

# Industrial Property

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

20th Year - No. 11  
November 1981

Monthly Review of the  
World Intellectual Property Organization (WIPO)

---

## Contents

WORLD INTELLECTUAL PROPERTY ORGANIZATION	
- WIPO Convention. Accession: Zimbabwe .....	282
INTERNATIONAL UNIONS	
- Paris Convention. Accession: Zimbabwe .....	282
- Nice Agreement. Ratification of the Geneva Act (1977): Germany (Federal Republic of) .....	282
GENERAL STUDIES	
- The New Amendments to the United States Patent Laws (R. Tegtmeyer) .....	283
- Bulgarian Legislation for the Legal Protection of Computer Software (I. Eskenazi) .....	288
NEWS FROM INDUSTRIAL PROPERTY OFFICES	
- Finland .....	295
- United States of America .....	295
BOOK REVIEWS .....	302
CALENDAR OF MEETINGS .....	304
INDUSTRIAL PROPERTY LAWS AND TREATIES	
- <i>Editor's Note</i>	
- BULGARIA	
Statutory Decree No. 6 of the State Committee for Science and Technical Progress and of the Committee for a Unified System of Social Information Concerning the Use of Software (of June 12, 1979) .....	Text 1-001
- UNITED STATES OF AMERICA	
United States Code, Title 35—Patents (as last amended by Public Law 96-517 of December 12, 1980) (first segment) .....	Text 2-001

---

© WIPO 1981

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

ISSN 0019-8625

---

## World Intellectual Property Organization

### WIPO Convention

#### Accession

#### ZIMBABWE

The Government of Zimbabwe deposited, on September 29, 1981, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

The said Convention will enter into force, with respect to Zimbabwe, on December 29, 1981.

WIPO Notification No. 117, of September 30, 1981.

## International Unions

### Paris Convention

#### Accession

#### ZIMBABWE

The Government of Zimbabwe deposited, on September 29, 1981, its instrument of accession to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Stockholm on July 14, 1967.

Zimbabwe will belong to Class VII for the purpose of establishing its contribution towards the budget of the Paris Union.

It is to be noted that, in a communication received by the Government of the Swiss Confederation on September 29, 1981, the Government of Zimbabwe notified the succession of Zimbabwe to the Paris Convention as revised at Lisbon on October 31, 1958, as from the date of attainment of independence of Zimbabwe on April 18, 1980.

The said Convention as revised will enter into force, with respect to Zimbabwe, on December 30, 1981.

Paris Notification No. 101, of September 30, 1981.

### Nice Agreement

#### Ratification of the Geneva Act (1977)

#### GERMANY (FEDERAL REPUBLIC OF)

The Government of the Federal Republic of Germany deposited, on September 28, 1981, its instrument of ratification of 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 said instrument was accompanied by the following declaration: "the said Agreement shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany." (Original).

The Geneva Act (1977) of the said Agreement will enter into force, with respect to the Federal Republic of Germany, on January 12, 1982.

Nice Notification No. 52, of October 12, 1981.

## General Studies

### **The New Amendments to the United States Patent Laws**

R. TEGTMEYER\*









## **Bulgarian Legislation for the Legal Protection of Computer Software\***

I. ESKENAZI\*\*













## News from Industrial Property Offices

### FINLAND

#### Activities of the National Board of Patents and Registration for 1980\*

##### Patents

At the end of 1980 there were 18,630 patent applications pending (19,235\*\*), which means that the backlog of pending applications has been reduced by 605. The number of new applications was 4,090 (4,095). Of these applications 1,356 (1,384) were national and 2,734 (2,711) were foreign.

During the year 4,695 application procedures were concluded, i.e., approximately as many as during the previous year. The number of new patents registered was 1,906 (1,719), and the total number of valid patents at the end of the year was 8,378 (7,791).

The most successful means used so far to solve the problem of the backlog has been the processing of applications outside office hours. Since 1976 a total of 1,258 applications (in 1980, 420 applications) were processed in this manner. Overtime work has been discontinued as from the beginning of 1981, which is unfortunate for the Office (as well as for patent applicants).

The period of practical training in the first training course in the field of patents was completed at the end of June. Ten new temporary examiner's posts were established as from July 1, and were filled primarily with participants in the training course. It is hoped that these new posts will help to solve the problem of the backlog in the coming years.

