

Industrial Property

Published monthly
Annual subscription :
Sw.fr. 115.—
Each monthly issue :
Sw.fr. 10.—

19th Year - No. 4
April 1980

Monthly Review of the
World Intellectual Property Organization (WIPO)

Contents

WORLD INTELLECTUAL PROPERTY ORGANIZATION	
— WIPO Convention. Accession: China	123
INTERNATIONAL UNIONS	
— Paris Convention (Stockholm Act). Accession: Democratic People's Republic of Korea	123
— Madrid Agreement (Marks) (Stockholm Act). Accession: Democratic People's Republic of Korea	123
— Budapest Treaty (Microorganisms). Ratification: France	124
ACTIVITIES OF OTHER ORGANIZATIONS	
— Industrial Property Organization for English-Speaking Africa. Council, Committee for Trade Mark and Industrial Design Matters, and Seminar	124
GENERAL STUDIES	
— Territorial Extension of Protection for "International Marks": Considerations on the MEPIRAL Decision of the Federal Court of Justice of the Federal Republic of Germany (R. Storkebaum)	125
NEWS FROM INDUSTRIAL PROPERTY OFFICES	
— France	128
— Japan	132
EXHIBITIONS	
— Romania. Communications Concerning Temporary Protection at Two Exhibitions	137
BOOK REVIEWS	137
CALENDAR OF MEETINGS	139
INDUSTRIAL PROPERTY LAWS AND TREATIES	
— <i>Editor's Note</i>	
— SRI LANKA Code of Intellectual Property Act (No. 52 of 1979) (Second Segment: Parts V to VII)	Text 1-001

© WIPO 1980

Any reproduction of official notes or reports, articles and translations of laws or agreements published in this review is authorized only with the prior consent of WIPO.

World Intellectual Property Organization

WIPO Convention

Accession

CHINA

The Government of China deposited, on March 3, 1980, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

China will belong to Class B for the purpose of establishing its contribution towards the budget of the WIPO Conference.

The WIPO Convention will enter into force, with respect to China, on June 3, 1980.

WIPO Notification No. 110, of March 4, 1980.

International Unions

Paris Convention

Accession

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The Government of the Democratic People's Republic of Korea deposited, on March 7, 1980, its instrument of accession to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Stockholm on July 14, 1967.

The Democratic People's Republic of Korea will belong to Class VII for the purpose of establishing its contribution towards the budget of the Paris Union.

The said Convention as revised will enter into force, with respect to the Democratic People's Republic of Korea, on June 10, 1980.

Paris Notification No. 98, of March 10, 1980.

Madrid Agreement Concerning the International Registration of Marks

Accession

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The Government of the Democratic People's Republic of Korea deposited, on March 7, 1980, its instrument of accession to the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, as revised at Stockholm on July 14, 1967.

The said instrument of accession contains the following declaration:

"Pursuant to Article 3*bis*(1) of the said Agreement, the Government of the Democratic People's Republic of Korea declares that the protection resulting from the international registration shall extend to the Democratic People's Republic of Korea only at the express request of the proprietor of the mark."

The said Agreement as revised will enter into force, with respect to the Democratic People's Republic of Korea, on June 10, 1980.

Madrid (Marks) Notification No. 32, of March 10, 1980.

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

Ratification

FRANCE

The Government of France deposited, on February 21, 1980, its instrument of ratification of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977.

The date of entry into force of the said Treaty will be notified when the required number of ratifications or accessions is reached.

Budapest Notification No. 5, of February 22, 1980.

Activities of Other Organizations

Industrial Property Organization for English-Speaking Africa

**Council (third session),
Committee for Trade Mark and
Industrial Design Matters (fifth session)
and Seminar**

(Nairobi, December 13 to 20, 1979)

NOTE*

The third session of the Council of the Industrial Property Organization for English-Speaking Africa (ESARIPO) was held in Nairobi (Kenya) from December 17 to 20, 1979. All States members of ESARIPO (the Gambia, Ghana, Kenya, Malawi, the Sudan, Uganda and Zambia) and seven observer States (Botswana, Ethiopia, Lesotho, Sierra Leone, Somalia, Swaziland and Tanzania) were represented. The session of the Council was preceded by a Seminar (with participants from the States referred to above and also from Liberia) (on December 13 and 14) and by the fifth session of the Committee for Trade Mark and Industrial Design Matters (from December 17 to 20). The list of participants follows this Note.

The Council approved the report and recommendations of the missions to member and potential member States referred to above, and requested the Interim Secretariat to proceed with negotiations for the operational phase of the establishment of a patent documentation and information center (ESAPADIC). It adopted a list of initial tasks of the Office of ESARIPO and decided on the basis for the payment of contributions to the budget and on the procedure for the appointment of the Director of the Office. The Council also dealt with questions concerning the headquarters agreement, the headquarters building, the choice of an emblem for ESARIPO, the protection of the words "ESARIPO" and "ESAPADIC" under the Paris Convention, representation at the Diplomatic Conference on the Revision of the Paris Convention, the introduction of modernized national legislation, prospects of increasing the membership of ESARIPO and cooperation with the African Intellectual Property Organization (OAPI) and its patent documentation and information center (CADIB).

The Committee for Trade Mark and Industrial Design Matters expressed continued support for the draft Protocol on the Protection of the Olympic Symbol to be considered at the Diplomatic Conference on the Revision of the Paris Convention in 1980. It considered draft model provisions on the protection of the Olympic symbol and a draft agreement between national authorities and the International Olympic Committee. It requested WIPO to revise the drafts, in

* This Note has been prepared by the International Bureau of WIPO.

the light of observations made during the discussions and the results of the Diplomatic Conference, to send the revised drafts, with commentaries, to the member and potential member States, and to submit them to the next session of the Committee. The Committee also requested WIPO to prepare, for its next session, a study of the possibilities of organizing efficient protection of geographical indications in the member and potential member States, taking into account questions raised in the discussion of this matter and the results of the Diplomatic Conference.

