

Industrial Property

Published monthly
Annual subscription:
Sw.fr. 115.—
Each monthly issue:
Sw.fr. 12.—

20th Year - No. 4
April 1981

Monthly Review of the
World Intellectual Property Organization (WIPO)

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ISSN 0019-8625

World Intellectual Property Organization

WIPO Convention

Accession

COSTA RICA

The Government of Costa Rica deposited, on March 10, 1981, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

The WIPO Convention will enter into force, with respect to Costa Rica, on June 10, 1981.

WIPO Notification No. 116, of March 12, 1981.

International Unions

Nice Agreement (Classification/Marks)

Accession to the Geneva Act (1977)

DENMARK

The Government of Denmark deposited, on March 3, 1981, its instrument of accession to the Geneva Act of May 13, 1977, of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of June 15, 1957, as revised at Stockholm on July 14, 1967.

The Geneva Act (1977) of the said Agreement will enter into force, with respect to Denmark, on June 3, 1981.

Nice Notification No. 49, of March 3, 1981.

Budapest Treaty (Microorganisms)

I

Acquisition of the Status of International Depositary Authority

FERMENTATION RESEARCH INSTITUTE

The following written communication addressed to the Director General of WIPO by the Government of Japan under Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on March 17, 1981, and is published by the International Bureau of WIPO pursuant to Article 7(2)(a) of the said Treaty:

1. The Government of Japan, referring to Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, hereby assures that the Fermentation Research Institute, Agency of Industrial Science and Technology, Ministry of International Trade and Industry, complies and will continue to comply with the requirements specified in Article 6(2) of the Budapest Treaty.

2. Information on the Depositary Institution

(1) Name and address:

Name: Fermentation Research Institute,
Agency of Industrial Science and
Technology,
Ministry of International Trade and
Industry
(hereinafter referred to as "FRI")
Address: 1-3, Higashi 1-chome, Yatabe-machi,
Tsukuba-gun, Ibaraki-ken 305,
Japan

(2) Detailed information as to the capacity of FRI to comply with the requirements specified in Article 6(2):

FRI, founded in 1940 as one of the national institutes of Japan, carries out research on fermentation, the application of the functions of microorganisms to mining, industry, environmental sanitation, etc. Because of its high level of performance in research activity, this institute has established its reputation as an efficient organ.

FRI has been performing depositary tasks, such as issuing a receipt, storing and furnishing samples of microorganisms, in conformity with the relevant requirements under the Japanese Patent Law. Since its inauguration in 1968 as the sole authorized depositary insti-

tution in Japan, FRI has received about 6,000 deposits in connection with Japanese patent applications.

Of its staff of 84 persons, seven are engaged in depositary tasks. All its staff members are government officials, and adequate measures are taken with regard not only to the safeguarding of secrecy, but to the ensuring of objectivity and impartiality.

FRI has a fire-and-earthquake-proof building for deposits and a backup generator for emergency purposes.

(3) Kinds of microorganisms to be accepted:

FRI will accept for deposit under the Budapest Treaty the following: Fungi, Yeast, Bacteria and Actinomycetes, EXCEPT:

(i) microorganisms having properties which are or may be dangerous to health or the environment;

(ii) microorganisms which need the physical containment level P2, P3 or P4 required for experiments, as described in the 1979 Prime Minister's Guideline for Research involving Recombinant DNA Molecules.

(4) Fee schedule:

storage	original deposit	Yen 158,400
	new deposit	9,400
the attestation referred to in Rule 8.2		1,200
the issuance of a viability statement	if the depositor, when requesting the issuance of the viability statement, also requested a viability test	5,100
	in other cases	1,200
the furnishing of a sample		6,600
the communication of information under Rule 7.6		1,200

(5) Official language: Japanese.

(6) Date referred to in Article 7(1)(b) (date on which the status of international depositary authority should take effect):

May 1, 1981.

[End of text of Communication]

Pursuant to Article 7(2)(b) of the Budapest Treaty,

the Fermentation Research Institute acquires the status of international depositary authority as from May 1, 1981.

Budapest Communication No. 3 (this Communication is the subject of Budapest Notification No. 15, of March 31, 1981).

II

Change in Fees under Rule 12.2 of the Regulations under the Budapest Treaty

AMERICAN TYPE CULTURE COLLECTION

The following notification addressed to the Director General of WIPO by the Government of the United States of America under Rule 12.2(a) of the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on March 23, 1981, and is published by the International Bureau of WIPO pursuant to Rule 12.2(b) of the said Regulations:

The Fee Schedule of the American Type Culture Collection as published in the January 1981 issue of *Industrial Property* is replaced by the following Fee Schedule:

FEE SCHEDULE

The fee for storage is US\$ 870 or, if the right under Rule 11.4(g) to be notified of the furnishing of samples is waived, US\$ 570.

The fee for the issuance of a viability statement is:

– bacteria (without plasmids)	US\$ 100.00
– fungi (including yeast)	100.00
– protozoa	100.00
– algae	100.00
– animal cell cultures (including hybridoma lines)	fee must be decided on an individual basis*
– animal and plant viruses	individual basis*
– bacteria (with plasmids)	individual basis*

The fee for the furnishing of a sample under Rules 11.2 and 11.3 is (per sample):

– selected samples furnished to high schools	US\$ 9.00**
– non-profit institutions:	
– selected samples for educational use	19.50**

* The testing of some of these items may require testing in animals (i.e., horse) or other expensive procedures, and the fee cannot be determined until the exact nature of the material is known.

