte. Holy See: O. Roulet (Mrs.). Iraq: A. A. M. Alkhafaji. Kuwait: H. A. Dabbagh; N. Al-Refai; M. Afzal. Libyan Arab Republic: B. A. Salem. Nigeria: O. A. Adesoye; S. S. A. Ojomo; I. A. Owoyele; A. Knye. Oman: M. A. Ben Sedrine. Republic of Korea: K. S. Moon; K.-S. Chin. Thailand: N. Snidvongs. Uganda: J. H. Ntabgoba. Venezuela: F. J. Villarte; A. Benni de Ruiz (Mrs.); E. Hernandez Caceres (Miss); F. Astudillo Gomez; M. Ruiz-Azuaje.

## III. United Nations Organizations

United Nations (UN): H. Einhaus. United Nations Conference on Trade and Development (UNCTAD): P. O'Brien.

## IV. Other Intergovernmental Organizations

African and Malagasy Industrial Property Office (OAMPI): P. N'Goma. Commission of the European Communities (CEC): H. Kronz. European Patent Organisation (Secretariat for the Interim Committee) (EPO): G. Aschenbrenner. Instituto para la Integración de America Latina (INTAL): E. White.

## V. International Non-Governmental Organizations

Committee of National Institutes of Patent Agents (CNIPA): D. Vincent. Council of European Industrial Federations (CEIF): G. Albrechtskirchinger; J.-M. Dopchie. European Federation of Agents of Industry in Industrial Property (FEMIP): J.-M. Dopchie. European Industrial Research Management Association (EIRMA): B. de Passemar. International Association for the Protection of Industrial Property (IAPIP): H. Wichmann; B. de Passemar. International Chamber of Commerce (ICC): J.-M. Dopchie; D. Vincent. International Federation of Inventors Associations (IFIA): H. Romanus; J. Zachariassen. Licensing Executives Society (International) (LES): F. Gevers. Union of European Professional Patent Representatives (UNION): G. E. Kirker. Union of Industries of the European Community (UNICE): G. Albrechtskirchinger; B. de Passemar.

## VI. Officers

Chairman: J. M. Rodríguez Padilla (Cuba); Vice-Chairmen: L. Inosemtzev (Soviet Union), I. J. G. Davis (United Kingdom); Secretary: I. Thiam (WIPO).

## VII. WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); R. Harben (*Counsellor, Acting Head, External Relations Division*); L. Baeumer (*Counsellor, Head, Legislation and Regional Agreements Section, Industrial Property Division*); I. Thiam (*Counsellor, Head, Technical Assistance Section, External Relations Division*); M. Porzio (*Counsellor, External Relations Division*); R. Andary (*Technical Assistant, IPC Section, Industrial Property Division*); G. da Fonseca (Miss) (*Technical Assistance Officer, Technical Assistance Section*).



### *Tasks of the Office for Inventions and Patents*

5. — (1) The Office for Inventions and Patents of the German Democratic Republic shall be responsible for the granting of inventors' certificates and patents, for documentation inside and outside the German Democratic Republic concerning legally protected and published industrial designs, and, within its sphere of competence, for the organization of the legal protection of industrial designs.

(2) The Office for Inventions and Patents shall assume the tasks of the German Democratic Republic in the development of principles for work with industrial designs in economic, scientific and technical cooperation with the Soviet Union and the other member countries of the Council for Mutual Economic Assistance (CMEA). It shall develop relations with other States and with the organs under the international conventions in the field of the legal protection of industrial designs and shall assume the function of national authority.

(3) In organizing the legal protection of industrial designs and in granting inventors' certificates and patents, the Office for Inventions and Patents shall work in close collaboration with the Office for Industrial Designing.

## *Chapter II*

### *Inventors' Certificates for Industrial Designs*

#### *Substantive Conditions of Protection*

6. — (1) The Office for Inventions and Patents shall grant inventors' certificates for industrial designs if the conditions laid down in Section 1(3) are fulfilled.

(2) Industrial designs shall be deemed new if at the time of the deposit no design with similar essential design features

(i) is the subject of a deposit with earlier priority which has been published by, or in respect of which an inventor's certificate or a patent has been granted by, the Office for Inventions and Patents, or

(ii) has been used publicly or made available to the public in a way enabling others to use it.

(3) An advance in the field of design exists if

— having regard to a justifiable technical and economic expenditure the value in use of a product is increased through a more functional or an aesthetically more satisfying design, or

— where the overall value in use of a form modified by the design remains the same, a considerable reduction in expenditure in the manufacture of a product is obtained.

(4) Inventors' certificates shall not be granted if industrial designs

(i) are contrary to the principles of socialist morality, or

(ii) are solely dictated by function or technical manufacturing considerations.

#### *Deposit of Industrial Designs*

7. — (1) For the granting of inventors' certificates, industrial designs shall be deposited with the Office for Inventions and Patents.

(2) Protection for several alternative versions of an industrial design may be applied for in one deposit provided that they embody the essential design features of the industrial design (multiple deposit).

8. — (1) The application relating to the deposit of an industrial design shall be in writing. If the application is not in the German language, a translation into German shall be filed within a period of two months from the receipt of the deposit at the Office for Inventions and Patents.

(2) The deposit of an industrial design must include

(i) a request for the granting of an inventor's certificate with an exact designation of the applicant and of the originating enterprise, the full name of the creator and a description of the industrial design, specifying the corresponding class and subclass of the applicable international classification for industrial designs;

(ii) an attestation of the authorship of the industrial design deposited;

(iii) an illustration of the industrial design from which the essential design features are clearly recognizable;

(iv) a description of the industrial design in which the novelty, the advance in the field of design achieved through the essential new design features and, in the case of multiple deposits, the uniformity of the essential design features shall be set forth.

(3) Additions and corrections to the documents filed shall be permissible only if they do not alter the design features of an industrial design.

#### *Examination for Compliance with Deposit Requirements*

9. — (1) The Office for Inventions and Patents shall examine all deposits for compliance with the deposit requirements and shall acknowledge receipt of the deposit of an industrial design to the person making it.

(2) Should a deposit fail to satisfy the requirements, the person making it shall be requested by the Office for Inventions and Patents to remedy the defects within a specified period. If the defects are not remedied within this period, the deposit shall be deemed to be withdrawn.

#### *Publication of Deposits*

10. — (1) A deposit satisfying the deposit requirements shall be entered in the Register of Industrial Designs and published by the Office for Inventions and Patents. On publication the effects specified in Section 13 shall become provisionally operative for the industrial design deposited.

(2) On a reasoned request, submitted in writing by the person making the deposit, the publication of a deposit may be deferred by the Office for Inventions and Patents. The request must reach the Office for Inventions and Patents prior to the entering of the deposit in the Register. The decision on the request shall be final.

(3) Reasoned objections to published deposits may be submitted in writing to the Office for Inventions and Patents.

*Examination as to Compliance with the Substantive Conditions for Protection*

11. — Examination as to compliance with the conditions laid down in Section 6 for the granting of an inventor's certificate shall be carried out by the Office for Inventions and Patents

- (i) upon request if the use of the industrial design is substantiated, or
- (ii) ex officio.

*Grant of Inventors' Certificates*

12. — (1) The Office for Inventions and Patents shall grant an inventor's certificate if the conditions laid down in Sections 6 to 8 are fulfilled. The grant of the inventor's certificate shall be recorded in the Register. The creator and the originating enterprise shall receive a document attesting to the grant of the inventor's certificate.