The Seminar was organized by the Interim Secretariat with assistance from the Governments of the Federal Republic of Germany and of the United Kingdom and from the Commonwealth Fund for Technical Cooperation. The topics discussed were international and regional cooperation in the field of industrial property, patent and trademark registration procedures under the ESARIPO Model Laws, the technical contents and structure of patent documents, and patent documents as the basis for state-of-the-art searches. These topics were introduced, respectively, by members of the staff of WIPO and the ECA, by the Comptroller-General of the Patent Office of the United Kingdom and by an official of the Patent Office of the Federal Republic of Germany.

LIST OF PARTICIPANTS*

I. States Members of the Organization

The Gambia: G. V. Cole; M. N. Bittaye. **Ghana:** D. M. Mills; T. N. K. Sey. **Kenya:** D. J. Coward; J. N. King'Arui. **Malawi:** M. A. Mhoni; M. M. Takomana. **Sudan:** A. M. O. Yassin; H. Hamid. **Uganda:** N. A. G. Mugarura. **Zambia:** M. C. J. Kunkuta; M. C. Mwünga.

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

II. Observer States

Botswana: O. R. N. Kalaben. **Ethiopia:** N. Endeshaw; A. Elias. **Lesotho:** R. Consul Korale; K. Makhetha. **Liberia:**¹ S. A. McIntosh; R. L. Urey. **Sierra Leone:** S. Koroma. **Somalia:** H. M. Zeinab; M. I. Singh. **Swaziland:** E. S. Kumalo. **Tanzania:** R. B. Mngulwi.

III. Officers

Council

Chairman: D. M. Mills (Ghana). *Vice-Chairmen:* D. J. Coward (Kenya); A. R. Zikonda (Zambia).

Committee for Patent Matters

Chairman: A. R. Zikonda (Zambia).

Committee for Trade Mark and Industrial Design Matters

Chairman: D. J. Coward (Kenya).

Seminar

Chairman: D. J. Coward (Kenya). *Chairmen for topics discussed:* N. A. G. Mugarura (Uganda); M. N. Bittaye (The Gambia); M. A. Mhoni (Malawi).

IV. Technical Experts Advising the Interim Secretariat

I. J. G. Davis (*Comptroller-General, United Kingdom Patent Office*); W. Weiss (*Head, Documentation Division, German Patent Office*); A. M. Bayer (*Senior Examiner, United Kingdom Patent Office*).

V. Interim Secretariat

World Intellectual Property Organization (WIPO)

L. Bacumer (*Director, Industrial Property Division*); J. Quashie-Idun (*Program Officer, Division for Industrial Property Development Projects*).

United Nations Economic Commission for Africa (ECA)

A. M. Akiwumi (*Regional Legal Adviser*);² E. Lartey (*Chief, Science and Technology Unit*).

¹ Present at Seminar only.

² Not present at Seminar.

General Studies

Territorial Extension of Protection for "International Marks":

Considerations on the MEPIRAL Decision of the Federal Court of Justice of the Federal Republic of Germany

R. STORKEBAUM*

News from Industrial Property Offices

FRANCE

Activities of the National Institute of Industrial Property (INPI) in 1978*

Patents

The Law of July 13, 1978, amending the Law of January 2, 1968, on Patents entered into force on July 1, 1979. During 1978, patents continued to be governed by the 1968 Law to which the information given below therefore refers.

The opening of the European Patent Office (EPO) on June 1, 1978, had marked repercussions on INPI's patent activities, particularly a drop in domestic filings (-7%), as shown in the table below:

	1978	1977	%
Patent filings	37,137	39,978	- 7
including utility certificates	389	307	+27
Requests for documentary searches (referred to EPO)	33,261	33,791	- 1.5
Notification of preliminary draft documentary reports	25,352	29,745	-15
Notification of second draft documentary reports	20,294	23,981	-15.5
Publication of applications	39,312	39,778	- 1
Grant of patents	30,530	31,045	- 1.5
including utility certificates (applied for or resulting from the conversion of patent applications)	3,777	7,858	-52

A study of the breakdown of patent applications between the three technical sectors (mechanical engineering, physics-electricity, chemistry) shows that activities remained relatively stable as compared with 1977, there being a slight increase in mechanical engineering at the cost of chemistry, but if the European patent applications which designate France are taken into account, a similar breakdown to that of 1977 is obtained:

— approximately half the patent applications filed concern the field of mechanical engineering, particularly materials processing (7%), general technology (6%, or +2%), vehicles (5%, or +9%), packaging and handling (5%), engines and motors (3.5%, or -1%), rural activities (3%, or +13%), heating (3%, or +9%) and building (3%, or +4%);

— approximately a quarter of patent applications are filed in respect of the physics-electricity sector and concern more specifically electricity (8%), measuring technology (5%, or +6%) and electronics (4%);

— approximately a quarter of applications are filed in the chemistry sector and essentially concern organic chemistry (14%, or -12%), mineral chemistry (3%, or -7%) and metallurgy (2%).

A number of factors condition developments in the patent field:

— the qualitative improvement made to the French patent by the amendment of the Law of January 2, 1968, which by simplifying the procedure for drawing up the documentary report and by expanding the information given in the report, and by excluding those inventions which are manifestly unpatentable, should enhance the value of such protection (both for applicants and third parties), and subsequently lead to its further development;

— on the other hand, the development of the European Patent Office's activities means that the reduction in filings of foreign origin will continue. The drop in filings in 1978 has therefore been more sudden than foreseen and a further reduction, of some 5,000, is to be expected in 1979 in the number of patent applications filed in France. The extension of the territorial scope of the PCT can but speed up this process. In this respect, however, the tasks of INPI as a receiving Office for European patent applications and international PCT applications will grow.

Trademarks and Service Marks

Marks are governed by the Law of December 31, 1964, as amended by the Law of June 30, 1975. In addition to filings made under domestic legislation, INPI receives filings resulting from the Franco-Italian Agreement of January 8, 1955, and from the Madrid Agreement of April 14, 1891.

The considerable increase in filings in 1978, following the increase observed in 1977, is shown clearly in the following table:

	1978	1977	%
Marks filed by persons resident in France	36,615	29,611	+24
Marks filed by persons resident abroad	13,454*	6,987	+56
Total of filings made in France	50,069	36,598	+37
Foreign marks from WIPO	7,680	8,306	- 8
Franco-Italian marks from Italy	40	0	
Total of marks resulting from international agreements	7,720	8,306	- 7
Overall total	57,789	44,903	+29

* This report is excerpted from INPI's Activity Report for 1978.

