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International Unions

Budapest Treaty (Microorganisms)

I

Accession

PHILIPPINES

The Government of the Philippines deposited on July 21, 1981, 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 said Treaty will enter into force with respect to the Philippines on October 21, 1981.

Budapest Notification No. 20, of July 23, 1981.

II

Acquisition of the Status of International Depositary Authority

A

CENTRAALBUREAU VOOR SCHIMMELCULTURES

The following written communication addressed to the Director General of WIPO by the European Patent Organisation 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 July 27, 1981, and is published by the International Bureau of WIPO pursuant to Article 7(2)(a) of the said Treaty:

1. Declaration

The European Patent Organisation, referring to Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter referred to as "the Treaty"), hereby declares that the depositary institution for microorganisms, *Centraalbureau voor Schimmelcultures*, located on the territory of one of its Member States, the Netherlands, complies and will continue to comply with the requirements specified in Article 6(2) of the Treaty.

This declaration is made for the purposes of the acquisition by the said institution of the status of international depositary authority.

2. Name and Address of the Depositary Institution

Centraalbureau voor Schimmelcultures
(hereinafter referred to as "CBS")
Oosterstraat 1
Baarn
Netherlands

Postal address: Postbus 273
NL-3740 AG Baarn

3. Detailed Information as to the CBS's Capacity to Comply with the Requirements Specified in Article 6(2) of the Treaty

The CBS was established in 1903.

The CBS is a scientific institute of the Royal Netherlands Academy of Arts and Sciences (*Koninklijke Nederlandse Akademie van Wetenschappen* — KNAW). It is financially supported by the Dutch Government. Supplementary funds are supplied by the Dutch organisation *Toegepast Natuurwetenschappelijk Onderzoek* (TNO) (Applied Scientific Research) and are derived from fees for cultures ordered, identifications and other services.

The CBS has a staff of 40, 15 of whom have a university degree.

The headquarters of the CBS, its administrative offices, Medical Mycology and Biochemistry Departments and Culture Collection of fungi and actinomycetes are located at Baarn, at the address shown under point 2, above. The CBS also has a Yeast Division, comprising a collection of yeast cultures, housed in the premises of the *Laboratorium voor Microbiologie, Technische Hogeschool Delft* (Microbiology Laboratory of the Delft Technical University).

The CBS's main premises have a total surface area of approximately 460 sq.m. They include two rooms for storing actively growing (slant) cultures, one room for lyophilized cultures and another for oilsealed cultures.

The CBS's Yeast Division in Delft has three laboratories with a surface area of 85 sq.m. as well as a storage area for actively growing (slant) cultures and lyophilized cultures.

The CBS's public collection of microorganisms comprises approximately 21,000 strains. As regards the collection of microorganisms deposited for the purposes of patent procedure, recent statistics show that 71 cultures have been deposited since June 1978, including 11 deposited for the purposes of the European patent grant procedure, pursuant to the Agree-

ment of June 12, 1978, between the European Patent Organisation and the CBS.

4. Kinds of Microorganisms Accepted for Deposit by the CBS

The following kinds of microorganisms are accepted for deposit:

- 4.1 fungi, including yeasts
- 4.2 actinomycetes

Irrespective of where the microorganisms are stored (fungi and actinomycetes at CBS' headquarters in Baarn and yeasts at its Yeast Division in Delft), all deposits must be effected at the headquarters in Baarn to which all correspondence must likewise be addressed.

5. Fee Schedule

	hfl
5.1 (a) Storage	2,000
(b) Storage, if the depositor waives the right to be notified, under Rule 11.4 (g) of the Regulations under the Treaty, of the furnishing of samples	1,500
5.2 Issuance of a viability statement	150
5.3 Furnishing of a sample	
(a) to a scientific institution	40
(b) in other cases	85
5.4 Communication of information under Rule 7.6 of the Regulations under the Treaty	25
5.5 Delivering of the attestation pursuant to Rule 8.2 of the Regulations under the Treaty	25

6. Official Language

Dutch is the official language of the CBS. However, correspondence may also be in German, English or French.

7. Date on Which the Status of International Depository Authority Should Take Effect (date referred to in Article 7(2)(b) of the Treaty)

October 1, 1981.

[End of text of Communication; translation furnished by the European Patent Office]

Pursuant to Article 7(2)(b) of the Budapest Treaty, the *Centraalbureau voor Schimmelcultures* acquires the status of international depository authority as from October 1, 1981.

Budapest Communication No. 5 (this Communication is the subject of Budapest Notification No. 21, of August 27, 1981).

B

DEUTSCHE SAMMLUNG VON MICROORGANISMEN

The following written communication addressed to the Director General of WIPO by the European Patent Organisation 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 July 27, 1981, and is published by the International Bureau of WIPO pursuant to Article 7(2)(a) of the said Treaty:

1. Declaration

The European Patent Organisation, referring to Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter referred to as "the Treaty"), hereby declares that the depository institution for microorganisms, *Deutsche Sammlung von Mikroorganismen*, located on the territory of one of its Member States, the Federal Republic of Germany, complies and will continue to comply with the requirement specified in Article 6(2) of the Treaty.

This declaration is made for the purposes of the acquisition by that institution of the status of international depository authority.

2. Name and Address of the Depository Institution

Deutsche Sammlung von Mikroorganismen (DSM) Gesellschaft für Biotechnologische Forschung mbH (hereinafter referred to as "DSM")
Grisebachstr. 8
Göttingen
Federal Republic of Germany
Postal address: Grisebachstr. 8
D-3400 Göttingen

3. Detailed Information as to the DSM's Capacity to Comply with the Requirements Specified in Article 6(2) of the Treaty

The DSM was founded in 1969 as a working group within the Institute for Microbiology in Göttingen of the *Gesellschaft für Umweltforschung mbH* (GSF); it subsequently became an autonomous establishment within the GSF and since 1979 has been an institution of the *Gesellschaft für Biotechnologische Forschung mbH*, Braunschweig (GBF).

The DSM is an autonomous establishment of the GBF, responsible directly to the latter's management.

The GBF is funded by the Federal Republic of Germany and the *Land* of Lower Saxony (Niedersachsen).

The DSM employs a staff of 16, six of whom have university degrees.

The DSM is subdivided into working groups, each responsible for particular groups of microorganisms. Two of these working groups are at present still located in Darmstadt and Munich respectively. Deposits of microorganisms for the purposes of patent procedure, however, are processed only in Göttingen.

The DSM is accommodated within the Institute for Microbiology of the Göttingen University where it has premises with a total area of around 550 m². Its premises are separate from those of the Institute for Microbiology and comprise: three laboratories for microbiological work; one incubation room; one apparatus room for—amongst other things—lyophilizing microorganisms; one storeroom for the storage of microorganisms in liquid nitrogen; one storeroom for the storage of lyophilized microorganisms at 8°C; one cold room; one office for documentation.

The DSM laboratories are equipped with up-to-date facilities, allowing all general microbiological work to be carried out efficiently. All modern processes (lyophilization, storage in liquid nitrogen) for long-term storage of microorganisms are available.

The current stock of microorganisms amounts to some 4,500 strains. The first microorganism strains deposited for the purposes of patent procedure date back to 1974. Since then and up to the end of 1980, there have been 302 deposits of microorganisms for that purpose, 99 being for the European patent grant procedure, pursuant to the Agreement of August 25, 1980, between the European Patent Organisation and the DSM.

4. Kinds of Microorganisms Accepted for Deposit by the DSM

The following kinds of microorganisms are accepted for deposit:

- 4.1 bacteria, including actinomycetes,
- 4.2 fungi, including yeasts,
- 4.3 bacteriophages,

except any kinds pathogenic to humans or animals. Phytopathogenic kinds are accepted with the exception of:

Erwinia amylovora
Coniothyrium fagacearum
Endothia parasitica
Glocosporium ampelophagum
Septoria musiva
Synchytrium endobioticum.

5. Fee Schedule

5.1 Storage	DM 950
5.2 Issuance of a viability statement:	
(a) if the depositor seeking a viability statement has also requested a viability test	80
(b) in other cases	30

5.3 Furnishing of a sample	60
5.4 Communication of information under Rule 7.6 of the Regulations under the Treaty	30

The above charges are expressed net of value-added tax payable under the provisions in force in the Federal Republic of Germany.