(2) The term of an inventor's certificate shall be 15 years and shall begin on the day following the date of receipt of the deposit of the industrial design at the Office for Inventions and Patents.

*Effect of Inventors' Certificates*

13. — (1) With the grant of an inventor's certificate, the following are established:

- (i) the existence of an industrial design and, where applicable, a raising of the value in use of a product;
- (ii) the authorship of the industrial design;
- (iii) the originating enterprise under Section 4;
- (iv) the right of the creator to moral and material recognition in accordance with the relevant legal regulations;
- (v) the right of the Socialist State and of all enterprises to the use of the industrial design.

(2) Should an inventor's certificate have been applied for in respect of an industrial design without the conditions laid down in Section 4 being fulfilled, the grant of the inventor's certificate shall at the same time establish the creator's right to the use of the industrial design.

(3) The originating enterprise or the Office for Industrial Designing may permit use by persons not possessing the right to use the industrial design under paragraph (1)(v) above. The Office for Inventions and Patents shall be informed accordingly.

*Concurrent Use of Industrial Designs*

14. — (1) A person who, before the date of its deposit, has already used in the production process an industrial design for which an inventor's certificate has been granted, or has made the necessary preparations for such use, without having obtained knowledge of the industrial design originating from the author, may continue to use it free of charge.

(2) The same shall apply when the effects of an inventor's certificate are renewed following release from the consequences of a failure to observe a time limit.

*Unlawful Use of Industrial Designs*

15. — (1) A person who unlawfully uses in his business an industrial design for which an inventor's certificate has been granted or a design with similar essential design features may be ordered to desist from so doing upon a motion by the originating enterprise and the user enterprises.

(2) A person who culpably undertakes unlawful use shall be liable to the enterprises entitled to use for compensation for the damage caused.

(3) Acts of use within the meaning of paragraphs (1) and (2) above shall be:

- (i) the manufacture of products according to the industrial design;
- (ii) the advertising and the offering for sale, marketing and use of products manufactured according to the industrial design.

(4) Claims for compensation for damage caused shall be statute barred three years from the time at which the person entitled to assert such claims obtains knowledge of the unlawful use. Irrespective of knowledge, such claims shall be statute barred five years from the time at which an inventor's certificate can no longer be applied for.

*Principles of Moral and Material Recognition*

16. — (1) The achievements of the creators of industrial designs shall receive moral and material recognition from the Socialist State according to the importance of the industrial designs to society. The creators of industrial designs which are used in the manufacture of products and for which an inventor's certificate has been granted shall have the right to moral and material recognition. Where the industrial design is the result of collective work, all the creators shall have the right to moral and material recognition according to their contributions. The right to material recognition shall be transferable by inheritance.

(2) Enterprises shall be responsible for ensuring that material recognition (hereinafter referred to as "remuneration") is always effectively linked with moral recognition. According to the importance of the achievement, differentiated forms of moral recognition shall be used, such as the naming of the creators at exhibitions and in publications, public honors, diplomas, written tributes and State distinctions. The indication of the creators' names shall in all cases be subject to their consent.

*Promotion of Exemplary Achievements*

17. — Achievements which are exemplary in the field of the development of industrial designs in the German Democratic Republic may be specially recognized by the President of the Office for Inventions and Patents in agreement with the Office for Industrial Designing. A special fund shall be available to the Office for Inventions and Patents for material recognition and for the popularization of outstanding examples.

### *Settlement of Remuneration Disputes*

18. — (1) For the settlement of disputes concerning remuneration, royalties or repayments, there shall be an arbitration body at the Office for Inventions and Patents.

(2) The decision reached by the arbitration body shall be binding upon the parties to the dispute unless an appeal is lodged with the Leipzig District Court within a period of three months from the notification of the decision.

(3) An appeal may be made to the Supreme Court of the German Democratic Republic against a judgment of the Leipzig District Court.

### *Chapter III*

#### *Patents for Industrial Designs*

##### *Grant of Patents*

19. — (1) The Office for Inventions and Patents shall grant a patent for an industrial design if this is applied for and the conditions laid down in Section 4 are not fulfilled. The person entitled to apply for a patent shall be the creator of the industrial design or his successor in title.

(2) Sections 6 to 11, 14 and 15 shall apply *mutatis mutandis* unless otherwise provided below.

##### *Effect of Patents*

20. — (1) The grant of a patent shall establish the authorship of the industrial design and the patentee's exclusive right to the use of the industrial design and to the assertion of claims in the event of unlawful use.

(2) The rights of the applicants for patents and of patentees may be assigned wholly or in part to others and shall be transferable by inheritance.

(3) If an enterprise mentioned in Section 1(2) has the right to concurrent use, free of charge, of an industrial design for which a patent has been granted, that right shall also belong to the other enterprises mentioned in Section 1(2).

##### *Term of Patents*

21. — (1) The term of a patent shall be 15 years and shall begin on the day following the date of receipt of the deposit of the industrial design at the Office for Inventions and Patents.

(2) The patent shall lapse if the owner renounces it in writing to the Office for Inventions and Patents or if the fees for maintenance are not paid in time. The declaration of renunciation shall be effective from the time of its receipt at the Office for Inventions and Patents. It shall be irrevocable.

##### *Conversion of Patents into Inventors' Certificates*

22. — At the request of the patentee, a patent may be converted into an inventor's certificate. The same shall also apply *mutatis mutandis* to a deposit. The conversion shall become effective on the receipt of the request at the Office for Inventions and Patents and shall be irrevocable.

### *Chapter IV*

#### *Proceedings before the Office for Inventions and Patents*

##### *Principles*

23. — (1) In proceedings before the Office for Inventions and Patents, the investigations necessary for clarifying the matter shall be made. To this end, the examining and adjudicating sections and the arbitration section may summon the parties to oral proceedings, hear witnesses and experts, and call for or inspect products or industrial designs. For the purpose of taking decisions, both the adjudicating section and the arbitration section shall form a panel composed of a chairman and two assessors.

(2) The Office for Inventions and Patents shall be entitled to correct obvious errors in decisions and documentation.

(3) The parties shall give their explanations on factual circumstances truthfully and in full.

(4) The facts which are made the subject of a decision shall be communicated to the parties before the decision is taken. The parties shall previously be given an opportunity to make observations. Minutes shall be taken, setting out the essential content of oral proceedings.

(5) Decisions must be drawn up in writing, supported by reasons, and communicated to the parties in the proceedings. Decisions against which an appeal may be made, must contain advice as to legal remedies.

(6) Any person showing a legitimate interest in learning the contents of a file shall be allowed to inspect the file upon written application. The Office for Inventions and Patents may restrict such inspection to parts of the file.

##### *Release from the Consequences of Failure to Observe a Time Limit*

24. — (1) A person who has been prevented by unavoidable circumstances from observing a time limit established in this Order or by the Office for Inventions and Patents, and is thereby placed at a legal disadvantage, shall upon written application be released from the disadvantage arising from the failure to observe the time limit. This shall not apply to the time limit for deposits for which a right of priority may be claimed, the time limit for the filing of a declaration of priority and the time limits under (2) below.

(2) The application shall be filed with the Office for Inventions and Patents within a period of two months from the time when the reasons for the failure to observe the time limit ceased to be applicable, but not later than one year after the expiration of the unobserved time limit. The application shall be supported by reasons. The facts shall be substantiated. At the same time the act that has been omitted shall be performed.