** Shipping charges are to be added to the fee itself.

– other samples	34.00**
– commercial firms	54.50**

[End of text of the Notification of the Government of the United States of America]

The fees set forth in the said notification of the Government of the United States of America will apply as from the thirtieth day following the date (April 30, 1981) of the publication of the said fees in the present issue of *Industrial Property*, that is, as from May 30, 1981 (see Rule 12.2(c) of the Regulations under the Budapest Treaty), and will replace the fees published in the January 1981 issue of *Industrial Property*.

Budapest Communication No. 4 (this Communication reproduces the text of the Notification of the Government of the United States of America and is the subject of Budapest Notification No. 16, of April 6, 1981).

III

Requirements Communicated under Rule 6.3(b) of the Regulations under the Budapest Treaty

A

AMERICAN TYPE CULTURE COLLECTION

A form established by the American Type Culture Collection (ATCC), and which can be obtained from the ATCC, must be completed in English and returned to the ATCC along with six ampoules of the microorganism. The microorganism must be packaged in compliance with Section 72.25 of Part 72, Title 42, Code of Federal Regulations and Packaging and Shipping Recommendations cited in the ATCC Catalogue.

The fee for storage must be paid before the microorganism can be accepted.

B

AGRICULTURAL RESEARCH CULTURE COLLECTION

A microorganism deposit form established by the Agricultural Research Culture Collection (NRRL), which may be obtained from the NRRL or reproduced by the depositor, must be completed in English for each microorganism and returned to the NRRL.¹

¹ See also *Industrial Property*, January 1981, p. 23.

C

FERMENTATION RESEARCH INSTITUTE

According to Rule 6.3(a) of the Regulations under the Budapest Treaty, the Fermentation Research Institute (hereinafter referred to as "FRI") requires the following:

1. The depositor must transmit more than five samples of the microorganism. It is strongly recommended that the samples be transmitted in the form of lyophilized preparations.

2. The form established by FRI and duly completed by the depositor shall be furnished.

3. The written statement referred to in Rule 6.1(a) or 6.2(a) must be drafted in Japanese.

4. The depositor must pay the fee for storage referred to in Rule 12.1(a)(i).

5. The depositor must accept that FRI is not liable for any damage resulting from the tasks which have been performed under the Budapest Treaty and the Regulations.

WIPO Meetings

Budapest Union (Microorganisms)

Assembly

Second Session

(Geneva, January 12 to 20, 1981)

NOTE*

The Assembly of the Budapest Union for the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure held its second session in Geneva from January 12 to 20, 1981.¹ Eight member States (Bulgaria, France, Germany (Federal Republic of), Hungary, Japan, Spain, United Kingdom, United States of America) were represented, and 13 others (Denmark, Finland, India, Indonesia, Italy, Luxembourg, Netherlands, Norway, Soviet Union, Sweden, Switzerland, Turkey, Zaire) were represented in an observer capacity; one inter-governmental organization was represented as a special observer and four international non-governmental organizations were represented as observers. The list of participants follows this Note.

Questions Raised During the Third Session of the Interim Committee

During its second session, the Assembly studied certain questions raised during the third session of the Interim Advisory Committee for the preparation of the entry into force of the Budapest Treaty.²

* This Note has been prepared by the International Bureau.

¹ For a Note on the first session of the Assembly, see *Industrial Property*, 1980, p. 255.

² For a Note on the third session of the Interim Committee, see *Industrial Property*, 1980, p. 243.

Date of the Deposit

Following a detailed discussion, the Assembly reached the conclusion that acceptance of a microorganism by an international depositary authority (and, consequently, the issuance of a receipt) took place once all the validity requirements for the deposit had been satisfied, but that such acceptance had a retroactive effect to the date on which a single requirement had been satisfied, that is to say, actual receipt of the microorganism by the international depositary authority; that requirement was not satisfied, however, if the deposit was received in a condition which precluded for scientific reasons the acceptance of the microorganism.

The Assembly further examined the case of an international depositary authority having ascertained the viability of an accepted microorganism and having submitted it to a process such as freezing or freeze drying, subsequently returning the processed microorganism to the depositor for the latter to check its authenticity and properties, and the depositor ascertaining that the returned microorganism differed from that which he had deposited. In such a case, the depositor could not deposit a replacement sample of the microorganism under the original deposit but he could make a new deposit under Article 4 of the Treaty.

Possibility of Making a New Deposit in the Absence of any Statement on Viability

The Assembly was unable to agree on the question whether the depositor had the right to make a new deposit under Article 4 of the Budapest Treaty in the case where no statement was issued on the viability of the microorganism that was the subject of the original deposit because, for example, the international depositary authority had ceased to perform its functions between the time of the original deposit and that of the

completion of the first viability test; the Assembly therefore took no decision in this regard.

A further question that remained open and was reserved for further study was whether it was possible for a depositor to furnish additional samples of a microorganism under the original deposit or a new deposit under Article 4 of the Budapest Treaty in cases where the required number of samples which he had deposited had not been sufficient to complete the first viability test.

Amendments to the Regulations under the Budapest Treaty

The Assembly adopted amendments relating to Rules 5.1(e), 6.1(a)(i) and (v), 6.2, 6.3(a), 7.3(iii), 7.4, 7.5, 7.6, 10.2(b)(iii), 11.4(b), 11.4(f) and 12.1(a)(iv) and (v) of the Regulations under the Budapest Treaty, and also adopted new Rules 6.4, 11.5 and 12bis. These amendments to the Regulations, which were published in a supplement to the January issue of *Industrial Property*, entered into force on January 31, 1981. A consolidated text of the Regulations under the Budapest Treaty is contained in this month's issue of *Industrial Property Laws and Treaties*.