Extra charges are payable for despatch by air.

6. Official Language

German is the official language of the DSM. However, correspondence may also be carried out in English.

7. Date on Which the Status of International Depository Authority Should Take Effect (date referred to in Article 7(2)(b) of the Treaty)

October 1, 1981.

[End of text of Communication; translation furnished by the European Patent Office]

Pursuant to Article 7(2)(b) of the Budapest Treaty, the *Deutsche Sammlung von Mikroorganismen* acquires the status of international depository authority as from October 1, 1981.

Budapest Communication No. 6 (this Communication is the subject of Budapest Notification No. 22, of August 27, 1981).

III

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

A

CENTRAALBUREAU VOOR SCHIMMELCULTURES

1. The depositor must deposit six samples of the microorganism, either lyophilized or as actively growing cultures on or in an appropriate nutrient medium.

2. The written statement referred to in Rule 6.1 or in Rule 6.2 of the Regulations under the Budapest Treaty must be furnished on a form to be obtained from the CBS.

3. The written statement referred to in Rule 6.1 or in Rule 6.2 of the Regulations under the Budapest Treaty must be drafted in one of the following languages: Dutch, English, French or German.

4. The fee for storage referred to in Rule 12.1(a)(i) of the Regulations under the Budapest Treaty must be paid.

B

DEUTSCHE SAMMLUNG
VON MIKROORGANISMEN

1. The DSM must be supplied with two cultures, if possible lyophilized, of any microorganism to be deposited with it.

2. The DSM recommends that the written statement referred to in Rule 6.1 or in Rule 6.2 of the Regulations under the Budapest Treaty be furnished on a form to be obtained from the DSM.

3. The written statement referred to in Rule 6.1 or in Rule 6.2 of the Regulations under the Budapest Treaty must be drafted in German or English.

4. The fee for storage referred to in Rule 12.1(a)(i) of the Regulations under the Budapest Treaty must be paid.

WIPO Meetings

WIPO

Patent Agency Course

(Beijing, February 23 to March 6, 1981)

NOTE*

At the invitation of the China Council for the Promotion of International Trade (CCPIT), WIPO organized a two-week "Patent Agency Course" in the new headquarters of the CCPIT, Beijing, in February and March 1981. The purpose of the Course was to contribute to the professional training of the staff of the China Council for the Promotion of International Trade and the staff of other Chinese agencies and institutions which, by reason of their responsibilities in relation to research, development and industrial production, are potential users of the patent system.

The Course was opened by Dr. Arpad Bogsch, Director General of WIPO, and Mr. Wang Wenlin, Vice Chairman of the CCPIT.

One hundred and twenty Chinese officials participated in the Course. Twenty lectures were given by the Director General and two other officials of WIPO, one official of the United States Patent and Trademark Office, and by three experts invited by WIPO from the private sector. The texts of the lectures, as well as a glossary of the terms of the law of patents, were translated into Chinese and distributed to the participants in advance. Each lecture was followed by a discussion between the lecturer and his audience.

During the first week of the Course, the lectures covered general aspects of patent procedure which are relevant for the work of patent agents, in particular, questions of substantive patent law, questions of patent procedure (looked at from a patent agent's point of view) and questions relating to international conventions.

The second week was devoted to lectures presenting all relevant aspects in respect of the filing of patent

applications by Chinese applicants with the United States Patent and Trademark Office and the European Patent Office, as well as questions relating to the filing of patent applications in China by applicants from the Federal Republic of Germany, the United Kingdom and the United States of America.

The lecturers, in addition to the Director General of WIPO, were Messrs. L. Baeumer and A.-B. Kecherid from the International Bureau, Mr. M. Kirk from the United States Patent and Trademark Office, Mr. H. Bardehle (Munich), Mr. D. Dunner (Washington, D.C.) and Mr. R. Lawrence (London).

The texts of the lectures given in the Course were published by WIPO in May 1981.

Paris Union

Group of Consultants Concerning Joint Inventive Activity

(Geneva, June 17 to 19, 1981)

NOTE*

A Group of Consultants from Austria, China, France, the German Democratic Republic, the Soviet Union and the United Kingdom met in Geneva from June 17 to 19, 1981, in order to advise the International Bureau in its continuation of studies concerning equitable arrangements for the protection of inventions made, and other results of joint research and development obtained, in the course of joint ventures between two or more countries. The list of participants follows this Note.

The Group of Consultants unanimously elected Mr. H. Pawloy (Austria) as Chairman and Mr. V. Zubarev (Soviet Union) as Vice-Chairman. Mr. F. Curchod (WIPO) acted as Secretary to the Group of Consultants.

*This Note has been prepared by the International Bureau.

*This Note has been prepared by the International Bureau.

The consultants considered a study prepared by one member of the Group and a draft guide submitted as a joint document of six countries. They agreed that it would be useful, and would make a significant contribution to international cooperation in science and technology, if WIPO prepared and published a guide on the treatment of joint inventions and other results of joint research and development within the framework of a cooperation agreement between contracting parties from different countries. It was suggested that the envisaged guide provide a comprehensive analysis of the questions to be considered by the parties, and an outline of the various possibilities for the provisions of the agreement. The consultants also made a number of observations and suggestions concerning the draft guide referred to above.

LIST OF PARTICIPANTS*

I. Consultants

Hu Mingzheng (*China*); M. Müller (*German Democratic Republic*); H. Pawloy (*Austria*); J.-P. Plantard (*France*); D. Schack (*German Democratic Republic*); R.E.S. Waller (*United Kingdom*); V. Zubarev (accompanied by V.N. Poliakov) (*Soviet Union*).

II. Officers

Chairman: H. Pawloy (*Austria*). *Vice-Chairman*: V. Zubarev (*Soviet Union*). *Secretary*: F. Curchod (*WIPO*).

III. International Bureau of WIPO

K. Pfanner (*Deputy Director General*); L. Baeumer (*Director, Industrial Property Division*); F. Curchod (*Head, Industrial Property Law Section, Industrial Property Division*); T.-L. Tran-Thi (*Legal Officer, Industrial Property Law Section*).

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

International Patent Cooperation (PCT) Union

Assembly

Seventh Session
(Fifth Extraordinary)

(Geneva, June 29 to July 3, 1981)

NOTE*

The Assembly of the International Patent Cooperation (PCT) Union (hereinafter referred to as "the Assembly") held its seventh session (5th extraordinary) in Geneva from June 29 to July 3, 1981.

Twenty of the 30 Contracting States were represented at the session: Australia, Austria, Brazil, Congo, Denmark, Finland, France, Germany (Federal Republic of), Hungary, Japan, Liechtenstein, Luxembourg, Netherlands, Norway, Romania, Soviet Union,

* This Note was prepared by the International Bureau.

Sweden, Switzerland, United Kingdom, United States of America.

Two intergovernmental organizations, the European Patent Organisation (EPO) and the African Intellectual Property Organization, and the following eight international non-governmental organizations, were represented by observers: Asian Patent Attorneys Association (APAA), Committee of National Institutes of Patent Agents (CNIPA), European Federation of Agents of Industry in Industrial Property (FEMIP), Inter-American Association of Industrial Property (ASIPI), International Association for the Protection of Industrial Property (IAPIP), International Federation of Inventors' Associations (IFIA), International Federation of Patent Agents (FICPI), 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 four of the Rules of the PCT Regulations and to the Schedule of Fees annexed thereto.¹ Except for the amendments to the Schedule of Fees, which will enter into force on January 1, 1982, all the amendments will enter into effect on October 1, 1981, and have been adopted consequential to the modifications of the "Request" form (Form PCT/RO/101). The commentary in the following paragraph deals with the amendment to Rule 4.4(d).

Address to Which Notifications Shall Be Sent. Under Rule 4.4(d), as amended, the applicant, or if there is more than one applicant, the common representative, may, if no agent has been appointed, indicate, in addition to any other address, an address to which notifications shall be sent, if such address is different from the other address. Such second address shall be given in Box IV of the "Request" form instead of the name and address of the agent or instead of the other address of the applicant who is the common representative. It was envisaged that advantage could be taken of this possibility, in particular, by corporations wishing to have correspondence addressed to their patent departments while wishing to retain their headquarters' address for other purposes.

