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# World Intellectual Property Organization

## WIPO Convention

### Accession

#### THE GAMBIA

The Government of the Gambia deposited, on September 10, 1980, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

The Gambia will belong to Class C for the purpose of establishing its contribution towards the budget of the WIPO Conference.

The WIPO Convention will enter into force, with respect to the Gambia, on December 10, 1980.

WIPO Notification No. 115, of September 15, 1980.

## International Unions

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

#### Declaration

#### EUROPEAN PATENT ORGANISATION

The European Patent Organisation filed, on August 26, 1980, a declaration to the effect that, pursuant to Article 9(1)(a) 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, it accepts the obligation of recognition provided for in Article 3(1)(a) of the Budapest Treaty, the obligation concerning the requirements referred to in Article 3(2) of the said Treaty and its Regulations applicable to intergovernmental industrial property organizations.

The said declaration will become effective, with respect to the European Patent Organisation, on November 26, 1980.

Budapest Notification No. 8, of August 29, 1980.



## WIPO Meetings

### International Patent Cooperation (PCT) Union

#### Assembly

Fifth Session  
(Third Extraordinary)

(Geneva, June 9 to 16, 1980)

#### Note\*

The Assembly of the International Patent Cooperation Union (PCT Union) held its fifth session (3rd extraordinary) in Geneva from June 9 to 16, 1980. Nineteen of the 29 Contracting States were represented at the session: Australia, Austria, Brazil, Denmark, France, Germany (Federal Republic of), Hungary, Japan, Liechtenstein, Luxembourg, Madagascar, Netherlands, Norway, Romania, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America. Six other States participated in the session as observers: Finland, Italy, Niger, Spain, Turkey and Zaire.

One intergovernmental organization, the European Patent Organisation (EPO), and the following ten international non-governmental organizations, were represented by observers: Council of European Industrial Federations (CEIF), Committee of National Institutes of Patent Agents (CNIPA), European Federation of Agents of Industry in Industrial Property (FEMIP), International Association for the Protection of Industrial Property (IAPIP), International Chamber of Commerce (ICC), International Federation of Inventors' Associations (IFIA), International Federation of Patent Agents (FICPI), International Federation of Pharmaceutical Manufacturers Associations (IFPMA), Union of European Practitioners in Industrial Property (UEPIP), and Union of Industries of the European Community (UNICE). The list of participants follows this Note.

**Amendments to the PCT Regulations.** The Assembly adopted amendments to a number of Rules of the PCT Regulations and to the Schedule of Fees annexed thereto, deleted a few existing Rules and adopted several new Rules. The more significant subjects of the amendments and new Rules are as follows:

microorganisms, late payment of fees, priority documents, competent receiving Office in case of several applicants, date of amendments to claims, communication of copy of international application to designated Offices, effective date of demand for international preliminary examination, delays in the mail, communications by telegram, teleprinter, etc., transmittal of record copy.

**Development of the PCT Union.** The Assembly considered a report by the International Bureau of WIPO on progress to date with regard to ratification of or accession to the PCT (at the time of the session by 29 Contracting States). The Assembly also noted statements by the Delegations of Finland,<sup>1</sup> Italy and Spain concerning progress towards ratification of, or accession to, the PCT by those States and adopted a resolution inviting all States members of the Paris Union for the Protection of Industrial Property which are not members of the PCT Union to take, at an early date, the steps necessary to become members of the PCT Union.

With regard to States parties to regional treaties, the Assembly noted the desirability of all States party to the European Patent Convention or the Libreville Agreement (establishing the African Intellectual Property Organization) to be also party to the PCT in view of the disadvantages which flow from the present situation when certain States party to those treaties are not party to the PCT. As far as the European Patent Convention is concerned, this applies particularly to Belgium and Italy, the only two States party to the said Convention which are not yet party to the PCT.

The Assembly also considered a report on the state of acceptance of Chapter II by PCT Contracting States in which it was indicated that 22 out of the 29 States party to the PCT<sup>2</sup> had accepted Chapter II of the PCT and that most of the seven States which had not accepted Chapter II were expected to accept Chapter II at a later stage. Having noted the state of acceptance of Chapter II of the PCT, the Assembly expressed its interest in the acceptance of Chapter II by all Contracting States of the PCT.