* INPI filings only.

Operations in respect of marks, particularly as regards renewals (29% more than in 1977), have also been subject to a very large increase, as is shown in the table below:

	1978	1977	%
Examined	61,530	43,294	+42
Notified	2,876	2,195	+31
Rejected	1,489	1,560	- 5
Registered	35,745	32,662	+ 9
Published	43,892	35,105	+25
International marks transmitted to WIPO	2,041	1,828	+19

The work of the international marks office has also grown due in part to the increased number of French marks filed with WIPO under the Madrid Agreement and in part to a 98% increase in the various operations in respect of such marks (8,349 operations in 1978, as compared with 4,202 in 1977, in respect of limitations, extensions, assignments, etc.).

As a result of computerization, which began in April 1978, the number of anticipation searches requested during the final nine months of the year went up spectacularly in view of the very brief response time (one day where the user personally submits his request to the service and picks up the result), the reliability of the system and the possibility offered to the public to choose, according to its needs, between various types of search: identical search, prefix, suffix and root search, preselection search to obtain all marks similar to within one letter, similarity search.

Industrial Designs

The number of filings (4,182) remains stable (4,017 in 1977, 4,145 in 1976). Since each filing may contain between one and 100 designs, the variation in the number of designs filed does not necessarily follow changes in the number of such filings.

Number of Designs Filed	1978	1977	%
- with the secretariats of the conciliation boards	11,860	11,176	+ 6
- with the registries: of the commercial courts . . .	1,529	1,893	-19
of the first instance courts . .	488	360	+36
TOTAL	13,877	13,429	+ 3

Filings are made with the secretariats of the conciliation boards and the registries of the commercial and civil courts. In 1978, 3,381 filings were transmitted to

INPI for the 25-year period of secrecy or for publication. This represented 1,151 designs kept secret and 6,620 designs published. The number of *Soleau* envelopes increased by 3% to 9,017 units and the number of 10-year extensions went up by 80% to 2,200 units.

Law No. 79-44 of January 18, 1979, concerning the statutes and working of the conciliation boards, contains provisions on the filing of designs, which represent a considerable modification of the procedure and conditions for filing. This will have to be done in future, at the discretion of the applicant, with INPI or with the registry of the commercial court of the applicant's place of residence (of necessity with INPI where the place of residence is either Paris or outside France). Moreover, all documents and filed articles are to be transmitted to INPI by the registrars of the commercial courts which hitherto had kept secret filings for five years (some 35% of designs filed). Finally, the representation of designs may be filed in an envelope and not in a box as was compulsory in the past.

INPI is preparing the implementing decree for these various measures whose entry into force will have a marked effect on its activities.

National Patent and Trademark Registers

The National Patent and Trademark Registers governed by the Patent Law of January 2, 1968, and the Trademark Law of December 31, 1964, contain entries of the instruments transmitting, assigning or modifying rights deriving from a patent or a mark, made at the request of the owner of the rights or, *ex officio*, following a court decision.

Entries have effect with respect to third parties and are published in the Official Bulletin of Industrial Property.

In 1978, entries were made with regard to some 7,789 patents (1977: 10,229, or -24%) and 15,785 trademarks (1977: 13,480, or +17%).

The Law of July 13, 1978, amending the 1968 Patent Law, has empowered the Director of INPI "to decide on appeals for reinstatement in cases where an error in the rate of fees, an administrative error or the death of the owner of the patent are advanced as legitimate reasons" (Section 68(2)). Although this new possibility for the owners of patents will lead to a reduction in the number of reinstatement actions before the Paris Appeal Court, it will at the same time increase the volume of contentious matters heard by INPI. Other provisions under the new legislation will lead to changes in the procedures for making entries in the National Patent Register.

Finally, the entry into force of the European Patent Convention has led the European Patent Office to examine together with the Offices of the Member

States, including INPI, the conditions for giving public access in each State to the information contained in the European Patent Register. The use of electronic data processing in conjunction with telecommunications is being considered for the near future.

The implementation of the Convention also requires coordination between the European Patent Register and the National Register during the period in which the grant of a European patent may give rise to entries in both Registers. In addition, some of the implementing provisions (publication of translations of the European application and patent, transformation, etc.) have already given rise to entries in the National Patent Register. The increase in the number of such entries as the activities of the EPO grow may make it necessary to review the current conditions for registration and publication.

These new activities will constitute a considerable increase in the tasks of the service although, at least in the medium term, they will hardly be affected by the reduction in the number of French patent applications. Studies are therefore in hand to improve, by using microfilm and data processing, the procedures for entering and providing information.

International Transfer of Technology

INPI records the statements made by French firms that have signed contracts with foreign firms in respect of industrial property: acquisition or assigning of patents, trademarks, designs, manufacturing licenses, payment of costs for studies and technical assistance.

In 1978, 1,810 statements were processed (1977: 1,599, +13%). Statements concerning purchases (1,185) continue to exceed by far those in respect of sales (625). Files for each country (expenditure and revenue), for each firm and for each industrial sector are established on the basis of these statements of contract.

Partial statistics would seem to indicate that the overall balance of technical trade may, for the first time, show a surplus in 1978. Should this be borne out by the final figures, it would be the result of a large surplus under the heading "Studies and Technical Assistance" since, despite an improvement, the heading "Patents and Licenses" remains in deficit.

The detailed statistics for the period 1973 to 1977 show that the biggest deficits have been in the sectors of electronics, data processing, chemical engineering, large and medium scale mechanical engineering and the food industry, whereas during the same period the sectors of non-ferrous metals, building minerals, textiles, cosmetics and glass have shown a constant surplus.

A study is being undertaken for the purpose of adjusting the conditions for obtaining information on technology transfer and on supplementing and detailing them in order to improve their statistical exploitation and to provide a better response to the numerous requests for information received from public and private bodies in France and abroad, and from researchers.

Legislative Activities

1978 saw the end of the Parliamentary procedure to revise the Patent Law of January 2, 1968. The corresponding text was published in the Official Journal on July 14, 1978, and entered into force, pursuant to its statutory provisions, on July 1, 1979. The Decrees required to implement the Law (one on employees' inventions and another superseding Decree No. 68-1100 of December 5, 1968) have also been completed.