An extensive reform of the patent law was completed on October 1. The Finnish law has been harmonized with the principles of the European Patent Convention, and Finland acceded to the Patent Cooperation Treaty (PCT).

##### Trademarks

At the end of 1980 there were 12,792 (14,874) trademark applications pending. The backlog has thus been diminished by 2,082 applications, i.e., 14 percent.

\* This report is an English-language summary, prepared by the National Board of Patents and Registration, of the publication entitled *Patentti- ja Rekisterihallitus 1980*.

\*\* The figures in parentheses represent the corresponding figures for 1979.

A total of 3,615 (993 national and 2,622 foreign) applications were filed for registration. The corresponding figures for 1979 were 3,200 (839 national and 2,361 foreign).

During the year, 5,707 application procedures were concluded, which is 1,731 more than during the preceding year. There were 4,491 new trademarks registered, i.e. 1,592 more than the year before. The total number of valid registrations at the end of the year was 40,647 (37,204).

##### Designs

There is no delay in the processing of design applications, although the number of applications pending at the turn of the year rose, primarily due to a rise in the number of new applications, from 831 in the previous year to 906 applications in 1980. The amount of time taken to process an application is about ten to twelve months.

There was a record number—925—of design applications filed, of which 57 percent were national and 43 percent foreign. In 1979 there were 790 applications filed. The number of new registrations was 721 (983). The development in the number of applications will be closely observed during 1981 in order to consider the need, if any, for additional resources.

---

### UNITED STATES OF AMERICA

#### Annual Report of the Commissioner of Patents and Trademarks Fiscal Year 1980\*

##### Mission

The Patent and Trademark Office (the PTO) is charged with the responsibility of promoting the economic health of the nation through the administration of the patent and trademark laws of the United States. Patent laws benefit the economy by encouraging tech-

\* Excerpted from the report issued under the same title.

nological innovation through incentives to invent, invest and disclose new technology. The primary role of the PTO under the patent laws is to examine patent applications and grant protection for inventions. The Office is also responsible for disseminating the technological information which is disclosed in patent grants.

Trademark laws provide an economic benefit by preventing product confusion among consumers, identifying the skill and integrity of the seller, and protecting against unfair competition. The Office examines applications for trademark registration and grants the protection of a federal registration to trademark owners.

The PTO is a bureau of the U.S. Department of Commerce and is located in the Crystal City office complex in Arlington, Virginia.

### Financial Affairs

#### Operating Costs

During fiscal year 1980 the cost of operating the PTO went up while the number of people employed by the Office went down.

Total operating costs on an accrual basis climbed by 7.8 percent to \$103,748,000; an increase without adjustment for inflation of about \$7.5 million over fiscal year 1979. Compensation and benefits accounted for 74 percent of this total, printing of patents and patent and trademark information used 11 percent and other costs came to 15 percent. Roughly 73 percent of operating costs were allocable to patent processing, 20 percent to dissemination of patent and trademark information, and 6 percent to trademark processing.

Total Congressional appropriations for the Office rose by more than \$8 million in fiscal year 1980, a budget increase after adjusting for inflation of \$32,000, reversing a three-year trend of declining real dollar appropriations for the Office. The increases went to the areas of trademark examination, data and document retrieval, and to the Scientific Library, while funding declined for automatic data processing, administrative services, patent and trademark services, publication services, quality review, patent clerical staff, the Board of Appeals, the Board of Patent Interferences and patent and trademark printing.

Total personnel staffing in the Office declined in fiscal year 1980. Total staff numbered 2,583, which was 120 fewer people than in fiscal year 1979 and 504 fewer than in fiscal year 1974.

#### Fee Income

Twenty-six percent of the cost of running the PTO was recovered in fees charged to users of PTO services, especially patent and trademark applicants. Income

from these fees, which amounted to over \$27 million in fiscal year 1980, is currently deposited in the General Fund of the U.S. Treasury and does not directly benefit the Office. In early fiscal year 1981, Congress passed a law changing the fee structure and disposition of these funds.

