

Industrial Property

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 - Consolidated Secret Patents Act (Secret Patents Act No. 18 of January 27, 1960, as amended by Acts Nos. 215 of May 31, 1968, and 265 of June 8, 1978) Text 2-002

International Unions

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

I. Accession

JAPAN

The Government of Japan deposited, on May 19, 1980, its instrument of accession to 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 is the subject of a separate notification (Budapest Notification No. 7).

Budapest Notification No. 6, of May 21, 1980.

II. Entry Into Force

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, will enter into force on

August 19, 1980,

that is, three months after the deposit by five States of their instruments of ratification or accession.

In this connection, it is recalled that instruments of ratification of the Budapest Treaty were deposited:

- on July 11, 1978, by Hungary;
- on July 19, 1978, by Bulgaria;
- on September 24, 1979, by the United States of America;
- on February 21, 1980, by France;

and that an instrument of accession to the said Treaty was deposited, on May 19, 1980, by Japan.

Consequently, in accordance with the provisions of Article 16(1) of the Budapest Treaty, the said Treaty will enter into force on August 19, 1980, with respect to the five States referred to above.

Budapest Notification No. 7, of May 2, 1980.

Plant Varieties

International Convention for the Protection of New Varieties of Plants

Accession to the Convention and to the Additional Act

SPAIN

The Government of Spain deposited, on April 18, 1980, according to a notification received by the Secretary-General of the International Union for the Protection of New Varieties of Plants (UPOV) from the Swiss Government on April 24, 1980, its instrument of accession to the International Convention for the Protection of New Varieties of Plants, signed at Paris on December 2, 1961, and to the Additional Act

of November 10, 1972, amending the said International Convention.

When depositing, on October 16, 1978, its application for accession, the Government of Spain made the following declaration:

“Pursuant to Article 34(1) of the Convention, the said Convention will apply to the entire territory of the Spanish State.”

(Translation)

Spain will belong to Class V for the purpose of determining the amount of its contribution towards the budget of UPOV.

The said International Convention and Additional Act will enter into force, with respect to Spain, on May 18, 1980.

UPOV Notification No. 14, of April 30, 1980.

General Studies

Industrial Property Rights as Instruments of Consumer Protection

E.D. ARACAMA ZORRAQUÍN*

News from Industrial Property Offices

CANADA

Activities of the Bureau of Intellectual Property in 1977-1978*

Introduction

The Bureau of Intellectual Property is responsible for administering legislation granting temporary legal monopolies to originators of inventive and creative works and regulating the disclosure of such works in forms easily copied or appropriated by others.

The Bureau comprises the Patent Office, the Trade Marks Office, the Copyright and Industrial Design Office, and branches which specialize in research, international activities, and the dissemination of technical information on intellectual property matters.

Patents

The Patent Office administers the Patent Act and Patent Rules, which grant patents for new and often unusual inventions. Examination of patent applica-

tions involves a search for novelty, a decision regarding patentability and verification of compliance with procedural requirements.

The inventor or owner of a patent has the right to exclude others from making, using or selling the invention in Canada for a period of 17 years from the date of the grant.

The *Patent Office Record* is published weekly, providing details of all Canadian patents granted during the previous week. The Patent Office also maintains a search room and library where members of the public may obtain information concerning Canadian and foreign patents. The Office dealt with an average of 935 requests daily, up from 675 each day during the previous fiscal year. Advice was given to patent agents and the general public in response to a total of 2,777 search inquiries.

By March 31, 1978, the complete Office file of 1,028,800 issued patents was organized into 339 main classes of technology, which were then condensed into 32,826 sub-classes. These classes are constantly reviewed, revised or extended as different technologies emerge, and new combinations of known technologies are developed. During the year, seven classes consisting of 624 sub-classes were completely revised; 444 new sub-classes were established and 130 old sub-classes were abolished in the partial revision of existing classes.

* Excerpted from the Annual Report of the Department of Consumer and Corporate Affairs for the same period.

Transactions of the Patent Office

	1976-77	1977-78
Caveats registered	132	141
Applications for patents	25,951	24,969
Applications restored under Section 75	164	118
Applications reinstated under Section 32	157	151
Examiners' Reports	33,553	33,750
Applications allowed	21,363	22,349
Applications forfeited	792	740
Patents issued (for 17 years)	21,110	20,967
Patents reissued	32	28
Patents issued under Public Servants Inventions Act	56	57
Assignments recorded	24,017	22,691
Petitions under Sections 41 and 67	36	23
Duly Registered Patent Agents	1,735	1,731

Patent Appeal Board

The Patent Appeal Board reviews, on request of the Commissioner, final rejections of applications for the grant of patents and for the registration of industrial designs. The Board may hold formal hearings as part of the review procedure, if requested. The Board's findings and recommendations are made to the Commissioner for approval.

	1976-77	1977-78
Patents		
Rejections referred to Board	153	175
Rejections affirmed	61	58
Rejections reversed	7	16
Otherwise disposed of	13	15
Hearings held	40	41
Pending	138	212
Decisions published	34	30
Industrial Designs		
Rejections affirmed	2	7
Rejections reversed	1	2
Hearings held	3	4

Compulsory Licenses

The Commissioner of Patents can grant compulsory licenses for the use of a patented invention that relates to a food or medicine, or that is considered "abused" by not being "worked" as defined in the Patent Act. The following table shows receipts and disposals of applications to the Commissioner for compulsory licenses to use patented inventions.