When adopting a Law amending the provisions of the Labor Code concerning conciliation boards, on December 19 and 20, 1978, Parliament made two adjustments to the Designs Law of July 14, 1909 (Law No. 79-44 of January 18, 1979):

- the competence of the conciliation boards to receive filings was suppressed and transferred to INPI and the registries of the commercial courts;
- applicants were given the option of using an envelope instead of the box in which the designs filed had hitherto to be placed.

Implementing Laws Nos. 77-682 and 77-683 of June 30, 1977, concerning the Patent Cooperation Treaty (PCT) and the European Patent Convention, referred to decrees for certain provisions to implement these two international agreements. The corresponding texts were drafted without delay and the resultant Decrees Nos. 78-1010 and 78-1011 of October 10, 1978, were published in the Official Journal on October 15, 1978, as were the Fee Ordinances required for the implementation of the two Laws of June 30, 1977.

Decree No. 78-1011 sets out the conditions for filing the European patent application, the conditions for converting it to a French patent application and the requirements as regards the submission and publication of the French translations of the European patent application or patent where the latter are published by the EPO in a foreign language.

As regards the PCT, Decree No. 78-1010 details, in particular, the conditions for filing the international publication to be drawn up in French. As in the case of European patent applications, international applications may be filed with the provincial centers of INPI. A subsequent ordinance set out the list of such centers.

International Activities

(a) As regards international organizations of a worldwide character, INPI has participated in meetings organized by WIPO in 1978, particularly the final sessions of the Preparatory Intergovernmental Committee for the Revision of the Paris Convention, the extraordinary session and the first ordinary session of the Assembly of the International Patent Cooperation (PCT) Union, the first session of the Interim Advisory Committee of the Budapest Treaty (Microorganisms), and in the working groups dealing with the revision of the Nice Agreement. INPI also participated in the Diplomatic Conference on the Revision of the International Convention for the Protection of New Plant Varieties (UPOV) held in Geneva in October 1978.

(b) At the regional European level, mention should be made of the three sessions held in 1978 by the Administrative Council of the European Patent Organisation (EPO), the meetings of the Interim Committee for the Community Patent and its three working groups, and the continued discussions on the Community trade mark.

(c) As regards patent documentation, INPI participated in the meetings of the Permanent Committee on Patent Information (PCPI) and ICIREPAT, in addition to the revision work on the International Patent Classification.

(d) In the field of technology transfer, INPI participated in the drafting of the code of conduct for technology transfer and the Group B coordination meetings within OECD. It was also associated with the consultations of the European Communities' Advisory Committee on Restrictive Practices and Monopolies.

(e) As part of the WIPO Permanent Program for Development Cooperation Related to Industrial Property, France organized a training course specially devised by the Center for the International Study of Industrial Property (CEIPI) on behalf of 27 trainees from developing countries, chosen by WIPO, in order to prepare them for the practical training in patent offices that was to follow.

(f) INPI has continued to give its assistance to the African Intellectual Property Office (OAPI), which administers the common industrial property system of 12 French-speaking African States. It has therefore decided to contribute, under the WIPO technical assistance project, to the creation within OAPI of an African Patent Documentation and Information Center.

(g) In the same way, INPI has supplied a collection of French patents to the Offices in Algeria and the Republic of Korea.

(h) Brazil has received a complete collection of patent documents published in France since 1902 and an exchange of documents has been arranged between INPI and the Brazilian Documentation Center.

(i) After an interruption of some years, the Joint Franco-Italian Industrial Property Committee met again in 1978. The Committee reviewed the working of the industrial property agreements between the two countries. It noted that the Agreement of January 8, 1955, on the protection of inventions at exhibitions had lapsed. It decided to prepare a revision of the Agreement on marks of the same date and to facilitate the simultaneous renewal of French and Italian marks registered under the Agreement. The Committee also held an exchange of views on the reciprocal protection of appellations of origin and considered the updating of the list of indications of source and appellations of origin annexed to the Convention of April 28, 1964.

(j) INPI participated in the Joint Franco-Mexican Committee, which met in Paris in July 1978. An exchange of views on the French and Mexican legislation enabled the attention of the Mexican Government to be drawn to certain Mexican regulatory provisions concerning patents and marks which were of a nature to discourage French investment in Mexico. The Mexican Minister for the National Heritage and Industrial Development has since undertaken certain amendments to these laws and has announced that he was considering further amendments.

(k) INPI participated in the fourth session of the Joint Franco-Hungarian Committee set up under the Agreement on the Development of Economic, Industrial and Technical Cooperation of November 21, 1974. At that meeting, it was decided to set up a joint working group on industrial property matters.

(l) As regards China, following a note verbale attached to the Franco-Chinese Agreement on Scientific and Technical Cooperation signed on January 21, 1978, in Beijing, representatives of INPI participated in meetings held in China on the implementation of the Franco-Chinese Agreement on the Protection of Trademarks. They examined contractual protection of inventions and the future law on the protection of inventions in China.

(m) INPI also participates, in respect of industrial property, in negotiations undertaken in various fields by France with other States, both multilaterally and bilaterally. Thus, a draft Franco-Swedish Agreement and the relevant implementing rules were drawn up for the safeguard of secrecy of inventions concerning defense and forming the subject matter of patent applications.

JAPAN

Japanese Patent Office Annual Report 1977*

Industrial Property Administration

General

The rapid development in technical innovation and the great variety of designs of commercial goods in recent years has led to an increase in the number of applications for industrial property rights and has made for considerable delays in examining such applications. The Patent Office has gone ahead with a number of policies, such as an increase in the number of posts and in staffing, the mechanization of work, the provision of suitable guidance to applicants requesting examination of patent and utility model applications, and the like, designed to accommodate these trends. The 1970 revision of the Law mainly consisted in the adoption of the "laying open of applications" and "request for examination" systems. The Law was again revised in 1975 in order to impose a more stringent requirement to use on the owners of registered trademarks for the purpose of facilitating examination.

It is particularly noteworthy that the length of time required for carrying out examinations and trials has gradually become shorter over recent years as a result of a drop in the number of applications and requests for examination, or at least a lower rate of increase, partly brought about by the above-mentioned policies.