Agreed Interpretations

The Assembly adopted agreed interpretations to the Budapest Treaty and the Regulations thereunder. These agreed interpretations are reproduced at the end of this Note. In addition, the Assembly agreed on the following points.

In connection with Rule 6 of the Regulations, it was understood that the international depositary authority and the depositor could conclude a contract concerning, for example, what the international depositary authority was to do with anything that may remain of the microorganism following a viability test which resulted in a negative outcome or what the international depositary authority was to do with a microorganism on expiry of the period referred to in Rule 9.1. However, it was understood that the conclusion of such a contract could not be a condition for accepting a microorganism since the acceptance requirements were exhaustively listed in Rules 6.1(a), 6.2(a) and 6.3(a) in accordance with Rule 6.4(b).

In connection with Rule 6.4, it was understood that a depositor, after having made a deposit outside the Budapest Treaty with an international depositary authority, could subsequently convert such deposit to a deposit under the Treaty if he satisfied all the requirements referred to in Rule 6.4(b), without it being necessary for him to deposit the microorganism again, and that the date of the deposit would be the date on which the microorganism had been received

by the international depositary authority. It was understood that the depositor's successor in title, who had the same rights as the depositor himself, also had the right to make such a conversion and the right to use the possibility offered by Rule 6.4(d).

No decisions were taken, on the other hand, on whether a person who was neither the depositor nor his successor in title should be entitled to make such a conversion or use the possibility offered by Rule 6.4(d), and on whether a person should be able to make a deposit under the Budapest Treaty by referring to a microorganism already deposited under the Treaty by someone in relation to whom he was not the successor in title, and therefore without having to physically re-deposit the microorganism. It was agreed that those matters would be put on the agenda for the forthcoming session at which the Assembly was to discuss substantive questions, but that until then those possibilities would not exist.

In connection with Rule 6.4(b), it was understood that, when notifying the depositor that a validity requirement for the deposit was not met, the international depositary authority could set a reasonable time limit for the depositor's response and, if he did not respond within that period of time, could destroy the deposit.

In connection with Rule 6.4(d), it was understood that, where all requirements for the acceptance of the microorganism under the Budapest Treaty and its Regulations were not met at the time the depositor requested conversion into a deposit under the Treaty of a deposit made before the status of international depositary authority had been acquired, the depositor had the possibility of complying with the requirements at a later date and of continuing to benefit from the date on which such status had been acquired.

It was moreover agreed that, in the cases referred to in Rule 6.4(d), the international depositary authority had to issue a receipt under Rule 7, carry out a viability test under Rule 10.1(i) and issue a viability statement under Rule 10.2(a)(i). It was understood that if the international depositary authority received a great number of requests under Rule 6.4(d) on acquiring the status of international depositary authority, the above operations were liable to be delayed somewhat. It was pointed out, however, that there was little likelihood of a great number of requests being made under Rule 6.4(d) owing to the fact that most patent laws required the deposit of a microorganism only if the latter was not already available to the public.

In connection with Rule 11.4(f), it was understood that an international depositary authority was not obliged to furnish a sample of a microorganism with dangerous properties to a person whom it had good reason to believe was unable to handle the microorganism with the necessary care, even if the conditions of Rule 11 were met.

Forms

The Assembly designated English, French, Russian and Spanish as the languages in which the Director General of WIPO was to establish models of the "international forms" under the Budapest Treaty. It was understood that an international depositary authority whose official language or one of whose official languages, as indicated under Rule 3.1(b)(v) of the Regulations under the Treaty, was a language other than any of those four could draw up the international forms in that language.

The Assembly fixed the contents of the form referred to in Rule 11.3(a), which deals with the furnishing of samples to certified parties. It was understood that the Assembly could subsequently change the contents of that form if necessary.

The revised version of the forms was published in document BP/A/II/12, which may be obtained from the International Bureau.

AGREED INTERPRETATIONS

1. *Kinds of Microorganisms*

For the purposes of the Budapest Treaty and the Regulations thereunder, microorganisms having dangerous properties are considered "kinds" of microorganisms.

2. *Meaning of the Expression "Original Deposit" in Article 4*

In Article 4 of the Treaty, the expression "original deposit" (as well as the expression "originally deposited") should be understood in the sense of "previous deposit" as defined in Rule 6.2(c), with one exception in paragraph (1)(d) of Article 4: in that provision, the words "original deposit" as used in the expression "on the date on which the original deposit was made" should be understood as referring to the very first deposit since the fact of making two or more new deposits in succession should allow the depositor to retain the benefit of the first "date of the deposit" accorded to him.

3. *Requirements of Rule 6.1(a)(iii)*

The requirements of Rule 6.1(a)(iii) are not complied with not only where the depositor has not furnished the description or descriptions provided for therein, but also in each of the following two cases:

(i) the indications furnished do not permit the microorganism to be cultivated or stored or its viability to be tested;

(ii) where the deposit relates to a mixture of microorganisms, the indications furnished do not permit the presence of the components of the mixture to be checked.

4. *Consequences of Negative Results of a Viability Test*

If the results of a viability test are negative, any consequence arising from the lack of viability is governed by the applicable national or regional law; moreover, the international depositary authority, subject to any contractual obligations it may have entered into with the depositor, is under no obligation in respect of whatever may remain of the deposited microorganism and is not obliged to reimburse the storage fee either in whole or in part. If the viability test is the first made after the original deposit, the depositor does not have the right to make a new deposit under Article 4.