##### *Declarations of Nullity*

25. — (1) The grant of an inventor's certificate or of a patent may at any time be declared null and void by the Office for Inventions and Patents if the conditions laid down

in Section 6 for the grant have not been fulfilled. The proceedings for the declaration of nullity shall be initiated upon written application or ex officio, in particular at the instance of the Office for Industrial Designing.

(2) Reasons shall be given for the application for a declaration of nullity. Should the term of an inventor's certificate or of a patent have already expired, the applicant shall prove a legitimate interest in the declaration of nullity.

(3) Should an application for a declaration of nullity be withdrawn, the proceedings may be continued ex officio. The originating enterprise and the creator or the patentee shall participate in the proceedings.

#### *Appeals Procedure*

26. — (1) Appeals may be made against decisions of the examining section, with respect to industrial designs, and of the adjudicating section, with respect to declarations of nullity.

(2) Appeals shall be lodged in writing or orally with a statement of reasons, within a period of two months from the communication of the decision, to the body which took the decision.

(3) A decision shall be taken on the appeal within a period of two weeks from its lodgment. If the appeal is not allowed or not fully allowed, it must be transmitted within this period to the appeals adjudicating section for decision. If in exceptional cases the decision of the appeals adjudicating section cannot be reached within a further period of four weeks, an interim decision stating reasons and the probable date for the final decision shall be given promptly. The decisions of the appeals adjudicating section shall be final.

(4) If the appellant is opposed by another party to the proceedings, paragraph (3), first sentence, shall not apply.

#### *Fees and Costs*

27. — (1) The President of the Office for Inventions and Patents shall, in agreement with the Minister of Finance, issue an instruction settling the details concerning the payment of fees. If fees are not paid within the periods specified in the instruction, legal acts shall be deemed not to have been performed.

(2) In proceedings before the examining and adjudicating sections or the arbitration section these sections may decide to what extent one of the parties is to defray the costs arising out of a hearing or inspection, or a fee already paid is to be refunded.

### *Chapter V*

#### *Miscellaneous Provisions*

##### *Jurisdiction*

28. — For all legal disputes concerning the authorship of an industrial design or the right to a design patent, or concerning the unlawful use of an industrial design, the Leipzig District Court shall have jurisdiction.

#### *General Provisions*

29. — (1) Persons whose registered office or domicile is outside the German Democratic Republic shall enjoy, on the basis of reciprocity and in accordance with the provisions of international agreements to which the German Democratic Republic is party, the same rights as are provided for by this Order for persons whose registered office or domicile is in the German Democratic Republic.

(2) A person who wishes to claim rights based on the deposit of a design under the Hague Agreement Concerning the International Deposit of Industrial Designs shall request examination of the design at the Office for Inventions and Patents. The request shall be accompanied by the documents mentioned in Section 8(2)(iii) and (iv).

30. — (1) In proceedings before the Office for Inventions and Patents and before the courts, a person who has neither domicile nor residence in the German Democratic Republic shall arrange to be represented in conformity with the legal regulations in force in the German Democratic Republic, unless otherwise provided in an international agreement. In proceedings before a court, a lawyer entitled to practice in the German Democratic Republic may in addition be appointed as a representative.

(2) If an applicant has neither a registered office nor a domicile in the German Democratic Republic he shall, in proceedings before the Office for Inventions and Patents, provide his opponent, at the latter's request, with security for the cost of the proceedings. The amount of the security and the time limit for its payment shall be fixed by the Office for Inventions and Patents at its discretion. If the time limit is not observed, the application submitted shall be deemed to be withdrawn.

(3) There shall be no obligation to provide security if exemption from the provision of security is granted on the basis of reciprocity or relevant international agreements.

31. — (1) If, for the deposit of an industrial design, the priority of an earlier deposit of the same industrial design in another State is claimed on the basis of an international agreement, the claim shall be made, with a statement of the date of the earlier deposit, within a period of two months (declaration of priority). The period shall begin on the day following the date of the deposit. The declaration may be amended within this period. If the declaration is not submitted within the period, priority for the deposit may no longer be claimed.

(2) On request by the Office for Inventions and Patents, the person making the deposit shall file a copy of the first deposit. The copy shall be accompanied by a certificate in which the conformity of the copy with the original of the first deposit and the date of the first deposit are attested by the authority with which that deposit was made (priority document).

(3) If the person making the subsequent deposit is not the person who made the first deposit, evidence attested by a

notary shall be submitted, at the request of the Office for Inventions and Patents, to the effect that the right of priority has been assigned within the priority period to the person making the subsequent deposit.

(4) On request, the person making the deposit shall:

- (i) communicate the serial number of the first deposit;
- (ii) file a translation of the priority document, with its attachments, the accuracy of which shall be certified by a translator authorized for that purpose.

#### *Transitional and Final Provisions*

32. — (1) Implementing regulations under this Order shall be issued by the President of the Office for Inventions and Patents in agreement with the directors of the competent central State organs.

(2) The President of the Office for Inventions and Patents shall issue regulations concerning the other requirements for the deposit of industrial designs.

33. — (1) This Order shall enter into force on July 1, 1974.

(2) At the same time the following shall be repealed:

- (i) the Law on Copyright in Industrial Designs (Ornamental Designs) of January 11, 1876 (RGBl. p. 11);
- (ii) Sections 45, 46 and 47 of the Order of October 15, 1952, concerning the transfer of matters relating to voluntary jurisdiction.

(3) Deposits of made ornamental designs with the Office for Inventions and Patents and ornamental designs registered by the Office before the entry into force of this Order shall be processed in accordance with the legal regulations referred to in paragraph (2), above. After the entry into force of this Order, the period of protection may be extended only once for a total of ten years from the date of the deposit of the ornamental design.

## II

### **Order on Titles of Protection \***

(of January 17, 1974)

#### *Chapter I*

##### **Scope**

1. — (1) This Order shall apply to the tasks, rights and duties of the nationally owned enterprises, combines and enterprises of combines (hereinafter referred to as "enterprises") in the field of work involving titles of protection for inventions, industrial designs and trademarks. The tasks, rights and duties laid down for enterprises shall also apply to scientific and other institutions and to cooperatives. This Order shall govern the tasks of the enterprises concerned with foreign trade and of the State organs and the economic management organs in the said field.

\* Short title.

(2) Sections 13 to 18 shall also apply to the legal acts of citizens.

(3) Titles of protection within the meaning of this Order shall be inventors' certificates, patents, utility models, protected industrial designs and protected trademarks.

#### *Chapter II*

### **Direction and Organization of Work relating to Titles of Protection**

#### *Tasks*

##### *of the State and Economic Management Organs*

2. — (1) The Office for Inventions and Patents shall be responsible for devising principles for the work relating to titles of protection. It shall analyse the development of inventive activity and the work relating to titles of protection in the German Democratic Republic; it shall support the work of other central State organs and in close cooperation with them shall disseminate the most profitable experiences in this field.

(2) The Office for Inventions and Patents shall determine the requirements which, in accordance with social needs, are to be laid down for the training of executive staff for work relating to titles of protection.

(3) The President of the Office for Inventions and Patents shall assume, on behalf of the Council of Ministers, the tasks assigned to the Council of Ministers in Section 12(1) of the Patent Law of the German Democratic Republic of September 6, 1950.