#### Reorganization

The PTO underwent a major reorganization in fiscal year 1980 with the establishment of an Assistant Commissioner for Finance and Planning who is assigned responsibility for all planning and management in the areas of budget and finance. Sub-units reporting to the new Assistant Commissioner are the Office of Management and Organization, Office of Technology Assessment and Forecast, Office of Quality Review and the Office of Resource Management, which includes the Office of Finance, the Office of Budget and the Office of Planning and Evaluation.

### Legislation

#### Patent and Trademark Fees

In the past, most fees charged by the Office have been inflexibly set by statute. Patent and trademark application fees have not been changed since 1965, and have fallen steadily relative to operating costs. This was changed by a bill introduced in Congress in fiscal year 1980 and signed into law in early fiscal year 1981 (Public Law 96-517<sup>1</sup>) which establishes a new mechanism for setting all patent and trademark fees. The law requires that the PTO set fees at a rate which will recover 50 percent of the cost of patent processing, 50 percent of trademark processing and 100 percent of the cost of all other PTO services. Except in the case of design patents, the 50 percent of patent processing costs will be made up from fees recovering 25 percent of application processing costs and 25 percent of maintenance costs. For design patents, the entire 50 percent will be recovered from the cost of processing the application from filing through final disposition. Fees can be adjusted as often as every three years to insure that the prescribed rates are maintained. Revenues from the fees are to be credited to the PTO's own Congressional Appropriations Account rather than sent to the General Fund and will be available to the PTO to the extent provided for in appropriations acts. The initial fee adjustments will take effect no later than fiscal year 1983.

<sup>1</sup> For the codified text of the U.S. patent laws—Title 35 of the United States Code—including the amendments contained in Public Law 96-517, see *Industrial Property Laws and Treaties*, UNITED STATES OF AMERICA—Text 2-001 (*Industrial Property*, November and December 1981) (*Editor's note*).

## Reexamination

Any person wishing to challenge a patent will soon be able to request the PTO to "reexamine" the validity of its issuance. Legislation signed into law early in fiscal year 1981 allows the Office to reconsider the patentability of an issued patent on the basis of new documentary evidence. The party requesting reexamination must persuade the Commissioner that a substantial new question of patentability exists which was not considered during the original examination. The challenger is required to pay the PTO the full cost of the procedure. Reexamination by the Office is expected to be faster and considerably less expensive than resolution of patent validity issues in infringement litigation.

## Membership on TTAB

The Trademark Trial and Appeal Board (TTAB) is where a trademark applicant can take his or her case if an examiner refuses registration. The TTAB, an administrative court in the PTO, also hears disputes over federal trademark registration rights between parties outside the Office. The Trademark Act of 1946 limited membership on the Board to PTO employees. This restriction was eliminated by a law signed early in fiscal year 1981 which expressly authorizes vacancies on the Board to be filled with any person qualified in the field of trademark law, regardless of where the person is employed at the time of selection.

## Inventions of Government Contractors

Also made law was a bill concerning the rights of government contractors to inventions developed with the use of government funds. The law applies only to small businesses and universities. These organizations will now be allowed to retain title to patents on inventions developed through federally funded research.

## Miscellaneous Items

The Office was involved in a number of other legislative issues, the more significant of which were:

- the Federal Courts Improvement Act, a bill which would combine the functions of the Court of Customs and Patent Appeals with the functions of other courts and create a new Court of Appeals for the Federal Circuit;
- Legislation which would prohibit state regulation of the display of federally registered trademarks;
- A bill to prohibit the Federal Trade Commission from applying to cancel a trademark registration solely on the grounds that the mark has become generic;

- Legislation to improve the administration of the patent and trademark laws by establishing the PTO as an independent agency;
- A bill to provide for the protection of ornamental designs of useful articles.

## International Cooperation

The Patent and Trademark Office pursues its responsibility of promoting the national economy on the international as well as on domestic fronts by working for effective patent and trademark protection throughout the world. The Office's efforts in this area are directed toward the development of simpler, less expensive, and more effective means for U.S. nationals to secure and protect their industrial property rights.

## Revision of the Paris Convention

The United States participated in the Diplomatic Conference on the Revision of the Paris Convention, which was held from February 4 through March 4, 1980.