Interpretation of Article 9 of the PCT. The Assembly discussed an interpretation of Article 9 proposed by the International Bureau. It adopted the interpretation that Article 9 is not concerned with the capacity in which a person, who, as applicant, files an international application, is acting when filing the application. In other words, even if, in fact, the applicant is acting in a representative capacity (e.g., the applicant is a person who is administering the estate of a deceased person or is a person in whom the law vests property and/or rights of

¹The amended Rules and the amended Schedule of Fees appear in this month's *Industrial Property Laws and Treaties* (see MULTILATERAL TREATIES - Text 2-007). The amended Rules are Rules 3.3(a), 4.1(c), 4.1(d) and 4.6(b).

another person in a particular situation, such as in the case of the insanity of the person properly entitled) it is not for the receiving Office to attempt to go behind the person who is the applicant and to treat some other person as being the applicant when it is determining the right to file the international application (Article 9 and Rules 4.8 and 18.4) or the competent receiving Office (Articles 10 and 11(1)(i) and Rule 19.1(a)) by reference to the nationality or residence of the applicant.

The PCT International Meeting (Tokyo). The Assembly took note of the report of the PCT International Meeting held in Tokyo from May 25 to 29, 1981, and endorsed the action proposed by the International Bureau to make appropriate recommendations to all designated and elected Offices as well as the International Searching Authorities. This would include, in particular, stressing the usefulness and importance of the international search and the international preliminary examination report for the avoidance of duplication of search and examination effort before the said Offices and authorities and the need to reflect, as far as possible, economies made in the national procedure in certain benefits for the applicant, e.g., reduction of fees or acceleration of the procedure for the grant of the patent.

Translation of Documents Cited in the International Search Report. The Assembly endorsed the views expressed by the PCT International Meeting (Tokyo) as to the importance of including in international search reports as much patent family information as is feasible under the circumstances and avoiding in the national phase the requiring of translations of references cited in the international search report.

Application of National Remedies for Preserving Rights of Applicants. The Assembly noted with approval the objectives of the proposal submitted by the Royal Patent and Registration Office of Sweden. The proposal concerned the application, in favor of PCT applicants, of provisions which can be availed of by national applicants to preserve their rights which might otherwise be jeopardized in the case of error and the treatment, in the application by national Offices of measures available in the case of official mistakes, of a mistake by any of the PCT Authorities as if it were a mistake of the national Office.

The Assembly urged all PCT Offices and Authorities to seek to achieve the objectives of the proposal and to include the question in its study of the PCT (see below).

Study of the PCT by the International Bureau. The Assembly discussed proposals of the Government of Sweden and the Delegation of Switzerland.

The Delegation of Sweden, stating its continuing full support for the PCT and its objectives and its recognition of the fact that the PCT has proven its practical value in the past years, explained that its proposal for a study of the PCT by the International Bureau was not

directed towards a basic revision of the system; its intention was to facilitate the achievement of the objectives of the PCT in order to promote the wide use that the PCT deserved. It recalled that the objectives of the PCT included simplifying and making more economical the obtaining of protection of inventions and also assisting the developing countries. The study should seek to simplify further the obtaining of protection of inventions through the use of the PCT with a view to increasing its use. The study should find out what the problems were at present that gave rise to suggestions that the procedure was too complex and suggest solutions to them.

The Delegation of Switzerland explained that provisions in the PCT Regulations that were not necessary to be retained therein and that could be transferred to the Administrative Instructions should, after a study by the International Bureau to identify them, be transferred to the Administrative Instructions. The proposal was intended to enable changes to be made affecting the PCT procedure without burdening national authorities, particularly in those countries where amendments to the PCT Regulations have to be reproduced in the official journals containing national legislation. This should also allow greater flexibility in making changes to the PCT procedure.

The Assembly decided to entrust to the International Bureau the study proposed by the Government of Sweden, together with the study necessary to implement the proposal of the Delegation of Switzerland. For the carrying out of the combined study, the following conclusions were reached:

A. As to the proposal of the Government of Sweden:

(i) it was understood that the study would be based on experience to date of applicants who have filed applications under the PCT and of the Offices and the PCT Authorities, including the International Bureau, in processing such applications;

(ii) the study should establish the needs of the users and the Offices and Authorities implementing the PCT with respect to simplifying and improving its practical implementation, identify any complexities and pitfalls in the procedure and propose solutions which would make the system more attractive and less onerous for the users and the Offices;

(iii) the study should be directed primarily to a review of the PCT Regulations and Administrative Instructions but should not exclude, where necessary, consideration of relevant Articles of the Treaty while avoiding proposals for a basic revision of the Treaty changing its fundamental structure. Proposals requiring revision of the Treaty should be clearly identified as such and, where various solutions could be found to a problem, the solution not requiring revision should be given preference;

(iv) it was understood in that context that the Assembly would, in any event, consider the results of the study, so that the decision not to exclude the Treaty from the study did not prejudice the eventual decision

as to whether changes in the Treaty as well as in the Regulations and Administrative Instructions should be undertaken to achieve the benefits expected to be derived as a result of the study;

(v) the study should also deal with problems concerning the national phase of the PCT procedure;

(vi) specific problems of the developing countries with respect to the implementation of the Treaty should be taken into account in the general context of the study;

(vii) the proposals made, or to be made, by the users of the system should be taken into account for the preparation of the study.

B. As to the proposal of the Delegation of Switzerland:

(i) proposals for the transfer of provisions from the Regulations to the Administrative Instructions should only be made with respect to provisions not affecting the applicant or national law and should therefore be limited to provisions such as those dealing with the communications among Offices and PCT Authorities;

(ii) proposals for transfer should take into account the need for completeness and easy comprehension of the provisions in both texts;

(iii) the implications of a transfer in terms of advantages and disadvantages for the users should be considered before making proposals, keeping the overall objective of the combined study in mind.

Development of the PCT Union. The Assembly considered a report by the International Bureau on progress to date with regard to ratification of or accession to the PCT (at the time of the session by 30 Contracting States). The Assembly confirmed a resolution previously adopted by it at its 5th session² 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.

The Assembly noted an intervention by the Delegation of Spain expressing the continued interest of its country in the consideration of certain questions, in particular relating to the use of the Spanish language, bearing on its possible acceptance of the PCT. The urgency and importance of this matter was noted in view of its bearing on the participation of Spain and the Latin American countries of Spanish language in the PCT system. Consequently, these considerations should be pursued with priority.

With regard to States party to regional treaties, the Assembly reaffirmed its position taken at its said 5th session, at which it noted the desirability of all States party to the European Patent Convention and the Libreville Agreement (establishing the African Intellectual Property Organization) being 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 and noted that, following the withdrawal by France of its reservation excluding the application of Chapter II, only six of the 30 Contracting States party to the PCT continued to maintain such reservations. The Assembly renewed the expression of its interest, formulated at its said 5th session, in the acceptance of Chapter II by all Contracting States.

LIST OF PARTICIPANTS*

I. Member States

Australia: C.H. Fricmann. **Austria:** J. Fichie. **Brazil:** A.G. Bahadrian; M.M.R. Mittelbach; A.R. Holanda Cavalcanti. **Congo:** E. Kouloufoua; D. Nkounkou. **Denmark:** D. Simonsen; J. Dam. **Finland:** T. Kivi-Koskinen; V. Soralhti. **France:** G.J. Vianès; P. Guérin; J. Vèrone. **Germany (Federal Republic of):** U.C. Hallmann; H. Wesener. **Hungary:** Z. Szilvássy; E. Parragh. **Japan:** I. Shamoto; S. Uemura; M. Fujioka. **Liechtenstein:** A.F. de Gerliczy-Burian. **Luxembourg:** F. Schlessler. **Netherlands:** J. Dekker; S. de Vries. **Norway:** P.T. Lossius; I. Lillevik. **Romania:** P. Gavrilăseu. **Soviet Union:** L. Komarov; E. Buryak; V. Poliakov. **Sweden:** S. Norberg; E. Tersmeden; L. Björklund; B. Sandberg. **Switzerland:** R. Kämpf; M. Leuthold. **United Kingdom:** D.F. Carter. **United States of America:** H.D. Hoinkes; L.O. Maassel.