(4) The President of the Office for Inventions and Patents shall, by Order, issue the necessary regulations in the field of representation in proceedings relating to titles of protection.

3. — (1) The central State organs shall, in their areas of responsibility, ensure purposeful work relating to titles of protection in the preparation and execution of the plans, especially the Science and Technology Plan.

(2) In economic, scientific and technical cooperation based on agreements under international law and on other central international arrangements, and in other matters that are particularly important to the national economy or to national defense, the central State organs shall make the necessary arrangements for devising and executing schemes relating to titles of protection and shall ensure that the necessary measures relating to titles of protection are included in the budgets for the plans.

4. — (1) The State organs and the economic management organs shall direct and control the work of their subordinate organs and enterprises in the development of the creative work of inventors and creators of industrial designs and in the field of titles of protection work directed towards the achievement of the aims of economic policy. In their own sphere they shall direct the trademark associations (*Warenzeichenverbände*) and shall control their activity in accordance with the

legal regulations on the work of these associations<sup>1</sup>. They shall regularly analyse the state of development and the results in this field and shall disseminate the most profitable experiences.

(2) The directors of the State organs and the economic management organs shall ensure that, in preparing and executing the Science and Technology Plans, enterprises make use of patent literature and information on industrial designs and, as far as necessary, on trademarks, and devise schemes relating to titles of protection. The directors of the State organs and the economic management organs shall make all necessary arrangements for the guidance and control of titles of protection work in the planned tasks which come under their control or under central control.

(3) The State organs and the economic management organs shall ensure that tasks relating to titles of protection that arise out of international economic, scientific and technical cooperation for joint action within the German Democratic Republic, are taken into account and executed under the economic agreements.

(4) The State organs and the economic management organs shall ensure that work relating to titles of protection in the various production groups is coordinated in the interests of production and is rationally organized.

(5) Combines directly subordinate to a Ministry shall assume the tasks assigned to the economic management organs in paragraphs (1) to (4) above and in Section 5.

5. — (1) The State organs and the economic management organs shall control the training and constant further training of the executive staff employed in the titles of protection bureaux of enterprises and the training in the field of work relating to titles of protection that is necessary for the workers, especially in the scientific and technical sphere.

(2) Titles of protection bureaux may be established in the economic management organs and in the local State organs within the limits of planned and budgeted funds and of authorized staffing plans, if this is appropriate in the interest of effective work relating to titles of protection. The tasks of these bureaux may be assigned to the innovation bureaux of the respective organs.

#### *Tasks of Enterprises*

6. — (1) The managers of enterprises shall be responsible for effective work relating to titles of protection. They shall regularly analyse the state of development in this field and make it part of their account-rendering. The managers of enterprises shall create the necessary material, financial and senior staff conditions for effective work relating to titles of protection.

(2) The managers of enterprises shall develop, according to a plan, the creative activity of the workers in the field of

science and technology and the industrial designing of products, and shall direct it towards the achievement of inventions and industrial designs capable of being protected and conforming to the requirements of the national economy. The range and quality of the inventions and industrial designs capable of being protected and their effect on production efficiency shall be regarded as essential criteria for the assessment of the scientific and technical work of groups and individuals, for the fixing of prices for scientific and technical services and for the moral and material recognition of workers' services.

(3) The managers of enterprises shall make use of the work relating to trademarks to ensure the high quality of their products and the planned development of sales. In particular they shall ensure effective work in relation to existing trademarks. In the development of new products, precedence shall be given to the use of collective marks, manufacturers' marks and other types of trademarks that are already in existence. In the creation of new trademarks a high degree of effectiveness in the designation of products shall be ensured.

(4) In fulfilling the tasks assigned to them within the framework of international economic and scientific and technical cooperation, enterprises shall execute such tasks as are necessary with respect to titles of protection. Where cooperation is based on agreements under international law and on other international arrangements made by central State organs, titles of protection schemes shall be prepared by the enterprises and submitted to the competent superior organ for confirmation.

(5) The managers of enterprises shall ensure that the fulfilment of tasks involving titles of protection is evaluated according to the legal regulations on the preparation of reports on results of research and development tasks under the Science and Technology Plan<sup>2</sup>, and that the execution of the necessary measures concerning titles of protection is proved in accordance with the legal regulations on the execution of proposals for scientific and technical tasks and the results thereof<sup>3</sup>. In the light of the results of the proposals the managers shall take the necessary decisions for further tasks involving titles of protection.

7. — (1) In executing titles of protection tasks, enterprises, especially export enterprises, shall work closely with the competent enterprise concerned with foreign trade. Enterprises concerned with foreign trade shall cooperate according to their special responsibility in devising titles of protection schemes and in executing titles of protection measures, particularly as regards the supervision, maintenance and enforcement of existing titles of protection in other States. In their work relating to titles of protection, the export enterprises shall take account of the requirements of

<sup>2</sup> The text currently applicable is the Order of August 13, 1973, for the provision of information on scientific and technical results and for the central elaboration of research and development reports and of dissertations (GBL I No. 41, page 426).

<sup>3</sup> The text currently applicable is the Order of May 23, 1973, on the execution of proposals for scientific and technical tasks and the results thereof (GBL I No. 29, page 289).

<sup>1</sup> The text currently applicable is the Third Implementing Regulations of March 1, 1971, under the Trademarks Law — Formation and activity of trademark associations.

the enterprises concerned with foreign trade that are directed towards the achievement of external economic aims.

(2) In the long-term economic contracts which enterprises, combines and VVB (Associations of nationally-owned enterprises) conclude with the competent enterprise concerned with foreign trade, the titles of protection tasks arising out of the partner's economically justifiable requirements shall be specified.

(3) In importing products, the enterprises concerned with foreign trade shall ensure that the necessary agreements concerning titles of protection, especially as regards the absence of legal impediments, are made in the contract with the party outside the German Democratic Republic. The scope and content of these contractual agreements shall be determined by the specific requirements to be worked out, by the national contracting partner of the enterprise concerned with foreign trade with due regard to the importance of the importation to the national economy. The mutual relations between the enterprises concerned with foreign trade and the national contracting partners shall be governed by the special legal regulations applying to importation.

8. — (1) The managers of enterprises shall ensure the training and constant further training of the executive staff employed in the titles of protection bureaux and the training in work relating to titles of protection that is necessary for the workers, especially in the scientific and technical field.

(2) Within the framework of planned and budgeted funds and of the authorized staffing plan, there shall be a titles of protection bureau within each enterprise. The bureau shall work in this field on behalf of the manager. It shall be directly subordinate to the manager of the enterprise or to the department head responsible for scientific and technical work. The tasks of the titles of protection bureau may be assigned to the innovations bureau if, owing to the small volume of titles of protection tasks, the establishment of a titles of protection bureau is unnecessary.

(3) The directors of combines shall, in so far as the effective organization of titles of protection work in the combine is thereby promoted, arrange for the centralized execution of tasks involving titles of protection in some or all of the combine's enterprises.

(4) The managers of enterprises may set up titles of protection councils for consultation in connection with decisions regarding schemes and measures relating to titles of protection.