LIST OF PARTICIPANTS*

I. Member States

Bulgaria: D. Mirchanova; I. Kotzev. **France:** P. Guérin; D. Darmon; J.-Y. Riou. **Germany (Federal Republic of):** U.C. Hallmann. **Hungary:** Z. Szilvássy; E. Parragh. **Japan:** I. Shamoto; S. Uemura. **Spain:** A.C. Ortega Lechuga; R. Vasquez de Parga y Pardo. **United Kingdom:** D.F. Carter; C.G.M. Hoptroff. **United States of America:** S.D. Schlosser; J.P. Riley.

II. Observer States

Denmark: D.A. Simonsen; G. Lütken. **Finland:** H.I. Lommi. **India:** S.A. Das. **Indonesia:** H. Reksodiputro. **Italy:** S. Samperi; M. Bellenghi. **Luxembourg:** F. Schlessler. **Netherlands:** J.D. Tak; J.J. Bos. **Norway:** H. Svendsen. **Soviet Union:** L.E. Komarov; G. Gudkov; L. Komarova; L.V. Kalakoulsky; V. Poliakov. **Sweden:** R. Walles. **Switzerland:** J.-L. Comte; R. Kämpf. **Turkey:** E. Tümer. **Zaire:** E. Esaki.

III. Intergovernmental Organization (Special Observer)

European Patent Organisation (EPO): L. Gruszow.

IV. International Non-Governmental Organizations

European Federation of Agents of Industry in Industrial Property (FEMIP): B.S.H. Martin; H. Becker. **International Federation of Patent Agents (FICPI):** J.-F. Leger. **Union of Industries of the European Community (UNICE):** J. Utermann. **World Federation of Culture Collections (WFCC):** R.E. Stevenson; B. Brandon.

V. Officers

President: S.D. Schlosser (United States of America). **Vice-Chairmen:** P. Guérin (France); Z. Szilvássy (Hungary). **Secretary:** F. Curchod (WIPO).

VI. International Bureau of WIPO

K. Pfanner (Deputy Director General); L. Baeumer (Director, Industrial Property Division); F. Curchod (Head, Special Projects Section, Industrial Property Division); A. Ilardi (Senior Legal Officer, Special Projects Section).

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

General Studies

Industrial Property and the Social System *

S. PRETNAR **

News from Industrial Property Offices

FRANCE

Activities of the National Institute of Industrial Property (INPI) in 1979*

Patents

The effect of international procedures (European patent and PCT) is still noticeable. If one disregards the negligible rise in utility certificate applications, a general drop has been noted, except in the number of notifications of "second draft documentary reports":

*This report is excerpted from INPI's Activity Report for 1979.

	1979	1978	%
Patent applications filed	32,174	37,137	- 13.5
including utility certificates .	456	389	+ 16.5
Search requests (forwarded to EPO)	29,066	33,261	- 12.5
Notifications of first draft documentary reports or search reports	23,964	25,352	- 5.5
Notifications of second draft documentary reports	24,617	20,294	+ 21.5
Publication of applications	34,190	39,312	- 13
Patents granted	24,618	30,530	- 19.5
including utility certificates (on application or resulting from conversion of patent applications)	5,105	3,777	+ 35

Analysis of the distribution of patent applications over the three technical sectors (mechanical engineering, physics and electricity, chemistry) reveals relative stability in relation to the situation in 1978, with just a slight increase in physics and electricity at the expense of mechanical engineering and, above all, chemistry. If no account is taken of European patent applications, there has been a relatively substantial drop in chemistry (from 25.4% to 20.8%), which contrasts with a rise in mechanical engineering (from 49.7% to 54.2%) and a stable situation in physics and electricity (25%).

The improvement in the quality of the protection afforded by the French patent as a result of the reform of the Law of July 13, 1978,¹ may cause an increase in interest in this protection as compared with international systems which, in turn, should slow down the decline in applications. The new provisions only came into force towards the end of 1979, and so it is only from 1980 onwards that this claim can be verified.

What is more certain is that the increase in the number of filings with the European Patent Office will speed up the decline in applications of foreign origin, which is bound to be accelerated further by the growing number of international applications resulting from the extension of the territorial scope of the PCT.

In spite of the drop in applications, the need to shorten the delays in the issuance of documentary reports and the implementation of the new procedures provided for in the Law of July 13, 1978, will cause a short-term increase in the INPI work load.

Even though it has only an indirect bearing on these forecasts, there is one significant factor that has to be taken into account, namely the increase in applications for protection in France, most of which are of foreign origin (73%).

Compared with 1977, this is an 8% increase, and it will continue upwards until the annual number of European and PCT applications has stabilized. The number of grants of protection will be commensurate with the strictness of EPO examinations.

The percentage drop in applications for French patents in relation to the number of patents sought under international agreements, which was 0.8 in 1978 and 0.45 in 1979, should be compared with the percentage of European patents granted if the effect of those agreements on the protection obtained in France by means of patents is to be ascertained. 1980 will provide the first indications in this regard.

Trademarks and Service Marks

The law of marks is governed by the Law of December 31, 1964 (as amended by the Law of June

30, 1975).² The procedure for the registration of marks includes a legal examination of the distinctive character and freedom from deceptive character of the sign filed, and an administrative examination as to form.