II. Observers

States

Iraq: H. Wafor. **Italy:** S. Samperi. **Niger:** H.A. Diallo. **Spain:** A. Casado Cerviño; A.-C. Ortega Lechuga. **Zaire:** E. Esaki-Kabeya.

Intergovernmental Organizations

African Intellectual Property Organization (OAPI): D. Ekani. **European Patent Organisation (EPO):** U. Schatz; G. D. Kolle.

International Non-Governmental Organizations

Asian Patent Attorneys Association (APAA): T. Yamaguchi. **Committee of National Institutes of Patent Agents (CNIPA):** R.P. Lloyd. **European Federation of Agents of Industry in Industrial Property (FEMIP):** F.A. Jenny. **Inter-American Association of Industrial Property (ASIP):** F. Ferro. **International Association for the Protection of Industrial Property (IAPIP):** G. R. Clark. **International Federation of Inventors' Associations (IFIA):** C. P. Feldmann. **International Federation of Patent Agents (FICPI):** H. Bardehle. **Union of Industries of the European Community (UNICE):** C. G. Wickham.

III. Officers

Acting Chairman: J. Dekker (Netherlands). *Secretary:* E.M. Haddrick (WIPO).

IV. International Bureau of WIPO

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

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

² For the Note on the 5th session of the PCT Assembly, see *Industrial Property*, 1980, p. 217.

General Studies

Recent Developments in Trade Mark Law in Israel

Y.A. TSUR*

News from Industrial Property Offices

EUROPEAN PATENT OFFICE (EPO)

Annual Report — 1980*

I. European Patent Granting Procedure

Filing of European and Euro/PCT Applications

1980 was the first complete year in which all technical fields were open for examination. Thus the gradual rise in the number of European applications filed per month cannot, as in the past, be attributed to the progressive opening of these fields; rather it must reflect a growing confidence of applicants and their representatives in the new system. The numbers of international applications filed under the Patent Cooperation Treaty (PCT) and designating the European Patent Office, the so-called Euro/PCT applications, showed a similar upward drift. The provisional totals are 17,505 European applications and 2,309 Euro/PCT applications.

The characteristics of European and Euro/PCT applications filed in 1980 show no great change over those filed in 1979. For example, around two-thirds of European applications still originate from Member States of the Organisation (although the proportion fell slightly to 64.8%), with the Federal Republic of Germany remaining the major contributor (29.1%). Of non-Member States the vast majority of European applications come from the USA (23.9%), although there is now a significant percentage from Japan (8.3%). Of the Euro/PCT applications, the majority originate from the USA (49.4%), with the next highest figure coming from Sweden (10.8%), whose applicants, albeit by a small margin, appear to favour the PCT route in seeking patent protection in Europe.

Of the European applications, compared with 1979, a slightly increased proportion (45.6%) were filed with national industrial property offices of Member States. Furthermore the language of filing pattern changed slightly, with a higher percentage of applications being filed in the English language (47.9%). Both these developments are due to the higher numbers of applications from Japan and the USA.

The Member State of the Organisation most frequently designated in European applications filed in 1980 was, as in 1979, the United Kingdom (91.7%) followed by Germany (Federal Republic of) (87.7%), France (87.6%), Italy (78.0%), the Netherlands (70.5%), Belgium (61.1%), Sweden (58.7%), Switzerland/Liech-

tenstein¹ (57.7%), Austria (44.7%) and Luxembourg (29.6%). The average number of Member States designated per European application was 6.67, compared with 6.68 in 1979. The designation pattern for Europe/PCT applications filed in 1980 shows a similar, though not identical pattern. However, not all of these designations will be maintained as the applications enter the regional phase, particularly those for France, since many applicants seem unaware that France has made use of Art. 45, para 2, PCT, in providing that the designation of France in an international application has the effect of indicating the wish to obtain a European patent.

As to the technical fields in which European applications were published in 1980, chemistry accounted for about 40%, mechanics 35% and physics/electricity 25%. It is interesting to note that Euro/PCT applications show a different distribution, namely 20%, 50% and 25%, respectively.

Formalities

As in previous years the Receiving Section in carrying out the formal examination of European and Euro/PCT applications has tried as far as possible to adopt a flexible approach, but nevertheless a small number of applications had to be rejected. Overall roughly 20% of applications filed were deficient from the formalities point of view in one way or another. Common deficiencies included the incorrect presentation of description, claims and drawings, the non-authorisation of a professional representative and the filing of subsequent documents by unauthorised persons.

Rule 85a, EPC, has resolved the principal difficulties regarding payment in due time of the filing fee, search fee and designation fees. But problems arose in 1980 regarding the request for examination. Applicants misunderstood the double requirement that a written examination request has to be filed *and* an examination fee paid; a not insignificant number of applications had to be deemed withdrawn because either the request or the fee was mistakenly not furnished in due time, usually the former.

Regarding Euro/PCT applications, applicants experienced difficulties in following the procedure when these applications entered the European phase, such as observing the time limits for paying the relevant European fees and filing the necessary documents. To inform applicants of these procedures the Receiving

* This report is excerpted from document CA/18/81-XI, issued by the European Patent Office.

¹ Switzerland and Liechtenstein may only be designated jointly.

Section drew up information leaflets and procedural charts. Further, in conjunction with the Legal Service, it organised seminars on the filing of European and Euro/PCT applications and the formalities requirements they must satisfy.

Search

A total of 14,967 European applications were searched by the Office in 1980—nearly twice as many as in 1979—of which roughly two-thirds were searched by the Branch at The Hague and one-fifth at the Sub-Office in Berlin. The Austrian Office performed 1,516 searches under an Agreement on the application of Section IV, para 2. of the Centralisation Protocol.

For 89% of European applications, the search report was drawn up in time for publication with the application, the search reports of the remainder being published separately shortly thereafter.

Much experience has been gained by the search examiners in checking and translating the title of a European application and determining the definitive version of the abstract. The amendment of Rule 26, para 2(b), EPC, to remove the requirement that the title of the invention shall include an indication whether the application contains claims in different categories, will further facilitate the search examiners' task.

Supplementary searches requested by a substantive examiner during the course of substantive examination are carried out by and large on an informal basis, with one examiner simply telephoning the other. To promote such co-operation, periodic exchange visits are arranged, so that both search and substantive examiners become familiar with one another's work and techniques.

To perform the European and other search work the search examiners have at their disposal a documentation collection at The Hague totalling, at the end of 1980, some 15,800,000 patent and non-patent documents—including 725,000 abstracts, in English, of Japanese and Russian patent documents—all classified according to the Office's internal classification system. This system of classification consists of 77,000 subdivisions, 72,000 being finer subdivisions of the groups of the International Patent Classification. In the course of 1980, 707,000 documents were added to the collection, of which 643,000 were patent documents. To maintain the collection, 765,600 documents have been reclassified.

In the Sub-Office in Berlin efforts continued towards the harmonisation of the search documentation with that at The Hague. Under a plan, which extends up until 1983, a further 376,000 documents covering eight sub-classes were reclassified in 1980 by clerical staff and another 90,000 were reclassified intellectually, mainly through the use of extra technical staff on short-term contract. Certain gaps in the Berlin collection were completed, in particular 220,000 US patent documents and the backlog of Japanese abstracts were incorporated into the files.

The documentation collections in both The Hague and Berlin are managed by the Office's computer at The Hague. It also provided the search examiners with family information (265,000 consultations) and conducted mechanical searches for around 1,500 applications. The inverted classification file was made available on-line, enabling examiners to obtain lists of the contents of the various classification entries. Furthermore, preparations were completed to provide the search examiners with the internal classification system on-line.

The search examiners can also conduct on-line searches of external computer data banks. The Office subscribes to five such services, namely European Space Agency — Information Retrieval Service (ESA-IRS), System Development Co-operation (SDC), Infoline, Information Karlsruhe (INKA) and Télésystèmes. Only the first two, however, were fully operational in 1980; they were consulted 3,840 times by the search examiners in respect of 2,500 applications, thus partly, though not fully, replacing the manual search.