### Chapter III

#### Work relating to Titles of Protection in Research and Development, Production and Foreign Trade

##### Use of Literature Constituted by Titles of Protection

9. — (1) In the preparation of decisions in science and technology, production and foreign trade, use shall be made of the literature constituted by titles of protection. In research and development, the use of the titles of protection

literature shall be made in accordance with the regulations applying to standards of work and achievements in science and technology<sup>4</sup>. In this process the following shall be assessed:

- the state of technology and trends in technological development in the field concerned;
- the situation regarding titles of protection and the resulting requirements for the achievement of the technical and economic aims.

(2) In the preparation and execution of scientific and technical work for the development of products, the state of design development and design trends, and the situation regarding titles of protection in the field of industrial designs, shall be assessed and exploited, in accordance with paragraph (1), on the basis of information on industrial designs.

(3) In the creation of new, and the safeguarding and defense of existing, trademarks, the legal situation in this field shall be constantly analysed and exploited.

(4) The technical and legal information obtained from the titles of protection literature shall be taken as a basis for decisions on technical and economic aims and tasks, on the use of results in production and export and the assessment of the risks involved, and on the necessary measures relating to licensing and titles of protection.

10. — (1) Enterprises shall create the personal, material and organizational conditions whereby information obtained from the titles of protection literature may be effectively utilized in a manner meeting the requirements of scientific and technical work, production and foreign trade. They shall submit the necessary research requests to the Office for Inventions and Patents.

(2) In international economic and scientific and technical cooperation, the necessary agreements must be made for the use of the titles of protection literature.

#### Absence of Legal Impediments

11. — (1) Enterprises concerned with foreign trade shall inform the export enterprises about prospective export countries. Those export countries shall be specified in the commercial agreements to be concluded between the enterprises concerned with foreign trade and the export enterprises, and especially in long-term agreements.

(2) The export enterprises shall supply their export products in such a way that they do not infringe any foreign titles of protection in the export countries agreed upon in accordance with paragraph (1). The export enterprise shall be liable for any damage arising out of a breach of this obligation.

(3) Paragraphs (1) and (2) above shall apply *mutatis mutandis* to relations between export enterprises and their suppliers.

<sup>4</sup> At present the nomenclature relating to standards of work and to achievements in the context of the Science and Technology Plan of April 2, 1971, is applicable.

(4) The Minister for Foreign Trade shall specify, in agreement with the directors of the competent central State organs and the President of the Office for Inventions and Patents, the details of the tasks, rights and duties of enterprises and foreign trade enterprises in guaranteeing the absence of legal impediments with respect to export products.

#### *Titles of Protection Schemes*

12. — (1) A scheme for titles of protection shall be worked out if the aims of economic policy, especially the aims of foreign trade, require measures with respect to titles of protection. The schemes shall be worked out for objects, such as products, processes and groups of products, for which a uniform aim of economic policy has been determined.

(2) In the case of scientific and technical tasks, the scheme for titles of protection shall be submitted for confirmation as part of the initial proposals. If the scheme is not submitted, the reasons therefor shall be stated and confirmed as part of the initial proposals. The scheme must be formulated in detail in accordance with the regulations applying to standards of work and achievements in science and technology, and other requirements, if any.

(3) The scheme for titles of protection shall specify the aims that are to be achieved through the measures with respect to titles of protection. The detailed measures required for the achievement of those aims shall be indicated, particularly as regards:

- the protection of secrecy and the necessary legal protection for achievements that are to be kept secret;
- the legal protection of achievements in the German Democratic Republic, and in other States to be specified;
- the selection and use of existing trademarks and, if necessary, the development and legal protection of new trademarks;
- the enforcement and maintenance of acquired titles of protection;
- the guaranteeing of the absence of legal impediments to the extent dictated by the interests of the national economy, which shall be specified, and, to that end, such investigation as is necessary of new and existing conflicting titles of protection.

The scheme for titles of protection shall contain the necessary provisions concerning responsibilities, time limits and controls, together with data on the underlying analyses and economic policy aims.

13. — (1) Enterprises shall examine without delay whether their scientific and technical achievements are capable of being protected.

(2) Enterprises shall handle inventions, industrial designs and trademarks in confidence until such time as the necessary applications for titles of protection have been filed.

(3) Enterprises shall ensure that inventions to be kept secret under the legal regulations on secret patents are treated as State secrets.

14. — Enterprises shall file applications relating to inventions, industrial designs and newly created trademarks: — without delay with the Office for Inventions and Patents of the German Democratic Republic, for the grant of a title of protection; and — in accordance with the regulations on the schemes for titles of protection or other decisions, for the acquisition of protection in other States.

In applications for titles of protection in other States, the possibilities afforded by the respective national legislation and international agreements shall be used to the best advantage with the object of achieving the aims relating to titles of protection at minimum expense.

#### *Acquisition of Titles of Protection*

15. — (1) The managers of enterprises shall be responsible for ensuring that applications for titles of protection in other States are made on the basis of the aims laid down in the scheme for titles of protection. In decisions regarding the filing of applications for titles of protection in other States, the primary consideration shall be whether the benefit for the national economy to be achieved through titles of protection in the States concerned justifies the expense involved in the acquisition, maintenance and enforcement of the titles of protection.

(2) The acquisition of titles of protection for inventions, industrial designs and trademarks resulting from international economic and scientific and technical cooperation shall be based on the international agreements<sup>5</sup> applicable in the field of titles of protection and on agreements made between the contracting partners concerning work relating to titles of protection.

(3) Titles of protection granted for trademarks shall be acquired in other States if this is necessary to ensure continuous and effective exports.

16. — (1) Applications for titles of protection in other States by enterprises of the German Democratic Republic may be filed only after a filing has been made with the Office for Inventions and Patents. This shall not apply to applications in respect of utility models.

(2) In response to a reasoned request, the President of the Office for Inventions and Patents may grant an authorization to apply for titles of protection in other States, even without prior filing in the German Democratic Republic.

#### *Maintenance of Rights*

17. — (1) Applications for titles of protection filed, and titles of protection acquired, in other States shall be maintained for as long as this is economically justified. In so far as maintenance depends on payment of a fee, the decision regarding maintenance shall be taken promptly before the fee

<sup>5</sup> The text currently applicable is the Agreement on the Legal Protection of Inventions, Industrial Designs, Utility Models and Trademarks in the framework of Economic, Scientific and Technical Cooperation, of April 12, 1973 [published in *Industrial Property*, 1974, p. 294].

becomes due. In so far as the decision regarding maintenance might have an effect on foreign trade activity, the competent enterprise concerned with foreign trade shall be consulted in the preparation of the decision.

(2) In addition to the criteria mentioned in Section 15, titles of protection acquired for trademarks shall also be maintained when the trademarks are generally known in the States concerned or there is the possibility of another type of economic utilization.

(3) Enterprises shall supervise applications for titles of protection filed, and titles of protection acquired, in other States, defend them against infringement and enforce them against third parties according to the requirements of the national economy.

#### *Authorization of Legal Acts in Other States*

18. — Legal acts in other States for the acquisition, maintenance and enforcement of titles of protection, and those concerning settlements with respect to conflicting titles of protection, shall require authorization. The details of the conditions of procedure, and provisions on release from the obligation to obtain authorization, shall be determined by implementing regulations.