## The Budapest Treaty

The United States, Hungary, Bulgaria, France and Japan became the initial members of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. The Treaty became effective on August 19, 1980. The United States has designated the American Type Culture Collection in Rockville, Maryland, and the Agricultural Research Culture Collection in Peoria, Illinois, as international depository authorities under the Treaty.

## Other International Activities

The PTO, in cooperation with the Departments of State and Commerce:

- Participated in negotiations for developing an International Code of Conduct on the Transfer of Technology, under the auspices of the United Nations Conference on Trade and Development;
- Received representatives from China, Ghana, Lesotho, Sri Lanka, Malaysia, and Taiwan for training and briefing on the operations of the PTO;
- Continued its cooperation with the Brazilian Patent Office by sending office personnel to Brazil to serve as patent instructors;
- Received officials from China interested in studying the U.S. patent system and returned visits in a joint project with the Licensing Executives Society to study

the Chinese system for the sale and licensing of patents and technology; and

- Continued its participation in efforts towards U.S. ratification of the Trademark Registration Treaty (TRT).

### The Patent Cooperation Treaty

The Office entered its third year as a receiving Office under the Patent Cooperation Treaty (PCT). In fiscal year 1980, the Office received 1,647 international applications, an increase of 59 percent over the previous year. Under the PCT, the Patent and Trademark Office also serves as an International Searching Authority for international applications filed in the United States and Brazil. In this capacity, the PTO completed 1,442 international search reports during fiscal year 1980. The PTO also received notification that it had been "designated" in 2,027 international applications filed in other PCT receiving Offices around the world.

### Supreme Court

In a decision which received widespread publicity, the Supreme Court ruled in *Diamond v. Chakrabarty* that the present patent law authorizes the granting of a patent on a living microorganism which the inventor had developed through genetic engineering techniques. This area of the biotechnologies has expanded rapidly in recent years. The decision is seen to have potentially far-reaching consequences for the industry and for the PTO.

The question of patentability of computer programs under the present patent law continued to be a problem for the Patent and Trademark Office. The question was taken to the Supreme Court on petitions for a writ of certiorari in four cases in fiscal year 1980. In two cases, *Diamond v. Bradley*, and *Diamond v. Diehr*, the Supreme Court granted certiorari to consider the question again. The Court has been asked to dispose of the other two cases, *Diamond v. Sherwood* and *Diamond v. Hirschfeld*, in accordance with the decisions in *Bradley* and *Diehr*.

### Trademarks

#### Trademark Applications

Applications for trademarks continued their rise by increasing 2.9 percent to 52,149 total filings. Foreign filings contributed a significant portion of the increase, rising from 4,806 in fiscal year 1979 to 5,329 in fiscal year 1980, up nearly 11 percent and comprising over 10 percent of total trademark applications. This is seen

as an indication that foreign businesses are ever more interested in extending protection for their brand names to the U.S. market.

#### Trademark Registrations

Trademark registrations fell sharply for the second straight year to 16,366. The decrease is attributable to, among other things, problems in printing marks for opposition in the *Official Gazette*, a freeze on hiring of clerical staff and the need to train an unusually large number of new examiners. However, the number of first actions produced rose from 31,305 in fiscal year 1979 to 49,032 in fiscal year 1980, a 57 percent increase.

#### Trademark Pendency

The average time from the filing of an application to its registration or abandonment rose from under 18 months in fiscal year 1979 to nearly 25 months in fiscal year 1980. The interval between the time the applicant files and the Office's first action on the application rose from 10.2 months to 11.5 months. The total number of trademark cases in the Office rose to 110,966, a 33 percent increase over the fiscal year 1979 level of 83,490.

The Office took an important step toward reducing pendency by hiring a number of trademark examining attorneys. During fiscal year 1980, the Trademark Examining Operation maintained an average of 66 examiners, as compared to an average of 47 for the previous fiscal year.

#### Trademark Automation

The automation of trademark processing was still in the planning stages at the close of fiscal year 1980. The Office continued work on studies to identify the types of information required by the Trademark Operation and began the design of an automated system for the retrieval of data on trademark applications and registrations, and for trademark printing.