Substantive Examination

A further 72 substantive examiners were recruited in two batches in 1980, bringing the total number of examiners at the end of the year to 155. They were divided into 14 Directorates—six Chemical, four Electrical/Physics and four Mechanical. As before, the newly recruited examiners were mainly experienced examiners from national patent offices of the Member States and, with a view to harmonisation, all participated in a full-time initial training course lasting six weeks.

Of course further training and harmonisation of examining practice takes place within the three-member Examining Division. It was primarily for this reason that the Office, after careful study and consultation of the interested circles, abandoned the idea of recommending to the Administrative Council that in certain categories of cases Examining Divisions shall be reduced to a single member. The matter will be reviewed again in about two years' time, but meanwhile the operation of the three-member Division is being rationalised so that there is no wasteful duplication of effort.

The percentage of European and Euro/PCT applications for which examination was requested—based on those applications for which the time limit for filing the request has expired—was 84%. Of the remaining 16% of applications, some were rejected for not complying with the formal requirements, but in the great majority of cases the applicant, in the light of the search report, clearly did not wish to prosecute them further.²

Relatively few applicants requesting examination responded to the search report; in 11% of cases amend-

² For future annual reports the Office hopes to have available the complete history of a given population of applications as they proceed through the European granting procedure.

ments were submitted and in a further 3% observations only.

The total number of applications for which examination was requested in 1980 was nearly 10,000. Some of these were transferred to the United Kingdom Patent Office under an Agreement on the application of Section IV, paragraph 1 of the Protocol on Centralisation; however, at the request of the United Kingdom Patent Office no further examination work will be transferred after 1980, although the United Kingdom Office retains, for the duration of the period specified in the Protocol, the right to request the resumption of this work should its circumstances change. During the course of 1980 a *first* examiners report was issued on some 5,500 applications. By the year's end there were around 5,000 applications waiting for examination, which represented a backlog of, on average, six months' examination work, although it varied from field to field.

In 1980, 484 patents were granted. In addition some 1,700 applications were in order for the grant of a patent, apart from the completion of the formal procedure immediately prior to grant.

Regarding oppositions, the two that were filed in 1980 clearly do not lead to any conclusions on the likely percentage of patents to be opposed. The indications are, however, that this percentage will be lower than the 25% previously estimated. Guidelines on the opposition procedure were drawn up after consulting SACEPO (Standing Advisory Committee of the European Patent Office); it is intended that the procedure be quick and simple, while at the same time doing justice to the parties.

Appeals

The number of appeals filed in 1980 was lower than expected. The Legal Board received 26 appeals and the Technical Boards eight. Eight appeals were dealt with, although a number were suspended pending a decision of the Administrative Council on the new Rule 85b.

II. Search of National Applications on Behalf of Member States

Although the number of European and international searches performed in 1980 has nearly doubled with respect to the previous year, much of the search work was carried out in respect of national applications of former IIB-Member States, namely France, the Netherlands, Switzerland and Turkey. A total of 30,214 of these searches were performed, which represented 60% of the search capacity of the Office in 1980.

III. European Patent Office as an International Authority Under the Patent Cooperation Treaty

By the end of 1980, the European Patent Office had been specified as an International Searching Authority

by the following receiving Offices: the European Patent Office itself, the International Bureau of WIPO* and the central industrial property offices of the following States—Austria, Brazil,* Denmark,* Finland,* France, Germany (Federal Republic of), Luxembourg, Malawi, Monaco, Norway,* Netherlands, Romania,* Sweden,* Switzerland, Liechtenstein and the United Kingdom. The number of international searches carried out in 1980 remained modest, namely 892, although they showed an increase over 1979.

The Office had also been specified as an International Preliminary Examining Authority by the following receiving Offices: the European Patent Office itself, the International Bureau of WIPO* and the central industrial property offices of the following States: Austria, Brazil,* Finland,* Germany (Federal Republic of), Monaco, Netherlands, Romania* and Sweden.* However, only 15 preliminary examination reports were drawn up by the Office in 1980.

IV. Public Information Services

The information services offered to the public by the Office are limited, in principle, to information in connection with the European patent granting procedure. It is considered that the dissemination of technical information from patent documents is better carried out by national offices of Contracting States, with their decentralised documentation collections, rather than by the European Patent Office.

For specific information on individual applications and patents, the main source is the European Patent Register. It is computer based and information was given direct or by telephone from display terminals in both Munich and The Hague. In the course of the year, a direct access service to the Register was made available to national offices and the public, either by a direct dialling connection over the public telephone network or via the EURONET data telecommunications network. The number of subscribers who use this method of accessing the Register is as yet rather small. Printed out extracts from the Register are also available and all new entries in the Register are published in the periodic European Patent Bulletin. Further information about individual cases can also be obtained by inspection of the files.

As to the more traditional means of giving information on applications and patents, the Office published in 1980 nearly 15,000 patent applications and specifications obtainable both printed and as microfilm cards. These, along with the classified abstracts and European Patent Bulletin, were published throughout 1980 on a fortnightly basis, although preparations for a weekly publication as from the beginning of 1981 were

* This receiving Office has specified one or more other international authorities in addition to the EPO.

in hand. The *Official Journal* continued to appear approximately every month.

V. Legal Service

Legal Service for the Grant of Patents

The legal service for the grant of patents answered in writing more than 400 enquiries in addition to dealing with numerous enquiries in person or by telephone. Applicants and representatives continued to make full use of the possibility to put specific questions on Office practice to the legal service. Questions referred by the Receiving Section during the formalities examination concerned such subjects as the correction of errors in documents filed with the Office, the signature of documents on behalf of legal persons, the payment of fees, translations and filing the request for examination. An increasing number of questions were referred to the service by the examiners during the substantive examination; these dealt with such topics as the preservation of working models submitted with an application, reimbursement of the appeal fee, preliminary examination under the PCT and divisional applications. Several questions concerned procedures under the PCT and the rules for applications involving microorganisms; a study was made on the patentability of microorganisms per se. Advice was given and procedures established in connection with the introduction of an address for correspondence and of a facility for over-drawing the deposit account.

General Legal Service

The general legal service advised the Office management orally and in writing on a considerable number of questions on the Service Regulations. The service represented or advised the Office management in more than 30 disputes in this field.

VI. External Relations

Standing Advisory Committee of the European Patent Office (SACEPO)

In the building up and operation of the European patent system the Office pays great attention to the views of the interested circles. Regular contact with European interested circles is maintained through SACEPO, in which industry and the patent profession in Member States are represented. Again in 1980 the Committee, during two sessions, gave the Office its opinion on a variety of topics, including amendment to the Guidelines for Examination and the Implementing Regulations to the Convention, patentability of microorganisms, different claims for Contracting States in which prior national rights exist, working methods of

the Boards of Appeal, inspection of files, and the standard of European substantive examination.

Professional Representation

On questions relating to professional representatives, however, the Office—and in particular the Examination Board for the European Qualifying Examination—deals direct with the Institute of Professional Representatives Before the European Patent Office. Conversely the Institute puts questions direct to the Office, such as resolutions of its Council on the practice of the Office.

The Office and the Institute also carry out certain tasks jointly. For example, in 1980 the rules of procedure of the three disciplinary bodies for professional representatives—the Disciplinary Committee of the Institute, the Disciplinary Board of the Office and the Disciplinary Board of Appeal—were elaborated by representatives of the Office and Institute. The three rules of procedure were approved by the Administrative Council on a proposal from the Disciplinary Board of Appeal. These were published in the *Official Journal* together with the Code of Professional Conduct drawn up by the Council of the Institute.

The number of persons entered on the list of professional representatives at the end of 1980 was 4,525 (compared with 4,380 at the end of 1979). Of those entered in the course of 1980, four persons were granted exemption under Art. 163, para 4(a), EPC.

International Relations

Naturally, close co-operation exists between the Office and the Member States of the European Patent Organisation. As well as the regular consultation which takes place in the Administrative Council and its subordinate bodies, the Office had direct contacts with the Member States in connection with its task of granting European patents valid in those States and the drawing up of search reports on national applications.