#### *Chapter IV*

#### **Work relating to Titles of Protection in connection with Commercial Agreements for Scientific and Technical Services**

19. — In commercial agreements for the performance of scientific and technical services, the necessary provisions relating to titles of protection shall be included. In particular the tasks of the partners must be agreed with respect to:

- (1) the use of the literature constituted by titles of protection and reciprocal communication of the technical and legal information obtained therefrom;
- (2) guaranteeing the absence of legal impediments with respect to the scientific and technical achievements to the extent, in terms of substance, place and time, that shall be specified;
- (3) the realization of achievements capable of being protected and consideration of such achievements in the fixing of prices for scientific and technical services;
- (4) any necessary secrecy;
- (5) informing the employer<sup>6</sup> of achievements which appear capable of being protected, and of applications filed with the Office for Inventions and Patents;
- (6) the filing of applications for titles of protection, and other acts involving titles of protection in other States;
- (7) participation of the employee<sup>7</sup> in the detailed formulation of the scheme for the employer's titles of protection in so far as this is necessary to the national econ-

omy, according to knowledge obtained in the course of the research work;

- (8) fulfilment of the employer's obligations, relating to titles of protection, arising from international economic and scientific and technical cooperation;
- (9) reciprocal information on problems relating to titles of protection, and guaranteeing the necessary cooperation in the acquisition, maintenance and enforcement of titles of protection, in proceedings against conflicting titles of protection and in other measures required in the interests of effective work relating to titles of protection.

Where no provisions have been included under paragraphs (2), (4) and (5) above, the employee shall assume the tasks specified therein in accordance with the requirements of the scientific and technical service to be rendered by him. In such cases the absence of legal impediments with respect to the achievements must be guaranteed for the territory of the German Democratic Republic at the time of the fulfilment of the agreement.

20. — (1) Unless otherwise agreed under Section 19(6), the employer shall, in accordance with the applicable legal regulations<sup>8</sup>, have the right and the duty on his own behalf to have inventions and industrial designs protected without delay outside the German Democratic Republic to the extent necessary.

(2) Unless otherwise agreed under Section 19(6), and if the employer is not the user, the employer shall assign to the enterprise intended to be the user the right and the duty to have inventions and industrial designs protected in other States on his own behalf if this is necessary in the interest of effective work relating to titles of protection.

(3) If the employer is a State organ or an economic management organ and if no enterprise has yet been appointed user, the employee shall have the right and the duty, on his own behalf, to have inventions and industrial designs protected without delay in other States to the extent necessary. As soon as an enterprise responsible for use has been appointed, that enterprise and the employee shall agree on rights and duties in connection with applications filed or to be filed, and with titles of protection acquired in other States.

21. — (1) Sections 19 and 20 shall apply *mutatis mutandis* when scientific and technical services are performed, without a commercial agreement, in accordance with the legal regulations on the financing and encouragement of scientific and technical services in the German Democratic Republic, on the basis of instructions from the superior organ.

(2) Section 19 shall apply *mutatis mutandis* in connection with the mutual relations of enterprises in the supply of products.

<sup>6</sup> In the interests of simplicity, the person commissioning services (*Auftraggeber*) and the person rendering those services (*Auftragnehmer*) are referred to in this translation as the *employer* and the *employee* respectively (*Editor's Note*).

<sup>7</sup> See the preceding footnote.

<sup>8</sup> The texts currently applicable are Section 2(1) of the Law of July 31, 1963, amending the Patent Law (GBI. I No. 9, page 121) and Section 4(3) of the Order on Industrial Designs of January 17, 1974 [p. 144 above].

### Chapter V

#### Rights and Duties of Inventors and of Creators of Industrial Designs

22. — (1) Inventors and creators of industrial designs shall have the right to the following, according to social needs:

- examination of their achievements without delay, so as to ascertain their eligibility for protection;
- participation in the consultations on their inventions within the titles of protection council;
- submission of proposals for devising and formulating in detail the scheme for titles of protection;
- cooperation in measures for the acquisition, maintenance and enforcement of titles of protection;
- planned introduction and use of their inventions and industrial designs;
- moral and material recognition in accordance with the legal regulations<sup>9</sup>.

(2) Inventors and creators of industrial designs shall notify the enterprise without delay of all such achievements arising in connection with their activity in the enterprise as appear to be eligible for protection, in respect of which an economic patent or an inventor's certificate for an industrial design is to be applied for, to keep them secret, where required, to cooperate in the execution of tasks relating to titles of protection, particularly with respect to:

- the literature constituted by the titles of protection;
- formulation in detail of the scheme for titles of protection;
- preparation of documents for the filing of applications for titles of protection, and for the maintenance, supervision, enforcement and defense of titles of protection acquired;
- preparation of documents concerning conflicting titles of protection;

and to make their experience and knowledge available for the introduction and widespread use of the invention or industrial design. In so doing they shall work in close collaboration with the titles of protection bureaux and communicate to them such information required for the work relating to titles of protection as they obtain in their scientific and technical work.

### Chapter VI

#### Final Provisions

23. — (1) Implementing regulations under this Order and directives in the field of the work relating to titles of protection shall be issued by the President of the Office for Inventions and Patents in agreement with the directors of the competent central State organs.

<sup>9</sup> The texts currently in force are the Order on Innovators of December 22, 1971, (GBI. II 1972 No. 1, page 1), the First Implementing Regulations of December 22, 1971, under the Order on Innovators — Remuneration for Innovations and Inventions — (GBI. II 1972 No. 1, page 11) and the Order on Industrial Designs of January 17, 1974 (GBI. I No. 15, page 140).

(2) The directors of the central State organs and the President of the Academy of Sciences of the German Democratic Republic shall, in agreement with the President of the Office for Inventions and Patents, issue specific regulations on work relating to titles of protection in so far as this is required by the requirements in their area of responsibility.

24. — (1) This Order shall enter into force on June 1, 1974.

(2) At the same time the following shall cease to be in force:

- Order of August 26, 1965, on the further improvement of the activity of the State and economic organs and of enterprises in the field of patents, designs and trademarks and the innovator movement (GBI. II No. 97, page 695), with the exception of the provisions of Sections 7 and 9, which are to continue to be applied until the enactment of the new regulations on representation under Section 2(4) of this Order;
- Order of November 10, 1967, amending the Order on the further improvement of the activity of the State and economic organs and of enterprises in the field of patents, designs and trademarks and the innovator movement (GBI. II No. 108, page 756);
- First Implementing Regulations of December 18, 1968, under the Law amending the Patent Law (GBI. II 1969 No. 4, page 41).

## SOVIET UNION

### Statute on Trademarks

(of January 8, 1974) \*

#### Chapter I

##### General Provisions

1. — This Statute regulates organization, property and other relations arising from the registration, legal protection and use of trademarks.

2. — For the purpose of increasing the responsibility of enterprises for the quality of their industrial, technical and consumer goods, all trademarks shall, before they have been used in the USSR, be registered with the State Committee for Inventions and Discoveries of the USSR Council of Ministers (hereinafter referred to as the "State Committee"). It shall be unlawful to use a designation as a trademark before it has been registered. Anyone violating this rule shall be liable to an administrative penalty or to a fine.

3. — The marking of goods with trademarks shall be without prejudice to the marking provided for by the State standards, technical regulations, contracts and specific conditions relating to the delivery of goods, except in the case of

\* Adopted by the State Committee for Inventions and Discoveries of the USSR Council of Ministers on January 8, 1974, and effective as from May 1, 1974.

gaseous and dry substances, delivered without packaging, as well as other goods on which no marking is provided for by the State standards or technical regulations.