#### Trademark Search Room

The Trademark Search Room contains records of registered trademarks and trademark applications, and is used by both Office employees and the public. For the first time in several years the Trademark Examining Operation purged the Search Room pending files of applications that have either become abandoned or matured into registrations. The Search Room staff also completed a purge of expired design registrations and nearly completed a purge of expired trademark registrations of all categories.

## Trademark Trial and Appeal Board

During the 1980 fiscal year the Trademark Trial and Appeal Board (TTAB) decided 394 cases after a hearing. Of these 299 were adversary proceedings and 95 were *ex parte* appeals. The Board disposed of 1,235 adversary proceedings and 131 *ex parte* appeals prior to hearing. Although 357 fewer cases were disposed of in 1980 than in the previous fiscal year, cases pending before the Board fell from 2,622 in fiscal year 1979 to 2,298 in fiscal year 1980.

## Patents

### Patent Applications

The number of patent applications filed in the PTO often is regarded as a barometer of the country's future economic well-being. Increased numbers of patent filings tend to reflect progress in the industrial innovation and technological advancement which leads to improved productivity. If figures on patent filings foretell the economic future, the PTO had some good news and some not-so-good news during 1980.

The good news was that patent applications set an all-time record in the 1980 fiscal year with a total of 112,315 filings, an increase of 4,906 over fiscal year 1979 and almost a 5 percent gain. Applications excluding designs also set a record of 105,046, an increase of 4,703 filings. This was the first significant year-to-year increase since 1971 and broke above the 1969-1979 filing range.

The not-so-good news was that although U.S. origin patent applications did increase by 1,878 or 2.8 percent, they failed to keep pace with foreign origin patent filings which registered an increase of 3,028 or 7.4 percent.

The ratio of foreign to U.S. filings has steadily increased over the years and set an all-time high of its own in fiscal year 1980. Thirty-nine percent of all patent applications last year were filed by foreign residents, up from 38 percent in fiscal year 1979.

### Patents Issued

The total number of patents issued by the Office increased substantially in fiscal year 1980 to 61,227—up 10.5 percent above the fiscal year 1979 figure. The increase was caused primarily by the Office working off a backlog of unprinted cases. A large share of the increase went to foreign residents who received 2,058 more patents in fiscal year 1980 than in fiscal year 1979, but the foreign share of patents changed little—37.7 percent of the total in fiscal year 1980 compared with 38 in fiscal year 1979.

## Patent Pendency

The time it takes for an average patent application to be processed from filing to issue or abandonment is called "average patent pendency." Excluding design patents, this average rose sharply during fiscal year 1980 to 22.6 months, an increase of over three months from fiscal year 1979.

However, this three-month figure is somewhat distorted. As mentioned above, the Office worked off a large part of the printing backlog during the 1980 fiscal year. This resulted in an increase in the number of allowances in the mix of allowances and abandonments disposed of by the Office. Since allowed patents generally take longer to be processed than abandoned applications, average processing time and therefore average pendency was artificially raised. After adjusting for this distortion the average pendency still increased by about two months.

While applications filed in fiscal year 1980 totaled 105,046, excluding designs, patent examiners disposed of 89,717, increasing the backlog of non-design applications in the Office by 15,329. The average time it took for an applicant to get a first response to an application went from 7.8 months to 9 months.

The increase in pendency can be attributed to two primary factors. The first is the rise in number of applications. The second is the reduction in staff, especially patent examiners, in the Office. The patent professional staff fell to 949 examiners, 46 less than in fiscal year 1979 and 115 less than in fiscal year 1978. The number of examining support staff has also declined.

## Board of Appeals

The Board of Appeals is responsible for hearing appeals from adverse decisions of examiners on patent applications. The Board received 3,411 appeals during the year and disposed of 3,437 appeals, so that the number of appeals pending decreased by 26 to 4,563. The pendency time for an average appeal at the Board of Appeals was about 16 months starting from the time the Board obtained jurisdiction over the appeal. The Board does not obtain jurisdiction of an appealed application, however, until a case is forwarded to the Board by the examining group, usually about six months after the filing of the notice of appeal.

## Board of Patent Interferences

A patent "interference" is a proceeding declared when an applicant claims the same subject matter in his patent application as has already been claimed in a recently issued patent or another pending application. Interferences are heard and decided by the Office's Board of Patent Interferences, which disposed of 301

cases in fiscal year 1980. Interferences pending before the Board at the close of the year totaled 588, a decrease of 30 cases from the end of fiscal year 1979.