At the wish of the Administrative Council, the European Patent Office, together with WIPO and the Commission of the European Communities, had various contacts with Greece and Portugal on the harmonisation of their patent laws with European and international patent treaties and the ratification of these treaties. First contacts with Spain, regarding its possible ratification of the European conventions, took place when a delegation from the Spanish Patent Office visited the Office in March.

During the course of 1980 the Office was represented at numerous international meetings. Of particular importance is the work of the Interim Committee for the Community Patent Convention where the Office has tried to find acceptable solutions to, in particular, the question of litigation of community patents. The Office also took part in those meetings of WIPO where it has a direct interest.

A large part of the collaboration with WIPO concerns joint activities in the field of technical assistance. In October the Office organised jointly with WIPO and the Commission of the European Communities a second training seminar for 25 trainees from developing countries. The seminar, aimed at non-specialists in the field of industrial property, once again attempted to demonstrate the use of patent documents not only within the scope of a patent office but as a source of technical information in general. Also the Office made available experts in the field of patent documentation for missions to Rwanda and to Burundi to study the role of patents in the development of these countries and projects such as the modernisation of the Brazilian Patent Office. Furthermore the Office carried out a number of searches and drew up monographs free of charge within the WIPO programme of assistance to developing countries.

At the invitation of the Chinese authorities, a delegation from the Office visited China in March to discuss the setting up of a system for the protection of inventions in China. To assist in the project, the Office accepted later in the year seven Chinese trainees for a period of three months, the training taking place in search documentation and substantive examination.

The Office, along with a number of others, continued in 1980 to contribute to the CAPRI project (computerized Administration of Patent Documents Reclassified According to the International Patent Classification). This project consists of reclassifying according to the International Patent Classification all patent documents published after 1920 and before 1973, the results being sent to the International Patent Documentation Center (INPADOC) for accumulation. The data is made available through WIPO to developing countries, to assist them in setting up industrial property offices, and to other interested parties.

Regarding the protection of microbiological inventions, the Office, with the agreement of the Administrative Council, deposited the declaration under Art. 9 of the Budapest Treaty, which states that the Office will recognize for the purposes of the European patent grant procedure the deposit of microorganisms at international culture centres registered under the Treaty. The Office has taken the first step to secure the international registration under the Treaty of four important European culture centres. As to Rule 28 of the Convention, the Office has taken the necessary preparatory measures in consultation with the Member States and interested circles for the recognition by the President of the Office of experts in the field of microbiology. So far 100 experts throughout the world have been contacted and over 50 have declared their readiness to act as experts under Rule 28. The standard agreement with culture centres has been harmonised with the new version of Rule 28 and the new Rule 28a; all centres with which the Office has concluded an agreement have accepted the changes.

SPAIN

Activities of the Registry of Industrial Property in 1979*

I. Reform of the Registry of Industrial Property

1. Legislative Changes

Before the reform completed in 1975,¹ the Registry was essentially governed by Articles XI (concerning the organization of the Registry) and XII (pertaining to fees) of the Industrial Property Law of July 26, 1929. This text had introduced no significant changes to the previous code established in the Industrial Property Law of May 13, 1902, and the Regulations of 1903 and 1924.

Economic change and considerable technological progress since 1929, which have resulted in a marked increase in applications for registration of various types of industrial property, the ratification of new international treaties by Spain, and the need to take advantage of the technical information accumulated in the Registry, with a view to adopting an appropriate technological policy, have all made it necessary to change the structure of the Registry.

All these requirements have been essentially met by the reform of the Registry of Industrial Property introduced in Law No. 17 of May 2, 1975, and in Royal Decree No. 2573 of June 17, 1977, approving the fundamental Regulations of the Registry.

The Registry is established as an autonomous organization attached to the Ministry of Industry and Energy, and the balancing of its budget is assured by the increase of fees.

This reform has allowed the Registry to be modernized and expanded, to increase its staff and to organize appropriately and bring up to date its working methods with an effective administration in view, thus making it possible both to deal with current needs and to absorb the work which has accumulated.

2. Aims and Functions of the Registry of Industrial Property

The new legislation has entrusted the Registry with the following tasks in particular:

- to recognize and maintain protection by registration of the various types of industrial property recognized by law (protection by registration);
- to disseminate the technical information accumulated in the Registry (by storage, classification and distribution of information using electronic data processing and microfilming of documents);

* This report is excerpted from *Memoria 1979—Actividades del Registro de la Propiedad Industrial Durante el Año 1979*.

¹ A codified version of the Industrial Property Law will be published in a future issue of *Industrial Property Laws and Treaties*.

- to further international relations in the area of industrial property and to promote Spain's accession to the international conventions that it has not yet ratified;
- to provide reports on proposed laws, etc., relating to industrial property, and to advise authorities, courts and other official bodies on request (advisory function);
- to promote industrial property by activities furthering wider knowledge and protection of it.

3. Structure of the Registry

The management of this autonomous organization is placed under the supervision of an Administrative Council. The management supervises the following units:

- the Data Processing and Organization Service (comprising three sections);
- the Appeals Service;
- the General Secretariat (comprising three services of two sections each);
- the Patents and Models Department (subdivided into the Technical Advice Section, the Classification and Patent Examination Service (comprising three sections), the Administrative Proceedings Service (comprising two sections) and the Working and License Section);
- the Distinctive Signs Department (subdivided into the Examination Service (comprising four sections) and the Administrative Proceedings Service (comprising two sections);
- the Technological Information Department;
- the Studies and International Relations Department (comprising two services).

II. Activities of the Registry in 1979

I. Activities Pertaining to the Recognition and Maintenance in Force of Industrial Property Titles

Updating and backlog work in the handling of cases began in 1975; during this period a considerable number of cases were resolved.

There was a subsequent fall in the number of patents issued in all types of industrial property as a result of the normalization of the situation and the total clearing of the backlog. In 1979 there was no backlog in the handling of cases except in the Appeals Department, where updating work is to be completed shortly.

Inventions

Patents. In 1979 the number of patent applications was 10,859, of which 8,429 were the subject of a claim of priority (i.e. 77.63%). The number of applications filed in 1979 was approximately equal to the average over the previous three years, although a slight decrease may be noted in comparison with 1977 and 1978.

The number of patent cases handled in 1979 was 10,806; 10,212 patents were issued (94.51%).

Of the 10,859 applications deposited in 1979, 2,362 were from the United States of America, 1,893 from Spain, 1,727 from Germany (Federal Republic of) and 1,308 from France. The patents granted during the same year originated chiefly from the following countries: USA (2,241), Germany (Federal Republic of) (1,727), Spain (1,569) and France (1,362).

The largest number of patents granted—2,959—fell under Section C of the International Patent Classification (IPC) (chemistry and metallurgy); Section B (various industrial techniques; transportation) followed closely.

Utility Models. In 1979, 6,725 utility model applications were filed, 824 of them claiming priority (12.26%). The reason why there is a smaller proportion of priority claims than in the area of patents is that in Spain there are far more utility model applications of Spanish origin than of foreign origin.

The number of utility model applications followed the decreasing trend started after 1973, during which year the highest number of applications in the past 20 years was filed.

The total number of cases handled in 1979 was 6,190, of which 5,355 (86.52%) resulted in registration.

The number of utility model registrations applied for and granted to Spanish nationals is considerably higher than that applied for and granted to foreigners. The number of national applications is in inverse proportion to that of patent applications; thus, out of 6,725 applications for the registration of models, 5,665 were of Spanish origin (84.24%); 4,428 of the 5,355 registrations granted went to Spanish nationals (82.69%).

The highest number of utility model registrations granted—1,687—fell under Section A of the IPC (human necessities).

Working and Licenses. The number of patents submitted to the procedure for proof of working was 2,787; in 1,062 cases, the patented object was proved to have been worked; in 91 cases, the existence of the necessary means for working the invention was proved; 1,107 patent owners requested an extension for presenting the certificate of working the invention; and the renewal of proof of working was produced for 527 patents.

34,746 patents were submitted to the procedure for offering of licenses to exploit the invention; 8,755 of these were made the subject of initial offers and 25,991 were the subject of renewals of offers.