<sup>1</sup> As announced in the statement made by the Delegation of Finland, an instrument of ratification of the PCT was deposited on July 1, 1980, with the consequence that the PCT will enter into effect for Finland on October 1, 1980.

<sup>2</sup> Finland which, in the meantime, became the 30th State to accede to the PCT, accepted Chapter II.

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

## LIST OF PARTICIPANTS\*

## I. Member States

**Australia:** F.J. Smith; D.B. Fitzpatrick; D.A. Freckleton; H. Freeman. **Austria:** H. Marchart. **Brazil:** A.G. Bahadian; G.R. Coaracy; M.M.R. Mittelbach. **Denmark:** D. Simonsen; J. Dam. **France:** G. Vianès; P. Guérin. **Germany (Federal Republic of):** U.C. Hallmann. **Hungary:** Z. Szilvássy; E. Parragh. **Japan:** I. Shamoto; Y. Masuda; S. Uemura. **Liechtenstein:** A.F. Gerliczy-Burian. **Luxembourg:** F. Schlessler. **Madagascar:** S. Rabearivelo. **Netherlands:** J. Dekker; S. de Vries. **Norway:** P.T. Lossius; I. Lillevik. **Romania:** I. Marinescu; T. Melescanu. **Soviet Union:** L. Komarov; E. Buryak; K. Saenko. **Sweden:** E. Tersmeden; L.G. Björklund; B. Sandberg. **Switzerland:** J.-L. Comte; R. Kämpf; M. Leuthold. **United Kingdom:** D.F. Carter; C.G.M. Hoptroff. **United States of America:** H.D. Hoinkes; L. Maassel.

## II. Observers

*States*

**Finland:** P. Salmi. **Italy:** G. Caggiano. **Niger:** H. Alou. **Spain:** J.M. Garcia Oyaregui; A. Casado Cervino. **Turkey:** E. Tümer. **Zaire:** K. Luanda.

*Intergovernmental Organizations*

**European Patent Organisation (EPO):** J. Staehelin; G.D. Kolle; E. Simon.

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

*International Non-Governmental Organizations*

**Council of European Industrial Federations (CEIF):** J.L. Beton. **Committee of National Institutes of Patent Agents (CNIPA):** R.P. Lloyd. **European Federation of Agents of Industry in Industrial Property (FEMIP):** F.A. Jenny; G. Tasset; C. Gugerell. **International Association for the Protection of Industrial Property (IAPIP):** G.R. Clark; G. Tasset. **International Chamber of Commerce (ICC):** R. Hervé. **International Federation of Inventors' Associations (IFIA):** S.-E. Angert. **International Federation of Patent Agents (FICPI):** H. Bardehle. **International Federation of Pharmaceutical Manufacturers Associations (IFPMA):** G. Tasset. **Union of European Practitioners in Industrial Property (UEPIP):** G.E. Kirker. **Union of Industries of the European Community (UNICE):** R. Kockläuner; C.G. Wickbam.

## III. Officers

*Acting Chairman:* J.-L. Comte (Switzerland); *Secretary:* E.M. Haddrick (WIPO).

## IV. International Bureau of WIPO

**A. Bogsch** (*Director General*); **K. Pfanner** (*Deputy Director General*); **E.M. Haddrick** (*Director, PCT Division*); **J. Franklin** (*Deputy Head, PCT Division*); **B. Bartels** (*Head, PCT Legal and General Section*); **D. Bouchez** (*Head, PCT Publications Section*); **N. Scherrer** (*Head, PCT Fees, Sales and Statistics Section*); **V. Trousov** (*Senior Counsellor, PCT Legal and General Section*); **A. Okawa** (*Counsellor, PCT Examination Section*); **F. Simon** (*Consultant, PCT Legal and General Section*).