### Reissue Applications

The Office completed its third full year of operation under the revised reissue rules, which afford patent owners the opportunity to have their patents reexamined in light of information not considered by the PTO when the initial examination was conducted. During the year 641 reissue applications were filed. The rate of reissue filings continued to be nearly twice that which prevailed before the reissue rules were amended in 1977. A sampling of reissue applications filed during 1980 showed that 23 percent of all reissues were filed pursuant to the regulation permitting patent owners to file reissue applications which have specifications and claims identical to those of the original patent.

### Duty of Disclosure

One hundred sixty-seven applications, including many reissue applications, were referred to the Assistant Commissioner for Patents for investigation of possible violations of the duty of applicants to disclose material information to the PTO. Forty of the 167 applications were disposed of by the Office. None of these were stricken for disclosure violations and about half were abandoned before the question could be considered. Several significant federal court decisions were rendered during the year involving the PTO's reissue, protest and duty of disclosure practice.

### Accelerated Examination

Patent applications for inventions that enhance the quality of the environment or contribute to energy conservation or development may be accorded a "special" status which accelerates the examination process. In fiscal year 1980, 40 environment-related and 156 energy-related applications were accorded "special" status.

### Patent Process

The Office implemented the second phase of a major automation project during the 1980 fiscal year. Over 250 terminals are now sending and receiving data on some 400,000 pending, patented and abandoned applications. PTO employees can now retrieve complete and current bibliographic data for all pending applications almost instantaneously in most of the processing areas.

This eliminates the necessity of finding the file or referring to the internal manual control system.

During a typical day the system handles over 20,000 separate transactions, each of which updates the location of the particular application. When fully implemented, the system should reduce pendency by two to three weeks for all issuing patents because it enables the notice of allowance to be printed automatically and mailed to applicants at an earlier stage in the processing.

### Assignment Search

During the year the Office developed an automated search system for assignment records. The new system will provide searchers with a computer-generated microfilm record of assignee and assignor information, sorted into alphabetical order. It will also enable searchers in the future to review patent assignments through direct access to a computer data base. The capability of searching by patent number was not available previously. The system also provides a printed copy of the assignment record to be sent to the filing party along with the original deed. Use of computer-generated microfilm is expected to eliminate the problems associated with misfiled and lost assignment brief documents which were encountered in the previous index card search system.

### Computer Data Base Available to Public

The PTO generated several data bases in the course of examining, classifying and printing patents. These valuable data bases were made available to the public for the first time in fiscal year 1980 in the form of tapes containing bibliographic data, classification data and even the full texts of printed patents. The Office anticipates that the tapes will be purchased by private on-line computer information systems, researchers, chemical laboratories and others with a need for patent information. The National Technical Information Service, through which the tapes are sold, reports that public response to their availability has been very enthusiastic.

### Quality Review

The Office's Quality Program for patents samples 4 percent of all allowed applications to provide data on:

- the patentability of the allowed claims;
- the correctness of the field of search and the classification of the application; and
- compliance with current practices and procedures.

From the establishment of the program in April 1974 through the end of fiscal year 1980, Quality Review

completed processing on a total of 14,453 applications. Of these, 654 (or approximately 5 percent) were returned to the Groups as having one or more claims clearly unpatentable. Prosecution was reopened in 582 (i.e., approximately 89 percent of the applications returned to the Groups). In addition, the search was considered defective in some 8 percent of sampled applications and prosecution was reopened in 76 of the 1,161 applications returned for additional searching.

During the first six months of fiscal year 1980, only 3 percent of the sampled applications were found to be allowed in error, as compared to 7 percent in fiscal year 1975. And for the same six-month period of fiscal year 1980, prior art searches were found to be inappropriate in 5 percent of the applications reviewed, as compared to 11 percent in fiscal year 1975. The Quality Review Program has proven to be a useful supplement to the regular quality review performed by immediate supervisors of examining personnel who, of course, play a key role in monitoring patent quality.

The Office is now developing criteria for a similar quality review of the trademark examining process.