4. — The exclusive right to use a trademark shall be protected by the State and confirmed by a certificate issued by the State Committee. The certificates shall be issued subject to the conditions and according to the procedure established in this Statute.

5. — The general direction of matters relating to the registration, legal protection and use of trademarks shall be the responsibility of the State Committee, which shall:

- on the basis of the laws, decisions and orders of the USSR Council of Ministers and in accordance with this Statute, issue instructions and explanations on questions relating to the registration, legal protection and use of trademarks, which shall be binding on all enterprises and institutions;
- organize the filing and examination of trademark applications;
- register trademarks in the State Register of Trademarks of the USSR, grant trademark certificates, and renew the period of validity of trademarks;
- enter changes in the certificates and register assignments and the grant of licenses with respect to trademarks;
- publish in the Official Bulletin of the State Committee, all the particulars entered in the Register;
- consider oppositions, appeals and challenges relating to the registration, legal protection and use of trademarks;
- consider the possibility of the registration abroad of Soviet trademarks proposed by Soviet enterprises and organizations in the prescribed manner;
- protect the State interests in the field of trademarks in the USSR and abroad.

6. — The activity of enterprises, organizations and associations in the field of trademarks shall be directed by the Ministries and Departments, which shall:

- organize the work for the prompt legal protection of trademarks, in the different branches of industry, in the country and abroad;
- control the use of trademarks in the branches of industry;
- study, analyse and disseminate the experience gained in the field of the legal protection and use of trademarks in the branches of industry.

7. — The State, cooperative and social organizations and associations of the USSR which have legal personality shall:

- mark their goods or the packaging thereof with the trademarks registered by the State Committee;
- prepare trademark applications and file them, in the prescribed manner, with the All-Union Scientific Research Institute for the State Patent Examination<sup>1</sup>;

— make proposals and prepare in the prescribed manner all necessary material for the registration abroad of Soviet trademarks.

Enterprises and organizations that are principally in the service industry shall have the right to use service marks, which shall be equivalent to trademarks and must be registered by the State Committee.

8. — The exclusive right to use trademarks or service marks shall belong to the State, cooperative and social organizations, enterprises and associations which have legal personality and are engaged in an industrial, commercial or service activity.

9. — Enterprises, organizations and associations may have only one trademark for all their goods, or several trademarks for different kinds of goods possessing specific properties and characteristics.

10. — Trademarks may be put on goods, their packaging, drawings, brochures, invoices, forms, illustrations, or on advertizing material and on other documents accompanying the goods or connected with the rendering of services.

11. — For the registration of a trademark the following fees shall be payable:

- (a) filing of applications for registration or renewal of the certificate in force — 15 roubles for each class of goods;
- (b) lodging of an appeal against decisions of refusal to register a trademark; preliminary examination of trademarks prior to registration; assignment of trademarks; licensing of trademarks; changes in certificates of registration of trademarks; change of name of the owner, change in the list of goods and services, and any other changes — 10 roubles for each class of goods;
- (c) publication fee — 3 roubles.

Foreigners residing permanently abroad shall pay the prescribed fees in foreign currency.

Registration fees shall not be refunded.

12. — Foreign citizens and foreign legal entities and their assignees have, on the basis of reciprocity, the same rights under this Statute as do Soviet enterprises and organizations.

Foreign citizens and foreign legal entities permanently residing or established abroad shall have their trademarks registered through the Chamber of Commerce and Industry of the USSR.

## *Chapter II*

### Trademarks and Service Marks

13. — The following shall be considered as a trademark or service mark: any designation registered in the prescribed manner and intended to distinguish the goods or services of one enterprise from similar goods or services of another enterprise.

The effects of this Statute in respect of the registration and use of a trademark and in respect of the protection of the rights based on such a registration, apply equally to service marks.

<sup>1</sup> Hereinafter "the Institute".

Address: Berichkowskaia Naderijnaia 24, Moscow.

14. — Trademarks may take the form of word marks, device marks, marks measuring quantity, combined forms and other forms. They may be registered in black, but used in any color combinations.

15. — The following designations may not be registered as trademarks:

- (a) designations identical or similar to trademarks previously registered in the USSR for similar goods or to trademarks protected by international agreements to which the USSR is a party;
- (b) designations commonly used to denote known goods and generally accepted symbols used in certain activities;
- (c) designations which are not capable of distinguishing goods or which are descriptive, including designations consisting exclusively of simple geometric shapes, numerals, letters without verbal content, generally accepted names or mere reproductions of the goods which the mark should distinguish, designations indicating the date, place or manner of manufacture of the goods, their quality, quantity, properties, composition, weight, intended purpose or value;
- (d) designations for which, having regard to their specific character, no right of exclusive use may be recognized, including designations which consist in whole or in part of geographic names which can be understood as indicating the place where the goods were made, flags, armorial bearings or other emblems of States or of officially recognized international intergovernmental organizations, unless the competent authorities authorize otherwise;
- (e) designations exclusively consisting of official signs and hallmarks indicating control and warranty, or are similar thereto;
- (f) designations containing false or deceptive information about the manufacturer and the properties, quality, origin or purpose of goods;
- (g) designations which are contrary to law and order or to socialist morality;
- (h) designations which contradict international agreements to which the USSR is a party.

In some cases the use of the designations described in (b) and (c) may be allowed as a part of complex trademarks, provided these designations are not the predominant aspects of such marks:

Provided that when a trademark is registered these designations shall be excluded from protection.

16. — Designations which include an appellation of origin may only be registered as a trademark provided that the applicant produces a document from the competent body certifying that he is entitled to use the appellation of origin.

### Chapter III

#### Registration of Trademarks

17. — Trademarks shall be registered in accordance with Resolution No. 442 of the USSR Council of Ministers, of May 15, 1962, and in accordance with this Statute and also

with the instructions and decisions in the field of trademarks approved by the State Committee.

18. — An application for registration of a trademark shall be prepared by the applicant or his agent in three copies on a special form (see Annex<sup>2</sup>). A reproduction of the trademark shall be placed on the form together with the full name and address of the applicant and the list of goods and services which the mark is intended to distinguish.

Applications which are filed on the wrong form or are defective shall not be considered by the State Committee and shall be returned to the applicant.

Fifteen copies of the trademark, not more than 5 x 5 cm in size and a description of the trademark shall be lodged together with the application.

If a trademark contains information on the origin of products, the date since when they have been produced, awards etc., the applicant shall produce a document certifying that this information is true.

Where an application for registration of a trademark is filed by an agent, a power of attorney, authenticated in the prescribed manner, shall be filed together with the application. Where a power of attorney is drawn up abroad the signature to it shall be authenticated by a USSR consulate except where international agreements render this unnecessary.

Where an application is filed by a foreigner claiming priority under an international agreement the applicant shall, upon filing the application, produce a declaration as to his priority and indicate the date thereof and the country where the trademark application was filed for the first time. A duly certified copy of the foreign application and of the other documents necessary to establish the date of priority may be supplied later, but not later than three months after the filing of the application.

19. — An application for registration of a trademark shall be filed with the Institute<sup>3</sup> which is under the jurisdiction of the State Committee.

Within a month from the receipt of an application the Institute shall decide whether it is in order and classify the list of goods and services according to the International Classification; within the same period it shall also send a confirmation to the applicant that the application has been received, state the classification allocated, and state the amount of the fees payable.