Meanwhile, the internationalization of the industrial property system has made remarkable progress in recent years and the Patent Cooperation Treaty (PCT), which entered into force on January 24, 1978, is considered by many to be the most epoch-making treaty since the Paris Convention.

In line with these international trends and its ratification of the PCT, Japan has made a serious effort to revise its Law (the Law concerning the international application and related matters under the PCT was approved by the National Diet in April 1978), and to set up a clerical system for dealing with the work at domestic level, and has taken the other steps made necessary by the ratification of the PCT.

In response to the rapid increase in the number of patent documents and of published unexamined applications in recent years, there has been a strong demand for the promotion of the more efficient use of

patent information, which has resulted in the classification of information and the arrangement of the search system on the basis of the International Patent Classification (IPC) and the establishment of commercial organizations for supplying information.

The following is an overview of the present and future trends in patent administration.

Internationalization of the Industrial Property System

The industrial property system is international by nature, as evidenced by the importance of the Paris Convention for the Protection of Industrial Property of which Japan became a member in 1899.

With recent developments in economic activities and technical exchanges between countries, the need has emerged to seek a more international system in the field of industrial property in order to initiate, together with the system based on the Paris Convention, more simplified and unified international procedures and closer international cooperation in searching and examination. The Patent Cooperation Treaty (PCT), the Strasbourg Agreement Concerning the International Patent Classification (IPC) and the Trademark Registration Treaty (TRT) are typical examples of this trend, as is the recently adopted Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

As far as bilateral matters are concerned, there has been a very great demand for mutual protection of trademark rights between Japan and China and, as a result, a treaty for trademark protection between Japan and China was concluded in September 1977 and became effective on March 1, 1978.

Mechanization of Operations

Since 1964, various drafts and notifications have been prepared automatically by storing bibliographic data from applications and using them by means of a computer. The computers were changed for higher capacity equipment in 1977 in order to meet the increased work load and to improve automation.

It is now planned to carry out the registration work in respect of patent rights by means of:

- automatic preparation of letters, patents and the like; and
- automated inspection and provision of copies by means of a computer.

This was done on a trial basis, and in combination with conventional processing, during 1977 and was fully introduced in 1978.

System development is to be continued in respect of computer searching of data required in examining

* This report is based on excerpts from the publication issued under the same title by the Japanese Patent Office.

patent and utility model applications and these activities will also be carried out for the trademark section.

In order to convert to the IPC, the relevant symbols have been included since 1975 in past examination data and have been stored in the computer for the development of the system used for international data exchange. Inputting of data and development of the system will be continued.

Guidance in Making Applications and Requests for Examination

Although Japan receives an exceedingly large number of applications, about half of these are rejected. The existence of numerous applications with insufficient patentability has led to considerable delays at the examination stage and has prevented rapid granting in the case of useful inventions. A large number of published unexamined applications of little usefulness also makes it difficult to apply effectively useful patent information with a resultant loss to the national economy. In order to overcome these problems, the Patent Office has reconsidered its examination standards and has, at the same time, been asking since 1976 for the cooperation of applicants from industry in achieving a return to a reasonable and normal situation in respect of applications.

Promotion of the Use of Patent Information

Patent information has been widely used in many fields since it is considered to constitute excellent technical information in addition to being information on patent rights. Although the recently introduced "laying open of applications" system has improved the rapid supply of information, it has also brought with it the new problem of publications reaching an enormous volume and also containing

information which is useless. The increase in the volume of patent information has been particularly noticeable in recent years and its quantity has doubled over the last four years. In addition, demand for the use of foreign patent documents has grown, partly due to the entry into force of the PCT. In view of these developments, it has become urgent to establish a patent information control system capable of ensuring rapid and proper use of the necessary information only out of the great quantity of foreign and domestic data. A development towards international cooperation in information has rapidly emerged due to the adoption by countries of a common classification system (IPC) and to the exchange of information under the leadership of the International Patent Documentation Center (INPADOC).

Administrative Aspect of Examination and Trial

Applications for patents, utility models, designs and trademarks in 1977 amounted to some 524,000 in total (101.5%¹), broken down as follows: patents 161,000 (100%), utility models 180,000 (100.5%), designs 53,000 (102.4%) and trademarks 130,000 (104.7%).

Requests for examination under the system introduced by the partial revision of the Patent Law, and in operation since 1971, amounted in 1977 to some 65,000 (107.9%) for patent applications and some 98,000 (108.8%) for utility model applications.

The applications processed in 1977 numbered some 99,000 (115.5%) for patent applications, some 128,000 (116.6%) for utility model applications, some 58,000 (100.2%) for design applications and some 165,000 (110.9%) for trademark applications.

¹ The figure in brackets is the percentage as compared with the preceding year in each case.

STATUS OF APPLICATIONS FILED AND DISPOSED

<i>Category</i>	<i>Year</i>	<i>Number of Applications</i>	<i>Number of Requests for Examination</i>	<i>Disposals</i>	<i>Pending at End of Year</i>
Patents	1976	161,016	60,292	85,323	231,850
	1977	161,006	65,070	98,553	198,367
Utility Models	1976	178,842	90,390	110,006	299,992
	1977	179,702	98,332	128,219	276,105
Designs	1976	51,904	—	57,882	115,434
	1977	53,143	—	57,993	110,584
Trademarks	1976	124,362	—	148,862	482,667
	1977	130,218	—	165,127	447,758

STATUS OF TRIALS FILED AND DISPOSED

	Year	Number of Appeals Filed	Re-examination Trial	Disposals	Pending at End of Year
Patents, Utility Models, Designs and Trade-marks	1976	14,077	61	12,432	54,146
	1977	17,583	621	13,177	57,931

In all areas, therefore, the number of applications being processed is much greater than the number of those received and, as a result, the number of applications remaining unexamined has decreased.

The number of demands for trial received in 1977 was some 18,000 (124.9%) and the number of demands processed during the year was 13,000 (106%).

As a result, the number of demands for trial remaining uncompleted at the close of 1977 grew by some 4,000 cases in comparison with the preceding year and altogether some 58,000 cases are still pending.