1,545 patents of introduction (*patentes de introducción*) were submitted to the procedure for proof of working (this proof is compulsory for this type of protection). For 260 patents, this concerned the initial working and for 520 it concerned the renewal. Requests for an extension to prove working amounted to 765.

Regarding utility models, 5,970 were submitted for proof of working; 2,558 utility models were proved to

have been worked; in 141 cases the existence of the means necessary for working was proved; in 3,009 cases an extension to prove working was requested; and for 262 utility models the question was one of renewal.

The number of utility models submitted for the offering of licenses amounted to 8,829, including 3,361 corresponding to initial offers and 5,468 to renewals.

Designs

Industrial Designs. In 1979, 2,360 applications for the registration of three-dimensional industrial designs and 431 applications for the registration of two-dimensional industrial designs were filed, totaling 2,791, of which only 252 (i.e. 9.03%) contained a claim of priority.

The number of applications for three-dimensional industrial designs was slightly lower than for 1978, continuing the decline which began several years back; the number of two-dimensional industrial design applications, on the other hand, has risen slightly since 1978, although it is lower than the average of the previous three years.

In 1979, 2,354 cases were resolved (2,012 for three-dimensional and 342 for two-dimensional industrial designs); the number of titles granted was 1,840 (91.46%) and 326 (95.33%), respectively.

The proportion of applications submitted by nationals and the titles granted to nationals was fairly high. Out of a total of 2,791 applications, 2,425 (86.89%) were of Spanish origin, and out of a total of 2,166 titles granted, 1,901 (87.77%) were to Spanish nationals.

International Classification

Patents have been classified to subgroup level. Utility models filed since March 1979 have been classified to subgroups; the classification is now published at the same time as the application.

The industrial design classification is now also published at the same time as the application.

Distinctive Signs

Marks. In 1979, 32,175 applications were filed for the registration of marks, including 24,306 for goods and 7,869 for services. The number of priority claims was 144 and 9, respectively.

There was a marked increase in applications in relation to 1977 (30,812) and 1978 (30,354).

In 1979, 45,346 marks were registered, including 29,963 for goods and 15,383 for services.

The fact that the number of registrations in 1979 exceeds the number of applications is the result of the backlog in handling applications being totally cleared during the year.

In 1979, 76,191 matters were resolved (51,063 relating to trademarks and 25,128 to service marks). The percentage of marks registered was 59.52%.

The percentage of Spanish marks was 89.29% of applications and 91.38% of registrations.

The classes of goods and services rating highest among applications was Class 16 (stationery and books, office requisites) and Class 35 (advertising and business services) with 2,673 and 1,751 applications, respectively.

International Marks. In 1979, the protection of 5,131 international marks was sought in Spain, which constitutes a slight increase in relation to 1978 (4,892 applications).

The total number of cases resolved in 1979 was 5,710.

Trade Names. The number of applications for registration filed in 1979 was 3,265, a slight increase in relation to the previous year, during which 3,144 applications were deposited. The number of cases resolved during the year was 2,727; 1,583 of these resulted in registration (58.05%).

Business Signs. The number of applications was 3,564, constituting a slight decrease in relation to 1978 (3,621 applications). The total number of cases resolved was 3,280, of which 2,674 represented acceptances (81.53%).

Temporary Protection

The Registry assigned officials to admissions committees of fairs and exhibitions held in Spain in 1979, for the purposes of temporary protection provided for in Title VIII of the Industrial Property Law.

Appeals

The Registry's Appeals Service has been overloaded with work in recent years as a result of the increasing number of decisions issued by the Registry since 1975, when it undertook the task of clearing the backlog. The need for a thorough study of anticipations has made it more difficult to speed up progress in this area.

The number of appeals submitted in 1979 was 10,044; 17,957 cases were resolved.

At present, staff expansion in this Service leads one to expect that work will be brought up to date in the near future.

2. Activities Relating to Technical Information and its Dissemination

In accordance with Law No. 17 of May 2, 1975, on the establishment of the autonomous organization: "Registry of Industrial Property," and Royal Decree No. 2573 of June 17, 1977, establishing and defining the functions of the Department of Technological Information, the following activities took place in 1979:

Systematization of the Search File

With a view to providing Spanish industry with technical information contained in patent documents, the Registry continued to take the necessary measures to facilitate access to its search files.

The following measures have been taken in relation to national documentation: publication of annual indexes of issued patents, utility models and industrial and artistic designs; production of microfiches containing 200,000 bibliographic data pertaining to inventions since 1978, classified according to applicants, in numerical order and by IPC subclasses, as well as a card-index of applicants starting from 1945.

Regarding foreign documentation, measures have been taken in accordance with the agreement reached with the International Patent Documentation Center (INPADOC) in 1976: exchange of official gazettes with the main member States of the Paris Union for bibliographic references, and the acquisition of foreign patent specifications since 1970, through the Derwent and Research firms.

Bibliographic Information on Microfiches

In 1979 the Registry continued to receive from INPADOC bibliographic data on microfiches concerning 50 countries, totaling 900,000 documents. The following available services may be consulted on a screen and direct copies obtained:

- (a) Patent Family Service;
- (b) Patent Classification Service;
- (c) Patent Applicant Service;
- (d) INPADOC Patent Gazette.

Two retrospective files are now available, covering the years 1968 to 1972 and 1973 to 1978, comprising 4,800,000 documents.

Given that a considerable number of consultations pertain exclusively to bibliographic data on inventions registered in Spain, microfiches on national data covering the same years have been produced and are available on the same principles as those of INPADOC.

Microfilming of Invention Specifications

Patent and utility model specifications were microfilmed on 35 mm reels (8 pages per frame) on four "Recordak" machines.

In view of the difficulties involved in the use of 35 mm reels, it was decided in June to use as an information support 24 mm 98-image microfiches (7x14), which are more suitable for disseminating information. In November, work began on the preparation of specifications (from 1968 to the present) for recording on microfiches in the coming months.

The present equipment will be replaced with new material using the microfiche as an information support.

Foreign Documents

The Registry continued to receive, on an exchange basis, the official industrial property gazettes of 14 countries.

Abstracts are taken mainly from publications of France and the USA; these abstracts are available

by means of the appropriate annual indexes and INPADOC microfiches.

The Registry has continued to receive the complete patent documentation of the USA, Germany (Federal Republic of), the United Kingdom and Switzerland on 16 mm microfiches, totaling 180,000 documents. Patents published in these countries since 1970—a total of 1,700,000 documents—are also available. The incorporation of Italian documentation is now being undertaken.

As a result of organizational and regulatory measures taken in 1978, there has been a considerable increase in consultations of the Library's document files.

Dissemination of Information

The fixing of fees for the different information services to individuals from the document file is now under way. The services disseminating information contained in the Spanish patent documentation consist in the publication of annual indexes to the Official Bulletin of Industrial Property, in the sale to the public of copies of patent documents and in the availability of invention specifications in the consultation room.

Publications

During the year, 42 issues of the Official Bulletin of Industrial Property were published in the following editions:

- Volume I — Marks and Other Distinctive Signs: 600 copies;
- Volume II — Patents and Utility Models: 750 copies;
- Volume III — Industrial and Artistic Designs: 650 copies.

The annual indexes of inventions for 1978 have been published, including granted patents, utility models and industrial and artistic designs, classified in order of number, applicants and IPC subclasses. The 1979 indexes will also include an index of catchwords in the titles of inventions.

Consultation of the Document File and Requests for Copies

The number of consultations in the area of technical information was 500 (233% more than in 1978).

In May 1979 the identification and arrangement of the foreign patents file on 16 mm films was completed and the latter was made available to the public; photocopies may be obtained on request. The file covers patents from the USA, France, Switzerland and Germany (Federal Republic of) since 1970.

3. International Activities

The Registry's activities on the international level took place, as before, within the framework of the World Intellectual Property Organization (WIPO); it also par-

ticipated in other international forums, such as the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Economic Commission for Europe (UN/ECE).