The confirmation may state that additional documents, necessary for the registration procedure must be produced; these documents must be supplied by the applicant within one month from the date of receiving the confirmation.

20. — Within one month from the date of receiving the confirmation the applicant shall pay the required fees for registration and publication and send copies of the documents issued by the State Bank, evidencing that the fees have been paid, to the Institute.

<sup>2</sup> This annex is not published here.

<sup>3</sup> See *ante* Section 7.

21. — Applications for registration of trademarks that have been accepted for consideration by the Institute shall be examined for conformity with the requirements applying to trademarks and for identicalness and similarity with trademarks which have already been filed and registered in the USSR.

Upon the applicant's request a preliminary examination of a mark may be carried out for its conformity with the requirements applying to trademarks. The preliminary examination shall be carried out provided that the following documents are supplied: the applicant's request, three copies of the reproduction of the trademark and a description of it, the list of goods and services and copies of the documents issued by the State Bank evidencing that the fees have been paid.

Within three months from the date when a favorable decision taken on the preliminary examination has been sent to the applicant, the latter may file an application the priority of which shall run from the date on which the documents produced for the preliminary examination were received.

22. — The State Committee, depending on the results of the examination, shall or shall not take a decision for registration of the trademark and issue a certificate. Within six months from the receipt of the application for registration or of the additional documents required, the certificate of registration or the statement that registration has been refused shall be sent to the applicant.

23. — Where the State Committee decides that a trademark is to be registered and that a certificate is to be issued it shall have the trademark entered in the State Register of Trademarks of the USSR, have this fact published in the Official Bulletin and issue a certificate to the applicant.

A copy of the certificate of registration may only be issued upon presentation of an official notice published in the local press or of other documents showing that the certificate has been lost.

24. — The priority of a trademark shall be established according to the date of filing of the application with the Institute. In case of dispute, the date of filing of an application shall be considered to be the day of posting it at the local Post Office; for foreign applicants it shall be the day when the application was sent by the USSR Chamber of Commerce and Industry to the Institute.

In accordance with international agreements to which the USSR is a party, priority of a trademark may, upon request of a foreign applicant, run from the date of the first application filed in a country party to the agreement in question provided that the application is filed in the USSR within six months from such date.

The priority of a trademark exhibited at an international exhibition organized in the USSR shall run from the date when such an exhibition was opened or the date when the product marked with the trademark was exhibited at the exhibition, provided that the application is filed in the USSR within six months from such date.

25. — Where the applicant does not agree with the decision not to grant him a certificate, he may, within two months from the date of such a decision, lodge an appeal, with a statement of his reasons together with the documents evidencing payment of the prescribed fee, with the Institute; such appeal shall be considered within two months from the date of receipt thereof by the Institute.

An appeal shall lie from the decision of the Institute to the State Committee; such appeal shall be lodged within two months of the said decision.

The decision on the application for registration considered by the Council of Experts and adopted by the Chairman of the State Committee or by his deputy shall be final and no further proceedings shall lie on it.

26. — Trademarks of Soviet enterprises, organizations and associations shall be registered abroad on the basis of decisions taken by the Ministries and Departments with the approval of the Soviet foreign trade organizations in accordance with the procedure laid down by the State Committee.

Registration of Soviet trademarks abroad by Soviet enterprises, organizations and associations and registration of foreign trademarks in the USSR shall take place through the Chamber of Commerce and Industry of the USSR unless an international agreement to which the USSR is a party requires otherwise.

#### Chapter IV

#### Use of Trademarks and Protection of the Rights of the Proprietor

27. — Enterprises, organizations and associations with trademarks registered in their name shall have the exclusive right to use these marks for their goods and services throughout the territory of the USSR. No trademark may be used without the permission (license) of the proprietor.

28. — During the period for which registration of a trademark continues in force the proprietor may, in accordance with the legislation currently in force, apply for an order prohibiting the unlawful use of an identical or similar mark in relation to goods or services of the same class, and for damages for such use.

29. — Enterprises and organizations which are the proprietors of registered trademarks may grant a license for the unlimited or limited use of their trademarks by other enterprises and organizations.

A license may only be granted provided that the license agreement includes a condition whereby the quality of the products of the licensee will not be lower than the quality of the products of the proprietor of the mark and whereby the proprietor of the mark will supervise the fulfilment of this condition.

Any agreement whereby the proprietorship of a trademark is assigned or whereby a license is granted shall be registered with the State Committee; any such agreement which is not so registered shall be void.

30. — Enterprises, organizations or associations which are proprietors of registered trademarks shall use such marks.

Where a registered trademark has not been used within five years from the date of registration, the State Committee shall, ex officio or on the request of a third party, cancel the registration of such trademark.

31. — Registration of a trademark shall continue in force for a maximum of ten years from the date of receipt of the application for registration.

32. — Registration of a trademark may be renewed for periods of not more than ten years upon application by the proprietor, which shall be filed during the last year of validity of the registration, and not later than six months after the registration has expired.

33. — Changes in the name of the proprietor of the trademark, changes in the list of goods and services, and changes in the registered trademark, if certain elements of the trademark have been changed without changes in the essence of the trademark itself, shall be registered with the State Committee.

Such changes shall be entered in the certificate of registration.

When the protection of the registered trademark is extended to goods which are not entered in the certificate, a new application must be filed.

The procedure for making the changes in the certificate mentioned in Sections 29, 32 and 33 of this Statute shall be determined by the State Committee.

34. — Any enterprise or State, cooperative or social organization and any citizen may oppose registration of a trade-

mark and the issuing of a certificate on the grounds provided for in Section 15(a) of this Statute within five years from the date of publication of the notice concerning the registration of the trademark in the Official Bulletin of the State Committee.

Oppositions as to registrability shall be considered by the State Committee within two months from the date of receipt thereof.

In some cases, upon challenge by the Chairman of the State Committee or his deputy, registration of the trademark may at any time be annulled if it is found that the certificate was granted in disregard of the provisions of this Statute.

35. — The exclusive right to use a trademark shall lapse when:

- the period during which the registration is in force expires;
- registration is annulled upon opposition;
- an enterprise, organization or association in the name of which the mark has been registered goes into liquidation;
- the trademark has not been used within five years from the date of registration.

36. — Registrations, renewals, assignments, licenses, cancellations of certificates of registration and other changes shall be entered in the State Register of Trademarks of the USSR.

Information on every registration, renewal, assignment, license, change and cancellation shall be published in the Official Bulletin "Discoveries, Inventions, Industrial Designs and Trademarks" published by the State Committee.

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*LETTERS FROM CORRESPONDENTS*

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**Letter from the Netherlands**

D. W. F. VERKADE \*

















## Meetings of Other International Organizations concerned with Intellectual Property

September 16 to 19, 1975 (Budapest) — International Federation of Musicians — Executive Committee

September 17 to 20, 1975 (London) — Union of European Professional Patent Representatives — General Assembly

September 22 to 24, 1975 (Basle) — Licensing Executives Society (LES) — International Conference

October 1 to 3, 1975 (Berlin) — International Literary and Artistic Association — Working Session

November 17 to 26, 1975 (Paris) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Committee of Governmental Experts on the Double Taxation of Copyright Royalties

November 17 to December 15, 1975 (Luxembourg) — General Secretariat of the Council of Ministers of the European Communities — Luxembourg Conference on the Community Patent

May 25 to June 1, 1976 (Tokyo) — International Publishers Association — Congress

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