Compared with the 1978 figures, applications for marks under national procedures suffered a definite downturn in 1979, as the table below shows:

<i>Breakdown of Applications for Marks</i>	1979	1978	%
Applications filed in France			
first applications	21,576	20,985	+ 3
renewal applications	17,321	29,084	-40
Total national applications . . .	38,897	50,069	-22
Extensions to France of foreign international applications filed with WIPO (first applications and renewals)	7,882	7,680	+ 3
Franco-Italian marks from Italy	230	40	
Overall total	47,009	57,789	-19

The increase in the activities of the legal service shows up very clearly in the number of final decisions issued in 1979, comprising total rejections, lifting of objections following observations by applicants or partial rejection decisions:

<i>Action by the Legal Service</i>	1979	1978	%
Marks examined (national and international)	49,265	61,530	-20
Marks notified	2,553	2,876	-11
Partial rejection decisions	698	366	+90
Total rejection decisions	1,293	1,119	+16
Lifting of objections	363	305	+19

The increase in productivity noted at all procedural stages made it possible in 1979 to shorten substantially the reply periods in the actual administrative procedure.

These periods will be maintained in 1980, and even improved if possible, even though a considerable increase in renewal applications is expected in the course of the year (involving a large number of applications filed for a period of 15 years prior to July 31, 1965).

Work is now in progress on the improvement of the quality of the official publication of marks, and it should be possible to put a satisfactory solution into effect in 1980.

Finally, the work of the commission on the reform of the Law of December 31, 1964, will continue.

Designs

During 1979 design deposits were still made with the conciliation boards (*conseils de prud'hommes*) and

¹See *Industrial Property Laws and Treaties, FRANCE* — Text 2-001.

the commercial and first-instance courts, which keep secret those deposits that are made for five years; these deposits represent about 45% of the total of designs deposited:

Number of Designs Deposited	1979	1978	%
— with the secretariats of the conciliation boards	11,683	11,860	-1.5
— with the registries:			
of the commercial courts	1,841	1,529	+20
of the first-instance courts	457	488	-6.5
Total	13,981	13,877	+0.75

	1979	1978	%
Deposits forwarded to INPI	3,624	3,381	+ 7
Design deposits published	5,905	6,620	-11
Designs secret for 25 years	1,073	1,151	- 7
Certificates of identity	1,460	1,425	+ 2.5
Perforated <i>Soleau</i> envelopes	9,966	9,017	+10.5
<i>Soleau</i> envelopes extended	1,614	2,200	26.5

INPI has begun, in collaboration with the Industrial Creation Center, an exhibition of designs which, like the exhibition of marks in 1977, will take place at the Georges Pompidou Center in 1981 before it is taken on tour to the main cities of France.

In addition, a working group will be set up to consider the extent to which the design protection system could be improved.

National Registers of Patents and Marks

The National Registers of Patents and Marks, established respectively under the Law of January 2, 1968, on Patents, as amended by the Law of July 13, 1978, and under the Law of December 31, 1964, on Marks, as amended by the Law of June 30, 1975, contain entries relating to acts of transfer, grant or amendment of the rights attaching to each patent or mark, such entries being made either at the request of the owner of the rights or *ex officio*, following a court decision.

The entries are binding on third parties and are published in the Official Bulletin of Industrial Property (BOPI).

In 1979 entries were made in respect of 7,959 patents (1978: 7,789, or +2.2%) and 14,829 marks (1978: 15,785, or -6.2%), although in fact the number of entries remained essentially the same from one year to the next, as the number of patents or marks concerned by one entry can vary considerably depending on the nature of the legal act.

Entries are brought to the notice of the public by the weekly publication of notices in the Official Bulletin

of Industrial Property, their full text being obtainable on request. The number of requests for copies of entries, which has increased by almost 50% in the four years from 1974 to 1978, has shown a slight downturn this year (-3.4% in relation to 1978) owing to the drop in the number of patent applications and requests for the renewal of marks.

The Law of July 13, 1978, gave INPI new potential. Apart from the extension of its competence with respect to the reinstatement of lapsed patents, the Institute is now able, under certain circumstances, to reduce by 60% the patent fees payable by persons whose resources are insufficient. As a result, 42 applications have been handled since the entry into force of the Decree of September 19, 1979.³ Another facility available to patent owners is their admission to the benefits of the "license of right" system, whereby the patent owner, by offering the exploitation of the patented invention to the public, secures a 40% reduction in annual fees: 14 requests for such admission have already reached INPI. The new provisions are implemented by the National Patent Registry in cooperation with the Patent Division.

The Registry had also to create, for the purposes of the application of the European Patent Convention, "European patent" and "European patent application" files for the *ex officio* entries provided for in the Decree of October 10, 1978,⁴ including among other things the provision of the translation and of the revised translation of the claims of the European patent application and the provision of the translations of European patents.

These files are expected to grow in proportion to the growth of the Register of European Patents, and the use of data processing equipment is being considered. In addition, a terminal connected to EURONET will give the public access to the European Register as from the second quarter of 1980.

Finally, the Rapid Information Service (SIR) to be introduced by INPI will also pass on the information contained in the National Patent Register to the public.

These new tasks, and the anticipated growth of the Public Information Service, due among other things to its cooperation with the European Patent Office, are causing a considerable increase in the workload on the National Registries of Patents and Marks, without any increase in the budgeted staff of the service (27 agents) and as yet without any noticeable downward trend in the number of patent applications being recorded.

³*Ibid.*, Tex1 2-006.

⁴*Ibid.*, Tex1 2-005.

International Transfer of Technology

Under the Decree of May 26, 1970, INPI registers the statements of French firms that have entered into industrial property contracts with foreign counterparts: acquisition or assignment of patents, marks, designs, manufacturing licenses, payment of research costs and technical assistance.