WIPO

The Registry's activities within the framework of WIPO have covered various areas, such as documentation and information within the Permanent Committee on Patent Information (PCPI), the revision of the Paris Convention, the implementation of various treaties, the modification or preparation of others, activities in cooperation with the Permanent Committee, participation in the Group of Experts on the Model Law for Developing Countries on Inventions and Know-How, as well as the 10th series of meetings of the WIPO Governing Body and of the Unions administered by this Organization.

Latin America. As in previous years, and for the fourth consecutive year, a course was held in Madrid on "Theoretical and Practical Aspects of Industrial Property," organized by WIPO, the Spanish Government and the Registry of Industrial Property. The fellowship recipients came from Latin America and the Caribbean and occupy posts in their country related to industrial property. This course, lasting one month, consisted in daily work sessions and reports, followed by discussions concerning all branches of industrial property. At the end of the course, each participant made a report to the Director General of the Registry, to WIPO and to his national administration on the questions he found most interesting.

The Registry sent a qualified marks examiner of the Distinctive Signs Department in an expert capacity to the Introductory Course on the International Classification of Goods and Services for the Purposes of the Registration of Marks, organized by WIPO in cooperation with the Council (*Junta*) of the Cartagena Agreement held in Lima, Peru.

Other Organizations

- United Nations Conference on Trade and Development (UNCTAD). The Registry participated in the second series of sessions concerning an International Code of Conduct on the Transfer of Technology, held in October and November in Geneva.

- United Nations Economic Commission for Europe (UN/ECE). The Registry participated in the Ad hoc Meeting on the Manual on Licensing Procedures and Related Aspects of the Technology Transfer, held in January in Geneva.

4. Financial Resources; Other Activities

Financial Resources

The approved receipts budget for 1979 amounted to 418,000,000 pesetas, to be covered entirely by the product of the fees due to the Registry. At the end of the year, real receipts amounted to 451,963,000 pesetas.

The expenditure budget amounted to 880,859,000 pesetas; real expenditure amounted to 343,095,000 pesetas. Most of the surplus of 537,764,000 pesetas consists of investment credits which have been incorporated in the budget for 1980.

Data Processing

Introduction. As stated in the preamble to Royal Decree No. 2573 of June 17, 1977, approving the Fundamental Regulations of the Registry of Industrial Property, the importance of applying data processing technology to the administrative activities of the Public Administration is obvious. This need is felt especially acutely by the Registry, given the considerable volume of cases handled and the checks which must be carried out after registration, as well as the need to classify and make available data pertaining to patented technology, among other things.

The activities of the Data Processing and Organization Service during 1979 aimed essentially at the introduction and study of new applications, without discontinuing the use of previous applications already in the working phase.

Applications in Use. The retrospective recording of data pertaining to maintenance of protection, carried out in 1978, has made it possible to obtain a list of files presumed to have expired or been annulled.

The following processes have continued to be carried out using to a large extent already existing software:

- transfers and renewals, the computer output of which is sent to the printers for publication in the Bulletin of Industrial Property;
- annual indexes of inventions; by the offset process, using computer output, annual indexes have been produced in numerical and technical order and in alphabetical order of applicants. One should point out the incorporation for the first time of catchword indexes, made possible by the introduction of an automatic indexing system based on titles of inventions;
- production of magnetic tapes for INPADOC; data pertaining to utility model applications and the granting of patents and utility models are still being sent fortnightly to INPADOC; these data, previously obtained from the Bulletins, are now a by-product of the file processing system (see below);
- obtaining of annual industrial property statistics for publication by WIPO; these statistics were produced in 1979 using the general card index of files.

Applications Introduced During the Year. The Service's main activity has been the implementation of a global file processing system.

This application began with files of applications submitted to the Registry since January 1, 1979. All the information pertaining to these files, both provided by individuals (applications, oppositions, payments, etc.) and of internal origin (decisions and handling) is assem-

bled, recorded and subsequently processed by computer. The use of this application gives rise to the following possibilities:

- elimination of handwritten entries in book registers: all the information is contained in the magnetic archives;
- consultation on the status of cases: up-to-date information in the magnetic archives can be disseminated using computer output, microfiches and magnetic tape. A system of direct consultation from a computer terminal is planned;
- mechanized production of the original for publication of the Official Bulletin of Industrial Property: data processing makes it possible to avoid publishing information which is formally incorrect or incomplete or contradicts the facts in the files;
- automatic control of payment of fees for maintenance in force facilitates immediate detection of annulments and expirations.

Applications in Development Phase. Regarding distinctive signs, a system of anticipation search by phonetic similarity is planned. This system of similarity search for distinctive signs is designed to extract denominations resembling those submitted for registration with a twofold purpose: to assist examiners and to issue preliminary reports requested by individuals.

In 1979 this application was subjected to a general analysis and its programming was begun. Its structure was designed taking into account criteria currently applied in examination.

Work was also started on the extraction of denominations and other data from distinctive signs files not recorded in the magnetic archives. The programming and analysis of this application were likewise developed, starting with the assembling of data with the aim of establishing and maintaining archives of international marks requested for Spain, which must also be taken into account for examination purposes.

This application will be in operation when the assembly of data and programming are completed.

Publication of the annual indexes of inventions by photocomposition is also planned; these will include, for the first time, the index of marks in order of denomination, class and number.

Courts

In 1979, 2,089 proceedings were filed with the courts of justice, including 2,042 by appeal courts (*Audiencias Territoriales*) and 47 by courts of first instance.

Receipt of Documentation

Applications for registration of different types totalled more than 59,000 in 1979.

Archives

Files consulted in 1979 amounted to 28,137; 18,290 of these were requests by individuals and 9,847 were official requests. 10,711 cases were submitted to the Appeals Service. The Document Reproduction Section received 10,000 invention files.

Activities in the Area of Administrative Information

The Registry's activities in this area can be broken down into the following sections:

- official information written to Spanish and foreign Chambers of Commerce and other official organizations	145
- written information provided to individuals on questions concerning files	522
- preliminary reports provided with explanations of their contents	2,900
- verbal information	5,400
- collation of documents to be included in files	4,600

Exhibitions

ROMANIA

Communication

Concerning the Temporary Protection of Inventions, Trademarks and Service Marks Exhibited at the International Fair - BUCHAREST 1981

The International Fair - BUCHAREST 1981 will be held in Bucharest from October 15 to 23, 1981.

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

The Administration of the International Fair - BUCHAREST 1981 will issue certificates of guarantee, upon request, until the closing date of the Fair.

Calendar

WIPO Meetings

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

1981

- 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
- October 14 to 16 (Bogotá) – Committee of Experts on Means of Implementation of Model Provisions for National Laws on Intellectual Property Aspects of the Protection of Expressions of Folklore in the Latin-American and Caribbean States (convened jointly with Unesco)
- October 19 to 23 (Kingston) – Regional Seminar on Copyright for English-Speaking Caribbean States (convened jointly with Unesco)
- November 4 to 6 (Belgrade) – International Conference – Inventive Activity as a Factor for Development of Technology in the Developing Countries (organized by the Yugoslav Association of Innovators and Authors of Technical Improvements with the assistance of WIPO)
- 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)
- December 7 to 11 (Geneva) – International Patent Classification (IPC) – Committee of Experts

1982

- February 22 to 25 (Colombo) – Symposium on the Use and Usefulness of Trademarks in the Countries of the Asian and Pacific Region
- September 27 to October 5 (Geneva) – Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions)

UPOV Meetings

1981

- October 6 to 8 (Antibes) – Technical Working Party for Ornamental Plants
- October 12 to 14 (Geneva) – Administrative and Legal Committee
- October 14 to 16 (Geneva) – Technical Committee
- November 9 (Geneva) – Consultative Committee
- November 10 (Geneva) – 1981 Symposium
- November 10 to 12 (Geneva) – Council

Meetings of Other International Organizations Concerned with Industrial Property

1981

- European Patent Organisation: December 1 to 4 (Munich) – Administrative Council
- Inter-American Association of Industrial Property: October 18 to 21 (Acapulco) – Congress
- International Federation of Patent Agents: October 5 to 9 (Edinburgh) – Congress
- Pacific Industrial Property Association: November 4 to 6 (New York City) – International Congress
- Pharmaceutical Trade Marks Group: October 8 and 9 (Turin) – 23rd Conference