## General Studies

### **Important Trends in United States Trademark and Unfair Competition Law during the Decade of the 1970s**

J. T. McCARTHY\*









































## News from Industrial Property Offices

### SWITZERLAND

#### Activities of the Swiss Intellectual Property Office in 1978 and 1979\*

##### I. Patents

###### New Legislation

Having been adopted by the Federal Parliament on December 17, 1976, the modifications and complements to the Federal Law on Patents for Inventions and the new Ordinance on Patents for Inventions<sup>1</sup> — except the chapters concerning European patent applications and European patents as well as international patent applications — entered into force at the beginning of 1978. The provisions regarding either European patents and European patent applications or international patent applications only entered into force on June 1, 1978. It has been possible since then to file applications for European patents taking effect in Switzerland with the European Patent Office in Munich and with the receiving Offices of member States of the Patent Cooperation Treaty. The modifications of the Patent Law concern essentially the conditions for patentability, i.e. novelty, inventive step, industrial application and also exclusion from patentability, as well as the term of patent protection.

For organizational reasons, the entry into force of the revised Patent Law in 1978 had caused a considerable delay in the granting of patents, whereas in 1979 the adaptation to the new Law was accomplished successfully. Thus, the number of treated patent applications has again considerably increased and, in 1979, an average of 600 patent applications per month were examined.

Among the problems which the transition created for the various Divisions of the Swiss Office, the following are to be noted:

- In the Administrative Division, detailed instructions had to be worked out and a great number of new forms had to be printed. The training of at least part of the staff and the time-consuming

treatment of European and of international patent applications at first caused a lag with respect to efficiency. However, these obstacles have been overcome and the new system functions well.

- The revision of the Patent Law has had a considerable effect also on the Principal Technical Division. A major difficulty lies in the retroactive application of the new provisions on patent applications filed prior to January 1, 1978.

In connection with the introduction of the European patent procedure, eleven patent examiners from the Swiss Intellectual Property Office were transferred to Munich and The Hague. These transfers, together with the retirement of three patent examiners, signify a reduction of one-fifth in the staff of the Principal Technical Division. It was not possible to fill these vacancies immediately, which had an effect on the number of completed examinations. The examination as to substance as such has, however, been adapted completely to the new law.

###### Patent Trends

The oil crisis and the efforts to economize energy can be noticed in the domain of patents. Thus, applications relating to the production of energy have increased especially as regards the utilization of solar energy. At the same time, applications filed for so-called "*perpetuum mobiles*" have increased.

###### The Effect of the European Patent Convention and the Patent Cooperation Treaty on the Activities of the Office

The possibility to choose among three international patent systems, that is to say to file either a European, a PCT or a "Euro-PCT" application, has had an effect on the number of national applications.

In this connection, three tendencies can be noticed:

- The number of national patent applications filed by Swiss residents has remained practically the same (1978: 4,528; 1979: 4,441).
- On the other hand, the total number of national patent applications (domestic and foreign patent applicants) has diminished (1978: 13,314; 1979: 11,540).

\* Excerpted from the reports issued by the Swiss Intellectual Property Office for 1978 and 1979.

<sup>1</sup> See *Industrial Property Laws and Treaties, SWITZERLAND* — Text 2-001 (*Industrial Property*, June 1978) and Text 2-002 (*Industrial Property*, July/August 1978).

— Finally, the total number of applications for patent protection in Switzerland has increased. The respective figures are composed of all national applications and regional applications in which Switzerland is a designated State (1978: 15,648; 1979: 19,308).

From these three statements it can be concluded that the slightly diminishing total of national patent applications in Switzerland is due to the fact that fewer foreigners apply for patent protection in Switzerland by means of the national procedure. The interest, however, in protecting an invention in Switzerland has not lessened. It may be expected that despite the increase in patent applications, there will be no patent proliferation; because of the different examining procedures, the number of European applications resulting in a patent will be proportionately fewer than applications coming from Switzerland.

## II. Trademarks

### New Legislation

The Swiss Intellectual Property Office has resumed the preparatory work for a total revision of the Trademark Law of 1890. The new law will take into account international tendencies with respect to the protection of trademarks and the work already accomplished for the introduction of a Community trade mark for the EC Member States.