The drop in the number of statements in 1979 (1,736), as compared with 1978 (1,810, or -4%), is due to the drop in the number of sales (538, as against 625) compared with the number of purchase contracts which increased only slightly (1,198, as against 1,185). This drop concerns mainly Algeria (-50), Switzerland (-16), the Netherlands and Belgium (-14), Spain (-12) and Mexico (-8). The areas most affected were civil engineering (Algeria), the pharmaceutical industry (Brazil) and the chemical, textile and other industries (Mexico). 70.5% of purchases are made in the United States of America, Switzerland, the Federal Republic of Germany and the United Kingdom. In sales, Italy is France's second client after the United States of America and before Japan and the Federal Republic of Germany.

Detailed statistics of the 1974 to 1978 period show that there was a noticeable slump in electronics, data processing, chemical engineering, heavy and medium mechanical engineering, agricultural equipment and foodstuffs, whereas, during the same period, non-ferrous metals, ores and building materials, textiles, cosmetics and glass have been constantly in surplus.

Consultation by the Public

The search files available to the public continue to grow. About 800,000 new documents are made available for consultation every year, which of course presents serious storage problems in spite of the extensive use of micrography.

Moreover, under the program for the extension of documentary services, new means of access to documentation, extending to European patent applications and patents and PCT international applications, were made available to the public in 1979. Apart from that, the 1978 amendment of French legislation resulted in search reports being published in the "Lists" part of the Official Bulletin of Industrial Property under the patent application number. These search reports are made available for consultation.

European Patent Applications and PCT International Applications

Four new files have been made available to the public in Paris. They will also be available, consolidated by year on microfilm, at the regional centers of

INPI:

- file of abstracts of European patent applications, classified by IPC symbols;
- file of abstracts of European patent applications, by name of applicant;
- file of abstracts of PCT international applications, classified by IPC symbols;
- file of abstracts of PCT international applications, by name of applicant.

The first file includes the French translations of the abstracts, most of which are published in German or English. This is because the Law of June 30, 1977,⁵ obliges INPI to translate the abstracts of European patent applications. The translations are made by the Patent Division and are then duplicated and inserted in the file after the abstract in the original language. A subscription service to translated abstracts will be introduced in 1980.

INPADOC Files

Since 1979, INPI has been the representative in France of INPADOC, which is an international bibliographic data bank for the patent documents of many countries. In that capacity it now possesses microfiche files which make it possible to undertake various types of searches over a ten-year period stretching back to 1968.

The services offered by INPADOC have been well received by the public. In 1979, the year of launching, the total of paid searches in the various INPADOC services amounted to 699 (327 in the Patent Family Service, 114 in the Patent Classification Service, 152 in the Applicant's Service, 19 in the Inventor's Service and 87 in the Numerical Data Base Service). In addition to these searches, there were more than 1,200 free consultations of the Classification Service.

Research has been carried out with a view to putting a data base of patents filed in France since January 1, 1969, on the Valbonne central computer and providing access by terminal. The data base will include about 400,000 patents, accessible according to the following entries: registration and publication number, filing date, priority references, name of applicant, IPC classification, title of the invention (as from 1978), publication date, date of grant. The data base will be supplemented by the entries from the National Patent Register and the references of documents quoted in search reports.

A Rapid Information Service (SIR) will be introduced in 1980, whereby a certain number of services may be provided at very short notice to complete those of the data base, and in particular to provide the documents cited.

⁵*Ibid.*, Text 2-003.

Legislative Activity

Patents

Law No. 78-742 of July 13, 1978, amending and supplementing the Law of January 2, 1968, on Patents, entered into force on July 1, 1979.

Decree No. 79-822 of September 19, 1979 (Official Journal of September 23, 1979) replaced Decree No. 78-1100 of December 5, 1968, on Applications for Patents and Utility Certificates and the Grant and Maintenance in Force of Such Titles.

The above Decree, which is completed by an Order of the same date, is intended to prepare France for the European patent by aligning the conditions for the filing of French patent applications as far as possible with those for the filing of European patent applications, at the same time preserving the specific character of national patents, which is the sole justification for their maintenance. The result is a simpler, faster and less costly grant system, nonetheless offering both applicants and third parties guarantees which the new text will serve to strengthen.

Decree No. 79-797 of September 4, 1979 (Official Journal of September 16, 1979) on Inventions of Salaried Persons,⁶ specifies the legal status conferred on salaried persons by the Law of July 13, 1978. The measures introduced include those concerning the organization of the conciliation board set up at INPI to facilitate the settlement of disputes between employers and salaried inventors. The Chairman of the Board has been appointed by joint order of the Ministers of Justice and Industry dated December 17, 1979 (Official Journal of December 30, 1979).

Marks

In March 1979 a Commission was set up at INPI with the participation of interested circles and given the task of studying the amendments that were to be made to the Law of December 31, 1964, on Trade-marks and Service Marks. The Commission met twice during the year and drew up a first inventory of items that called for intervention on the part of the legislature.

Apart from this, the work being carried out in Brussels on the introduction of a Community mark and the projected creation of a European Trade Mark Office led representatives of the trademark profession to ask the Administration to issue rules on the title of Trade Mark Attorney. A draft decree was submitted to the Higher Council of Industrial Property for comment on October 12, 1979.

Designs

Law No. 79-44 amending the provisions of Title 1 of Book V of the Labor Code concerning conciliation boards and, indirectly, the Law of July 14, 1909, on Designs, was published on January 18, 1979. The amendments made, particularly those connected with the receipt of deposits, presupposed corresponding amendment of the Decree of June 26, 1911, on Designs. The appropriate draft was produced and submitted to the Higher Council of Industrial Property for comment on October 12, 1979.