Applications filed under Section 67 of the Act were made on the grounds of the abuse of patent rights by the patent owner. Those filed under Section 41(4) were for licenses to import or manufacture patented prescription medicines.

	1976-77	1977-78
Section 67		
Applications received	—	1
Licenses granted	—	1
Licenses refused	—	—
Applications withdrawn	2	1
Applications pending	1	1
Section 41(4)		
Applications received	36	22
Licenses granted	29	34
Licenses refused	—	—
Applications withdrawn	—	1
Applications pending	34	20

Industrial Designs

The Copyright and Industrial Design Office administers the Copyright Act, the Industrial Design Act and the Timber Marking Act, and Regulations thereunder.

The outward appearance of an article of manufacture—its shape, pattern or ornamentation—may be registered as an industrial design. Registration of a new design under the Industrial Design Act gives the registered owner sole rights to use the design in Canada for a period of five years, renewable for one further period of five years.

Transactions of the Copyright and Industrial Design Office

	1976-77	1977-78
Industrial Designs		
Applications received	1,680	1,665
Designs registered	1,402	1,520
Registrations renewed	724	601
Assignments recorded	242	241

Trade Marks

The Trade Marks Office is responsible for the administration of the Trade Marks Act. Applications for trade marks are examined and proceed to registration unless the mark applied for is an apt word for use by all traders or confusingly similar to marks already registered in Canada, in which event the application is refused. A newly registered mark remains on the register for an initial period of 15 years. Before a trade mark is licensed, an application for registered user should be applied for at the Trade Marks Office.

Trade mark applications are advertised in the weekly issues of the *Trade Marks Journal* to enable persons to oppose any marks which they feel may

interfere with their existing rights. The Office maintains a public search room for the public to refer to its registers and indexes of registered marks and users.

Transactions of the Trade Marks Branch

	1976-77	1977-78
Trade Mark applications filed	12,849	14,462
Trade Mark applications advertised . .	7,906	8,903
Trade Mark registrations	6,996	7,309
*Registered User applications filed . .	8,888	2,932
Number of trade marks (registered and pending)		10,481
Registered Users registered in respect of trade marks	6,902	6,975
Registered User registrations cancelled in respect of trade marks	2,371	2,686
Transfer Applications filed	4,667	5,558
Transfers registered	6,267	6,672
Trade Mark Registrations renewed . .	3,213	4,061
Trade Mark Registrations expunged . .	3,045	4,611
** Amendments entered on the Register	2,634	4,936
Copies prepared	253,517	330,332
Duly registered Trade Mark Agents . .	2,174	5,629
Oppositions filed	444	432

* In previous years the "Registered User applications filed" line denoted amount of trade marks affected by Registered Users applications filed, and not amount of applications received.

** Changes of address entered incorporated with Amendments entered on Register.

Technical Advisory Services

The Technical Advisory Services Branch continued to increase public awareness of patents, trade marks, copyright and industrial design. Through its participation in 11 industrial exhibitions, the Branch reached about 90,000 Canadians. Various aspects of intellectual property were explained to 1,752 persons through lectures and audiovisual presentations at 39 institutions including universities, community colleges and professional associations. During the year, the branch participated in 11 industrial seminars attended by industrialists, scientists and librarians. These seminars enabled the Branch to exchange information with nearly 800 participants. The Branch also gave 26 interviews to the media.

The Technical Advisory Services Branch and the Patent Office joined with the Science and Technology Department of the Metropolitan Toronto Library in a project to publicize and promote the use of the library's patent documentation. An estimated 5,000 people visited the Science and Technology Department during the week-long project. About 600 visitors were provided with in-depth information and advice on patents and other aspects of intellectual property, and offered technical assistance in searching the library's patent files.

Research and International Affairs

Drafting continued on the recommended revisions to the Trade Marks Act.

Arising from Canada's decision to terminate the Canada-France Trade Agreement, effective March 15, 1978, the Branch proposed that protection of appellations of origin be based on a trade mark registration system, and be included in the upcoming general revision of the Trade Marks Act. This proposal is currently under review.

Proposals for revised patent legislation were considered on the basis of the 1976 *Working Paper on Patent Law Revision*, and the responses received. In addition, the Minister chaired a meeting with private sector representatives to solicit their views on the revision of the Act.

During 1977-78, PATDAT, the computerized data base for patents, proceeded on schedule and at year's end contained information on 55,000 patents. Work was started on a trade mark data base, which ultimately will be linked to PATDAT. An economic research strategy for patents was completed and the resulting research program was well underway. This research entails an evaluation of the patent system. Economic research strategies in the area of trade marks and copyright continued and should be completed during the next year.

Representatives of the Branch were active in revising Canada's role in the Paris Convention for the Protection of Industrial Property, one of the international conventions to which Canada adheres.

News Items

GREECE

*Director of the Directorate of
Commercial and Industrial Property*

We have been informed that Mr. E. Tiranias has been appointed Director of the Directorate of Commercial and Industrial Property.

Calendar

WIPO Meetings

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

1980

- September 8 to 16 (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, Budapest, PCT and TRT Unions; Conference of Representatives of the Paris Union; Executive Committees of the Paris and Berne Unions)
- October 6 to 10 (Geneva) — Locarno Union — Committee of Experts
- 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)
- November 24 to December 5 (Geneva) — Nice Union — Committee of Experts
- 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 8 to 12 (Geneva) — International Patent Classification (IPC) — Committee of Experts
- 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

- 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: 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