Among other innovations, it is expected that the new law will provide for the registration of service marks, granting the right to a mark upon registration (up to now the right to the mark resulted from its usage), as well as reinforcing the obligation to use the mark. In addition, it is intended to provide a registration procedure which will prevent the registration of marks likely to cause confusion.

### Registration

An event celebrated in 1979 was the registration of the 300,000th national trademark. The fast development in this domain can be illustrated by the fact that from 1880 it had taken 61 years until the 100,000th trademark was registered. The number of registrations increased to 200,000 within only 22 years and, after just another 16 years, the 300,000th registration followed.

The number of applications increased in 1979 compared with 1978. For the first time since 1972, the number of applications has exceeded 6,600.

For administrative reasons, however, a decrease in the number of trademark registrations is to be noted.

## III. Industrial Designs

According to the Hague Agreement, industrial designs can be filed internationally with the World Intellectual Property Organization (WIPO) in Geneva. Switzerland used the possibility to provide, in the Federal Law on Industrial Designs of March 30, 1900, for an international deposit filed in Geneva by a Swiss resident to have a legal effect also in Switzerland. In other words, a Swiss applicant who "follows the international route" obtains protection in Switzerland for his deposit without also having to file a national application. Therefore, in order to gain an indication of the interest in protecting designs in Switzerland, it is necessary to total the number of national deposits with those filed internationally by Swiss residents. This method of calculation is important for Switzerland, as more than one-third of all international deposits originate from Switzerland.

In 1979, the Swiss Office entered 666 deposits. Of the 1,733 international deposits filed in the same year, 630 (36.3%) were of Swiss origin. Consequently, a total of 1,296 deposits had a legal effect in Switzerland in that year.

## IV. International Activities

*A Treaty on Patent Protection between Liechtenstein and Switzerland* was signed in Vaduz on December 22, 1978.<sup>2</sup> This Treaty, which unites the two Contracting States in a unified territory of patent protection, was discussed and approved by the Swiss Parliament in 1979. The Governments of the Contracting States concluded an Implementing Agreement to this Treaty which deals in a more detailed manner with certain procedures for the authorities concerned.

The *Geneva Protocol to the Hague Agreement for the International Deposit of Industrial Designs* was approved by the Swiss Parliament in 1977 and entered into force on April 1, 1979, after the deposit of the instrument of ratification by Switzerland. The Assembly and the Conference of the Hague Union issued new implementing regulations on the occasion of an extraordinary session in Geneva under the guidance of its Swiss Chairman. According to these regulations, a reproduction will be published of all designs whose protection is sought by means of international deposits; these deposits will be subjected to the same examination by the Swiss Office as that for national deposits.

The negotiations between Switzerland and Hungary for the conclusion of a treaty on the protection of

<sup>2</sup> See *Industrial Property Laws and Treaties — BILATERAL TREATIES — Text 2-001 (Industrial Property, July/August 1980)*.

indications of source, appellations of origin and similar denominations, which had started in Berne in October 1978 and were continued in Budapest in April 1979, ended with the signature of the Treaty at the end of 1979.

Within the context of the "North-South Dialogue," the Swiss Office has given assistance to other Federal departments in connection with problems falling within its competence. Thus, the Swiss Office was consulted in connection with the preparatory work of UNCTAD V and the United Nations Conference on Science and Technology for Development (UNCSTD).

The Swiss Office is, however, also directly represented in Swiss Delegations, for instance, at meetings held under the auspices of WIPO, and at the Conference on the Draft Code of Conduct on the Transfer of Technology, which met under the guidance of UNCTAD. In addition, the Swiss Office has been consulted on various occasions, in particular on the preparation of the third UNIDO Conference and for discussions within OECD which related to the international exchange of services.

#### V. Development Assistance

As in previous years, a number of trainees from developing countries worked with the Swiss Intellectual Property Office to improve their knowledge of intellectual property matters. The training formed part of the WIPO Permanent Program for Development Cooperation Related to Industrial Property, the Program for Technical Assistance of the Federal Department of Foreign Affairs and the United Nations Development Programme (UNDP).