Mechanization of Administrative Examination and Other Tasks

Outline of the Computerization for Clerical Application Processing

Electronic computers were introduced in September 1964 to prepare the master file for applications submitted as from January 1964. As a very first step in computerization, the notification of filing numbers was printed by the computer. Whereas the very large number of applications had been entirely recorded and arranged by hand until then, since that date various entries, such as filing dates, examination request dates, applicants' names, classification, records of official delivery, such as official instructions, decisions and final decisions, as well as submissions made by applicants, such as amendments, have been recorded on the basis of the filing number to form a master file prepared by computer, and the clerical operations in respect of application and examination have been performed rapidly and correctly.

This mechanical system for carrying out the clerical work involved in applications makes systematic use of the various computer functions such as large data storage capacity, high-speed calculation, arrangement and printing, which are now progressively becoming more important with the increase in the amount of data to be processed.

With regard to the present status of the use of computers, on-line working started in March 1974 and the conventional kana-letter information system

has been converted to a kanji-letter system for applications filed from January 1976 onwards, to further improve utilization, and computerized photographic printing has been carried out since July 1977 for the unexamined publication of patent and utility model applications. Consideration is now also being given to the computerized issue of various types of publication, by adding the input data required for the clerical processing of applications and registrations and combining them with the data for application processing work, as well as to the use of computers for registration processing work, thereby establishing an overall computerized system throughout the Patent Office.

Study of Computerization of Patent Examination

With the development of recent technical innovation, technical documentation has increased in volume and has tended to contain more varied and higher level technologies, making it highly desirable to develop a mechanical system for rapidly and accurately searching the enormous volume of technical documentation.

The Japanese Patent Office has taken part in the work of the Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) from the start and has conducted research and development of mechanical searching in respect of patent and utility model applications in close international cooperation and has also carried out its own research and development of the patent using the International Patent Classification (IPC). The ongoing study has the following content:

ICIREPAT System

The on-line real time dialogue system made it possible in 1976 to carry out searches of 14 subjects.

Of those 14 subjects, the Japanese Office was the first Patent Office to develop mechanical searching systems for "cameras," "piezo-electric devices," "nuclear reactors" and "microwave circuits," the results of which were submitted to ICIREPAT for use as a common system. In addition, the Office also developed the subjects "alloys" and "catalysts."

When wishing to make a search, the searcher prepares a scheme by means of video terminal equipment and with reference to the term list which he inputs directly by means of a keyboard. Since a dialogue-type program has been adopted, the search schemes can be changed at will until a sufficiently restricted number of documents is obtained in response to the dialogue with the computer. In addition to document numbers, the form of the answer includes term codes extracted from the documents (codes for technical content replaced with roman letters or multidigit numerals).

The IPC Search System

The IPC search system uses the IPC as the main key and has auxiliary search terms (identification symbols) as required. The system is advantageous in that the labor for preparing the search term list, allotting the search terms, and so on, can be reduced. It covers the entire range of subjects by extending its coverage to domestic backlog examination data and to foreign patent documents obtained through international exchange. The use of the system can also be applied to various other fields such as the study of technical trends and services requested by outside corporations, in addition to the patent searching use. Preparation of a secondary search program was completed in 1977.

Data Provision for Examination and Trial

The Documentation Division of the Patent Office is able to provide data for state-of-the-art searches in respect of examination and trial, that is to say the collection, fabrication, classification, distribution and other search files of patent documents, reports in periodicals, etc.

All Japanese patent documents, which are those most used most in the Japanese Patent Office, are supplied to the examiners as primary documents, broken down by class, and stored in the search files. In addition, abstracts of the published unexamined patent applications are included in a search file and provided to each examiner.

As far as secondary foreign documents are concerned, the U.S. Official Gazette, the British abridgments, the English abstracts of patents from France, Germany (Federal Republic of) and the Soviet Union (edited by Derwent), together with the Japanese

abstracts of U.S. patent specifications, are placed in a search file in accordance with the Japanese Patent Classification. The older issues of the above documents are kept in the files, in part under country headings.

Foreign patent documents are stored as primary documents in the library attached to the Patent Office and the U.S. patent specifications, *inter alia*, are also stored in the Examination Divisions' data room. Searching of these foreign documents is usually conducted on the basis of a two-step system under which the abstracts in the search file are first investigated and, subsequently, the corresponding primary documents. A copying service for the primary documents is provided in the Documentation Division.

For non-patent documents, important technical reports are extracted from periodicals and copies placed in the search files by class by the Documentation Division. Microfilms are also prepared. Original periodicals are stored in the Examination Divisions' data room.

The following is a summary of the main items of data provision work carried out by the Documentation Division in 1977:

- (1) Preparation of search files of Japanese patent and utility model documents.
- (2) Preparation of search files of foreign patent specifications:
 - (i) preparation of Japanese abstracts of U.S. patent specifications;
 - (ii) preparation of abstract cards of patent specifications from the United States of America, the United Kingdom, Germany (Federal Republic of), France, the Soviet Union, etc.
- (3) Preparation of abstracts and search files of technical documents.

Preparation of abstracts of reports from foreign and domestic periodicals and the corresponding classification work (covering some 300 domestic and foreign periodicals).
- (4) Document collection based on specific subjects (selective collection for areas of particular importance).
- (5) Index preparation:
 - (i) document index preparation (index of documents extracted);
 - (ii) index preparation for abstracts of foreign patent specifications (index of abstracts of foreign specifications in the searching field).
- (6) Preparation of microfilm (of extracted technical documents).
- (7) Management of the microdata room.
- (8) Operation of a copying service for all types of documents. The main foreign documents are at present provided in the library attached to the Patent Office.

Industrial Property Organizations in Japan

Japanese Institute of Invention and Innovation

The Institute was established in 1904 to develop and protect industrial property, to promote new inventions and innovations and to disseminate scientific and technological knowledge. Its activities are: promotion and guidance to encourage inventions; assistance in using inventions and devices; and provision of patent information.

Japan Patent Information Center (JAPATIC)

The Center was established in 1971 to collect and maintain comprehensive patent information (both Japanese and foreign) and offer it to anyone so requesting in order to aid the development of industry and contribute to the advancement of science and technology. Its activities are:

(a) computerized searching of domestic and foreign patent information;

(b) computerized preparation of indexes according to patent and utility model classification and to applicant, and cross-referencing of application numbers, publication numbers of unexamined patent applications, published (examined) patent application numbers and registration numbers.