International Activity

WIPO

The preparatory work on the revision of the Paris Convention for the Protection of Industrial Property was completed in 1979.

Representatives of INPI took part in the Assembly of the International Patent Cooperation (PCT) Union which met in Geneva twice in 1979: in extraordinary session from April 25 to May 1 and in ordinary session as part of the tenth series of meetings of the Unions administered by WIPO, from September 24 to October 2. Amendments to the Regulations of the Treaty and to the schedule of fees were adopted.

INPI was also represented at the second session of the Interim Advisory Committee of the Budapest Treaty on the International Recognition of Deposits of Microorganisms for the Purposes of Patent Procedure (Geneva, April 30 to May 3, 1979).

An expert from INPI took part in the work in 1979 of the WIPO Expert Group on the Legal Protection of Computer Software, and in particular in a session that was held in Geneva in November, at which the various types of action to promote international cooperation in this area were studied.

INPI also attended the two Working Groups that met in Geneva to continue the preparatory work on the revision of the Classification of Goods and Services for the Purposes of the Registration of Marks of the Nice Agreement of 1957.

Munich Convention on the European Patent

The Administrative Council of the European Patent Organisation held three sessions in 1979 under the chairmanship of Mr. Vianès, Director of INPI.

During the last of those sessions, the Council settled various questions that had earlier given rise to discussion: adoption of the amendment to Rule 28 and of a new Rule 28*bis* (microorganisms), adoption of a Rule 85*bis* allowing extra time for the payment of filing, search and designation fees, and adoption of a recommendation concerning the titles used by authorized

⁶*Ibid.*, Text 2-007.

agents accredited with the Office. Finally, it had an exchange of views on the problems caused the EPO by the revision of the Paris Convention.

Cooperation

The WIPO Permanent Committee for Development Cooperation Related to Industrial Property held its sixth session in Dakar from March 12 to 16, 1979. The most important discussions were on the problems associated with training (teaching, training courses, meetings and seminars), with legislation (advice and assistance), with the promotion of national inventive potential and with the strengthening of regional and national infrastructures in the industrial property field.

France confirmed its efforts under this program and, as it has done every year for three years, INPI received a certain number of trainees from French-speaking African countries who had been granted fellowships by the French Ministry of Cooperation or by WIPO. The trainees represented part of a larger group of some 30 senior government officials from French-speaking and English-speaking countries who, under the auspices of WIPO, were given legal training in industrial property in a three-week course at the Center for the International Study of Industrial Property (CEIPI) in Strasbourg before being introduced, at various European offices, to the operation of a patent, trademark and designs office.

INPI also continued to give its support to the operation of the African Patent Documentation and Information Center, a service incorporated in the African Intellectual Property Organization (OAPI) in Yaoundé (Cameroon) by providing the necessary documentation and by placing technical staff and a classification expert at its disposal.

Three French experts, including the legal adviser of INPI, took part in a seminar at the request of WIPO on industrial property licenses and technology transfer arrangements in Algiers from November 24 to 28.

The Joint Franco-Italian Committee held its twenty-eighth session in Rome from June 6 to 8, 1979. Apart from exchanges on various questions of mutual interest at the national and international levels, the two parties agreed on the procedure for the revision of the Agreement of January 8, 1955, on marks and of the Convention of April 28, 1964, on appellations of origin. Diplomatic procedures for the implementation of these revisions have been initiated.

Relations with countries with Socialist economic systems continued in 1979. Mr. Vianès, the Director of INPI, was Joint Chairman of the tenth session of the Joint Franco-Soviet Committee on patents and licenses in Ajaccio from February 11 to 18, 1979. The Joint Franco-Hungarian Committee on industrial property questions met in Budapest from May 8 to 10, 1979. A cooperation agreement was signed between INPI and the Hungarian National Office of Inventions. An INPI delegation continued, in Peking in November 1979, talks that had taken place in Paris in May under the Franco-Chinese Agreement of 1978 on Scientific and Technical Cooperation. Consideration was given to the creation of a Joint Committee, to the training of industrial property specialists and to the protection of inventions, with particular reference to the prospect of Chinese legislation on patents. Other talks took place, among other things, on the settlement of disputes between France and China.

INPI also took part in working meetings on the implementation of the technological and industrial cooperation agreement between France and Brazil of October 1978. A draft protocol between INPI and the Brazilian National Institute of Industrial Property was conveyed to the Brazilian authorities. Its purpose is to establish cooperation between the two countries with a view to creating conditions more conducive to the reciprocal protection of industrial property rights and their exploitation. A procedure for the settlement of disputes was established, and a conciliation board will be set up. Finally, some work was done on the preparation of the forthcoming meeting of the Joint Franco-Mexican Committee, with particular reference to the question of the prejudice suffered by French firms as a result of infringements perpetrated in Mexico.

Obituary

Hosni Abbas

Dr. Hosni Abbas, Egyptian Professor of Commercial Law, passed away in February 1981. During the past five years, Dr. Abbas had been Professor of Commercial Law at the Faculty of Law, University of Kuwait. Before that, he was Professor of Commercial Law at the Faculty of Law, Cairo University.

Dr. Abbas was a very well-known Arab specialist in industrial property law. He is the author of an

important book on the subject published in Arabic in 1971. In 1976, he prepared at the request of WIPO a publication in Arabic entitled *Industrial Property as a Means of Access for the Developing Countries to the Era of Technology*.

Dr. Abbas represented the Government of Kuwait, and, before that, the Egyptian Government in several international meetings organized by WIPO.