Within the framework of WIPO and UNDP, work began on the establishment of an African Patent Documentation and Information Center (CADIB) at the headquarters of the African Intellectual Property Organization (OAPI) at Yaoundé (Cameroon). This Center is particularly intended to further the technical and industrial development of the twelve member States as well as their scientific and technical cooperation. The project is financed by UNDP, OAPI, Germany (Federal Republic of), France, and Switzerland. It is supervised by the World Intellectual Property Organization. The aforementioned three States put at its disposal experts for the establishment of the Center, stipends for the instruction of its staff members in Europe, as well as means for the purchase of furniture and equipment.

An official of the Swiss Office is attached to this project as an organization expert. During his initial stay at Yaoundé, he prepared the outlines for the organization of the Center as well as proposals for efficient collaboration between the various services of OAPI and the future Center.

#### VI. Documentation

The Swiss Office maintains a voluminous collection of patent documents. It thus meets its legal obligation to put at the disposal of the public information on the state of the art. This documentation mainly consists of publications by national and international patent authorities, such as unexamined and examined patent applications and patent specifications. These documents reproduce, by description and illustration, the technical contents of inventions and also contain bibliographic data.

The essential part of this collection is called the "Central Collection of Patent Specifications (ZPS)." Patent documents from Switzerland, the United States of America, Germany (Federal Republic of), the United Kingdom, the Netherlands, France, Austria and recently also documents published by the European Patent Office, and international applications published in accordance with the Patent Cooperation Treaty, are systematically arranged in this Collection. The Collection is at the disposal of the public, and interested persons who wish to be informed on the state of the art of a particular technical field often make use of it.

The patent documents are arranged according to the International Patent Classification (IPC) system.

In addition to the ZPS, other numerical collections are maintained by the Swiss Office; in addition, collections of national specifications can be found in ten Swiss cities (Basel, La Chaux-de-Fonds, Chur, Geneva, Grenchen, Liestal, Lugano, Neuchâtel, Schaffhausen and Zurich).

At the end of 1979, the Office applied to join "Euronet" "Euronet" is a European Communities electronic data bank for information retrieval. Of the different data banks accessible through "Euronet," the Swiss Office initially plans to obtain direct access to the European patent register and thus to the bibliographic data concerning European patents and patent applications.

The Office will endeavor to put this new means of information also at the disposal of the public.

The necessity to join other data banks accessible through "Euronet" will be examined in the future.

Through the CAPRI System (Computerized Administration of Patent Documentation, Reclassified According to the International Patent Classification), information on patent documents classified according to the IPC can be stored. These documents are used mainly as a basis for international search reports according to the Patent Cooperation Treaty (PCT). The documentation was established in close cooperation with several national patent offices, the European Patent Organisation (EPO), WIPO and the International Patent Documentation Center (INPADOC), the latter being responsible for the

electronic recording of the data. Since the end of 1979, the Swiss Office has had at its disposal the necessary means to use this system.

The CAPRI System will make it possible for the Office to enlarge its Central Collection of Patent

Specifications (ZPS) by reclassifying earlier domestic and foreign patent documents and integrating them into ZPS. In addition, the Office will be in a position to give better information on patent documents in various technical fields.

## Calendar

### WIPO Meetings

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

#### 1980

**November 17 to 21 (Geneva) — Berne Union and Universal Copyright Convention — Working Group on the formulation of guiding principles covering the problems posed by the practical implementation of the licensing procedures for translation and reproduction under copyright conventions (convened jointly with Unesco)**

**November 24 to 28 (Vienna) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information — Subgroup on IPC Class B 60**

**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 1 to 5 (Paris) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information — Subgroup on IPC Class G 01, etc.**

**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 — Committee of Governmental Experts on Problems Arising from the Use of Computers (convened jointly with Unesco)**

### UPOV Meetings

#### 1980

**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:** December 8 to 12 (Munich) — Administrative Council

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