Patent Attorneys Association

In view of the tasks and responsibilities of patent attorneys, the Patent Attorneys Association endeavors to maintain the professional dignity and raise the professional position of patent attorneys. The activities of this Association include: contributing to the proper implementation of the industrial property system; promoting industrial property rights; working towards suitable industrial property legislation and procedures under that legislation; submitting opinions to government agencies and responding to the latter's requests for advice; giving consultations to the general public on industrial property matters.

Japan Patent Association

The Japan Patent Association was established in 1938 in order to study legislation for the protection of industrial property and its proper application, and to contribute to the progress of technology and to the

expansion of industry. It engages, *inter alia*, in the following activities: investigating and studying legislation on industrial protection; promoting originality in industrial property; studying and protecting know-how, service marks and other intellectual property.

Japanese Group of IAPIP

The Japanese Group of the International Association for the Protection of Industrial Property (IAPIP) was established in 1956 and its incorporation in the main Association was approved at the 22nd Plenary Meeting held in Washington. Since then its members have participated in many of IAPIP's international conferences, contributing towards international cooperation with other member groups.

Pacific Industrial Property Association (PIPA)

The Association was established in March 1970 at the initiative of the National Association of Manufacturers of the United States. Its members are representatives of United States and Japanese enterprises. The Association's aims are to improve the industrial property system from the viewpoint of industry in countries bordering on the Pacific and to contribute to the progress of technology and the development of industry.

Asian Patent Attorneys Association (APAA)

The Association was established in 1969 to contribute to the promotion of industrial property protection. Its main activities consist in the mutual exchange of information by holding conferences, contacts with governments, international and private organs in the field of industrial property, investigation, study and planning with a view to adapting industrial property treaties and national legislation.

Japan Design Protection Association

The Association was established in 1967 to keep contact with the various design protection bodies in Japan in order to promote design protection, to facilitate production, distribution and consumption of goods and rationalization in industry.

Exhibitions

ROMANIA

I

Communication

**Concerning the Temporary Protection of
Inventions, Trademarks and Service Marks
Exhibited at the International Spring Trade Fair
and at the International Chemistry
Exhibition—Bucharest 1980**

The International Spring Trade Fair and the International Chemistry Exhibition will be held in Bucharest from May 7 to 15, 1980.

Inventions, trademarks and service marks exhibited shall enjoy the temporary protection provided by Law No. 62/1974 on Inventions and Law No. 28/1967 on Trademarks and Service Marks.

The Administration of the International Spring Trade Fair and the International Chemistry Exhibition will issue certificates of guarantee, upon request, until the closing date of the Exhibitions.

II

Communication

**Concerning the Temporary Protection of
Inventions, Trademarks and Service Marks
Exhibited at the International Fair—Bucharest
1980**

The International Fair—Bucharest 1980 will be held in Bucharest from October 9 to 18, 1980.

Inventions, trademarks and service marks exhibited shall enjoy the temporary protection provided by Law No. 62/1974 on Inventions and Law No. 28/1967 on Trademarks and Service Marks.

The Administration of the International Fair—Bucharest 1980 will issue certificates of guarantee, upon request, until the closing date of the Exhibition.

Book Reviews

La protection de la marque dans les pays du Maghreb, by M. A. Haroun. Université de droit, d'économie et sciences sociales — Paris II, 1975. — 496 pages.

This thesis sets out, as indicated by its title, the arrangements governing trademarks in the three States (Algeria, Morocco and Tunisia) making up the Maghreb. The author analyzes all aspects of trademark law (principles, procedures, etc.) on the basis of both the relevant laws and treaties, and a rich, and often novel, case law.

The work is of particular interest for at least two reasons: firstly, it constitutes a full and very clear description of the trademark law of a region in respect of which there does not as yet exist a very abundant doctrine and, secondly, the solutions adopted in this region are of general interest for all developing countries. We can but hope that this book will receive the notoriety it deserves.

GRW

Österreichisches Patentgesetz, edited by W. Hermann, 2nd edition by H. Schmidt. Prugg Verlag, Eisenstadt, 1978. — 279 pages.

As our readers are aware, the Austrian Patent Law was considerably remodelled between 1970 and 1977. This second edition of the late W. Hermann's work, produced by H. Schmidt, thus sets out systematically, section by section and paragraph by

paragraph, the new Patent Law, taking into account all the relevant texts—administrative decisions, court decisions, etc.

GRW

Le droit français nouveau des brevets d'invention — Loi du 13 juillet 1978, by J.-M. Mousseron and A. Sonnier. Librairies techniques, Paris, 1978. — 259 pages.

As we know, the French Patent Law, which was based on the Law of July 5, 1844, has been entirely remodelled by the three Laws of January 2, 1968, June 11, 1970, and, most recently, July 13, 1978.

This commentary follows the sequence adopted by Professor Mousseron for his noted contribution to the *Encyclopédie Dalloz*: conditions for applying the patent system (substantive conditions—formal conditions—administrative penalties—judicial penalties); effects of applying the patent system (beneficiary of patent law—subject matter of patent law—content of patent law—penalties under patent law—contractual marketing of the invention—compulsory marketing of the invention).

As pointed out in the preface by Professor J. Foyer, Chairman of the Industrial Property Council and of the Legislation Committee of the National Assembly, this work will constitute for practitioners, snowed under as they have been for the last year with international

conventions, laws, decrees and ministerial orders, a guide appreciated for its reliability, accuracy and clarity.

GRW

Droit européen de la concurrence, by R. Plaisant, R. Francescibelli and J. Lassier. J. Delmas & Cie, Paris, 1978. — 491 pages.

The maintenance of competition and, as a result, the suppression of restrictive practices and monopolies are the subject of explicit provisions in the three treaties establishing the European Communities (EEC, ECSC and Euratom). The implementation of these provisions has given rise to numerous regulations and communications issued by the Community institutions and a very large number of decisions by the EC Commission and the former ECSC High Authority, and judgments by the European Court of Justice.