Book Reviews

Les institutions spécialisées du système des Nations Unies et leurs membres, by A. H. Zarb. Editions A. Pedone, Paris, 1980. — 598 pages.

The United Nations "family" today has 15 members, all designated by the well-known term "specialized agency," as each of these organizations has its specialized area of concern corresponding to one of a number of sectors of contemporary international life, and each of them is, in its own specific field, a striking demonstration of the international cooperation without which the development of the world would be an empty phrase. This "system," which came into being after the last world war, has its own structures, its own peculiar features, its own history and its legal status; it is an amalgam of political, diplomatic, economic and legal elements that deserves to be known.

None would appear better qualified than Antoine H. Zarb to guide the reader with a taste or a need for information on the subject through the labyrinth of the different origins and jurisdictions of these specialized agencies that revolve round the United Nations. His profound knowledge of the subject, his experience and his competence make this a remarkably rich contribution to legal literature. Antoine H. Zarb leaves a work to posterity that is first class for the exceptional wealth of documentation that supports his assertions, for his elegant turn of phrase and the clarity of his facts, and for the science of the great lawyer that he shows himself to be in the presentation of his comments.

In his preface to the book Mr. René-Jean Dupuy, Professor at the Collège de France and Secretary General of the International Law Academy of The Hague, pays a well-deserved tribute to the author when he mentions his "career devoted both to action and to reflection." Antoine H. Zarb was a senior international civil servant for many years and, in the post of Legal Counsel to the World Health Organization, witnessed the creation and development of the United Nations system, with all its vicissitudes and its peculiarly fascinating evolution. His retirement from international civil service gave him the opportunity of using his experience and learning for

the benefit of the university teaching in which he has been continuously engaged for some 15 years at Nice University's Institut du droit de la paix et du développement. It is in the light of this constantly-renewed experience that Antoine H. Zarb considers, from an essentially legal angle, each of the United Nations specialized agencies with respect to its first beginnings, the circumstances of its creation, its objectives and its structure.

He then devotes long and interesting chapters to the legal status of the specialized agencies and also to the status of government representatives and international civil servants. He completes his very thorough study with a detailed account of the conditions of membership of the intergovernmental organizations and of the rights and obligations of member States.

The World Intellectual Property Organization is of course included in this all-embracing panorama of the international community. Antoine H. Zarb traces the history of its foundation starting with the two international Conventions which, in Paris in 1883 and in Berne in 1886, established the basis for relations between States in the industrial property and copyright fields, respectively. After describing the circumstances prevailing at the time of the establishment of the International Bureaux responsible for administering, under the supervision of the Swiss Government, these two Conventions and the other treaties that subsequently came into being, he gives an account of the evolutionary process that led to the replacement of BIRPI by WIPO and to the latter being granted the status of specialized agency. Detailed explanations are also given of the structure of WIPO and of its budgetary and financial procedures, notably the system of contributions from member States.

Antoine H. Zarb's book is unquestionably an invaluable source of reference for anyone who professes an interest in the United Nations system, and it deserves to be received in a manner befitting its author's standing.

Calendar

WIPO Meetings

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

1981

- May 25 to 29 (Geneva) — Berne Union and Universal Copyright Convention — Group of Independent Experts on the Impact of Cable Television in the Sphere of Copyright (convened jointly with Unesco)
- June 15 to 26 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information
- June 29 to July 3 (Geneva) — International Patent Cooperation (PCT Union — Assembly (Extraordinary Session)
- September 7 to 10 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Patent Information for Developing Countries
- September 10 to 18 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Planning
- September 24 and 25 (Nairobi) — Treaty on the Protection of the Olympic Symbol — Diplomatic Conference
- September 28 to October 24 (Nairobi) — Revision of the Paris Convention — Diplomatic Conference
- November 9 to 13 (Geneva) — Permanent Committee for Patent Information (PCPI) and PCT Committee for Technical Cooperation
- November 11 to 13 (Geneva) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)
- November 16 to 24 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee, Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, TRT, Budapest and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union)
- November 30 to December 7 (New Delhi) — Berne Union — Executive Committee — Extraordinary Session (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)
- December 7 to 11 (Geneva) — International Patent Classification (IPC) — Committee of Experts

UPOV Meetings

1981

- May 6 (Geneva) — Consultative Committee
- May 6 to 8 (Geneva) — Administrative and Legal Committee
- June 2 to 4 (Wädenswil) — Technical Working Party for Vegetables
- June 23 to 25 (Edinburgh) — Technical Working Party for Agricultural Crops
- September 22 to 25 (Wageningen) — Technical Working Party for Fruit Crops
- October 6 to 8 (Antibes) — Technical Working Party for Ornamental Plants
- October 13 (Geneva) — Consultative Committee
- October 14 to 16 (Geneva) — Council
- November 9 to 11 (Geneva) — Technical Committee
- November 11 to 13 (Geneva) — Administrative and Legal Committee

Meetings of Other International Organizations Concerned with Industrial Property

1981

- European Patent Organisation: June 1 to 5, November 30 to December 4 (Munich) — Administrative Council
- European Communities: September 7 (Brussels) — Community Patent Interim Committee
- Inter-American Association of Industrial Property: October 18 to 21 (Acapulco) — Congress
- International Federation of Inventors' Associations: May 29 and 30 (Helsinki) — Annual Meeting
- International Federation of Patent Agents: October 5 to 9 (Edinburgh) — Congress
- International League Against Unfair Competition: June 1 to 3 (Amsterdam) — Working Session (*Journées d'Etudes*)
- Licensing Executives Society (International): May 19 to 21 (London) — International Conference on the Worlds of Licensing