This mass of provisions and decisions means that European competition law represents a complex field through which it is often difficult to find one's way. This work will enable both the lawyer and the practitioner to reach their goal. Following a logical sequence, the authors describe the different kinds of agreements, define the cases of abuse of dominant economic positions, analyze the various special arrangements, without forgetting the procedures, means of appeal and penalties. Alphabetical and chronological tables of the decisions of the Commission of the European Communities and of the ECSC High Authority and judgments of the European Court of Justice are annexed to make it easier to find and follow up the references.

GRW

Patentler, Know-How'lar, Markalar — Dünyada ve Türkiyede, by N. Yosmaoglu. Mis Matbaasi, Ankara, 1978. — 263 pages.

This work describes the Turkish patent, technology transfer and trademark systems. These are three fields of paramount interest to anyone considering industrial investment in Turkey, but who may not necessarily speak the language of the country. It is therefore to be hoped that the author will be able to have his work published in one of the international languages.

GRW

Warengleichartigkeit, collection founded by B. Richter; 6th edition by F. Brummert, assisted by A. Mosler. Carl Heymanns Verlag, Köln (etc.), 1979. — 194 pages.

The collection of decisions by German administrative and judicial tribunals in respect of similarity of goods, founded two decades ago by B. Richter, has now been updated by Judge Brummert of the Federal Patent Court, with the assistance of *Justizamtsrat* Mosler. This sixth edition obviously takes into account the new German Law on the introduction of service marks and also the use of classes for services.

GRW

Les brevets d'invention, published under the direction of A. Françon, Professor at the University of Paris II. Librairies techniques, Paris, 1979. — 136 pages.

This work reproduces the contributions, and ensuing debates, at the Seminar on the Patent Law of July 13, 1978, organized in October 1978 by the University of Paris II.

The work of the Seminar centered on the new French patent legislation and more particularly on the innovations made in relation to the former system—in particular, the new rules on employees' inventions, the procedural reform (particularly the creation of licenses of right), reform of joint ownership of patents and of disputes concerning patents.

The speakers and participants were all eminent specialists in the field, whether patent law theorists—such as Professors Azéma, Chavanne and Mousseron, not to forget Professor Françon who organized the Seminar—or legislators—including Mr. Foyer, Chairman of the Legislation Committee of the National Assembly, Mr. Marciabacy, Rapporteur of the Legislation Committee of the Senate—or administrators—such as Mr. Corre, President of the *Compagnie nationale des conseils en brevets d'invention*, Mr. Mathély, Rapporteur General of IAPIP, or Mr. Tixier, President of the *Association des spécialistes en propriété industrielle de l'industrie*—to name but a few of the speakers and participants at random. These names will suffice to demonstrate the remarkable level and interest of the contributions and debates reproduced in this work.

GRW

Das Neue Europäische Patentsystem, by R. Singer. Nomos Verlagsgesellschaft, Baden-Baden, 1979. — 206 pages.

As the author states, the law of inventions has been evolving for two decades: it is breaking out of its territorial limits towards a system of supranational protection. The longstanding efforts of inventors to obtain protection beyond the boundaries of their countries is beginning to be realized both on the universal level, with the Patent Cooperation Treaty, and on the regional level—at least as far as Europe is concerned—with the European Patent Convention and the Community Convention.

The appearance of interoational treaties requires the inventor—at least in Europe—to choose the route he wishes to follow: national filings; European filing (the European patent system or that of the Community patent); or international filing (PCT).

This work analyzes the three new systems (PCT, European patent, Community patent). Capitalizing on the experience acquired by the author during the 20 years which he has devoted to these questions, the volume ends with a chapter analyzing his personal considerations as far as the practical application of the different systems is concerned. Users of the systems will find it of great interest.

GRW

Calendar

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible change.)

1980

- June 9 to 13 (Paris) — Development Cooperation — Committee of Experts for a Model Statute for Authors' Societies for Developing Countries (convened jointly with Unesco)
- June 9 to 16 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)
- June 13 to 19 (Geneva) — Budapest Union (Microorganisms) — Interim Committee (or Assembly)
- June 23 to 27 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information
- September 8 to 12 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning
- September 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Assemblies of the Paris, PCT and TRT Unions; Conference of Representatives of the Paris Union; Executive Committees of the Paris and Berne Unions)
- October 14 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries
- October 20 to 24 (Geneva) — Permanent Committee on Patent Information (PCPI)
- November 17 to 21 (Geneva) — Berne Union and Universal Copyright Convention — Working Group on the overall problems posed for developing countries concerning access to works protected under copyright conventions (convened jointly with Unesco)
- December 1 to 3 (Lomé) — Development Cooperation — African Regional Seminar on Copyright (convened jointly with Unesco)
- December 4 and 5 (Lomé) — African Regional Seminar on Neighboring Rights (convened jointly with ILO and Unesco)
- December 15 to 19 (Paris) — Berne Union and Universal Copyright Convention — Committee of Governmental Experts on Problems Arising from the Use of Computers (convened jointly with Unesco)

UPOV Meetings

1980

- April 27 to May 11 (Nelspruit) — Technical Working Party for Fruit Crops
- May 12 to 14 (Wageningen) — Technical Working Party for Agricultural Crops
- June 23 to 25 (Geneva) — Subgroups of the Administrative and Legal Committee
- August 26 to 28 (Hanover) — Technical Working Party for Forest Trees
- September 16 to 18 (Lund) — Technical Working Party for Ornamental Plants
- September 23 to 25 (Lund) — Technical Working Party for Vegetables
- October 14 (Geneva) — Consultative Committee
- October 15 to 17 (Geneva) — Council
- November 10 to 12 (Geneva) — Technical Committee
- November 13 and 14 (Geneva) — Administrative and Legal Committee

Meetings of Other International Organizations Concerned with Industrial Property

1980

European Patent Organisation:

Administrative Council: June 2 to 6, December 8 to 12 (Munich)

Inauguration of the New Building and Administrative Council (Special Session): September 18 and 19 (Munich)

International Association for the Protection of Industrial Property: November 16 to 21 (Buenos Aires) — 31st Congress

International League Against Unfair Competition: June 1 to 5 (Antwerp) — 26th Congress