### Patent Search File

The integrity of the patent search file used by PTO examining personnel is critical to the reliability of the issued patent. In fiscal year 1980 the Office accelerated a program of updating the most active portions of the patent search file and improving the accuracy of the computer record of file contents. Approximately 4,000 subclasses containing about 945,000 U.S. patents were reviewed. As a result of this review, approximately 69,000 patent copies were added to the file to replace missing or mutilated documents.

### Reclassification

Selected portions of the patent search file are reviewed periodically to determine the need for new classifications better corresponding to the current state of technology. These ongoing reclassification programs constitute an analysis of all patents in a given technology. The Office then restructures the technological breakdowns to increase the access to and reliability of the patent search file. Although reclassification programs established 5,261 new subclasses and involved approximately 600,000 U.S. and foreign patents, reclassification activity declined during the 1980 fiscal year.

### Publication of Classification Definitions in Microfiche

A series of publications titled Classification Definitions were reproduced in microfiche and offered for sale through the Superintendent of Documents. The series has been distributed to Patent Depository Libraries and other libraries throughout the United States and has been put to use in the Classification Groups and Examining Groups of the PTO. This series of titles provides the definition of each of the over 320 different utility classes and comprises more than 12,000 pages of printed matter. It is now available in a set of 359 microfiche.

### Technology Assessment and Forecast

The Patent and Trademark Office's Office of Technology Assessment and Forecast (OTAF) began publication of *Patent Profiles*. This new series presents information about patent activity and trends in various areas of technology, such as Synthetic Fuels and Solar Energy. Each issue contains data on patent numbers, titles, active companies and independent inventors in a particular technology.

In fiscal year 1980 OTAF prepared 201 special technology assessment reports for public and private organizations and completed development of a cross-reference system between the U.S. patent classifications and energy technology. This system will facilitate the identification and analysis of energy technology in 17 patent categories.

### Patent Depository Libraries

Two new patent depository libraries were added in fiscal year 1980—the University of New Hampshire Library and the Minneapolis Public Library and Information Center. Patent depository libraries have completed collections of patents arranged in numerical order. The existence of the 34 Patent Depository Libraries puts more than 38 percent of the U.S. population within commuting distance of a patent collection.

A table showing the location of the Libraries and a point of contact in each was inaugurated as a continuing notice in the *Official Gazette* to promote public awareness of the Patent Depository Libraries. Publishers of private journals and journals of technical and professional societies are encouraged to republish this information.

## Book Reviews

**Brevet et médicament en droit français et en droit européen**, by M. de Haas. Librairies Techniques, Paris, 1981. — 589 pages.

The legal protection of the results of pharmaceutical research is a controversial subject in the field of patent law. The interplay between the exclusive rights of an inventor in the fruits of his labor and the interests of public health has given rise to debate by legislators, jurists and theoreticians. In his work, Professor de Haas undertakes an in-depth analysis of patent protection for medicinal inventions under both French and European law and arrives at a most interesting conclusion.

Professor de Haas divides his work into two parts: in the first he deals with the rules for obtaining a patent for a medicinal invention; in the second he analyzes the rules of law once a patent is in force. This approach permits him to conclude that while medicinal inventions are no longer singled out for special treatment in respect of the grant of patent rights, their special character as well as the need to safeguard the public interest are reflected in legal distinctions as far as the exercise of those rights is concerned.

The importance of Professor de Haas' work is highlighted by the fact that it is apparently the first in its field to consider the relevant principles enunciated in the European Patent Convention, the new French patent legislation and the law of competition. It should be read by theoreticians and practitioners alike.

JAE

**Patentgesetz — Gebrauchsmustergesetz (7th edition)**, by G. Benkard. C.H. Beck, München, 1981. — 1378 pages.

This work is the entirely revised seventh edition of G. Benkard's commentary on the German patent and utility model legislation, as carried on by W. Ballhaus, K. Bruchhausen, R. Rogge and E. Ullmann.

Since the publication in 1973 of the sixth edition of this commentary, the patent legislation of the Federal Republic of Germany has been substantially amended, particularly to adapt that legislation to the various related international and European conventions. Consequently this seventh edition is entirely new and is based on the December 16, 1980, version of the Patent Law; it also explains in detail the applicable international texts, thus guiding the user through the web of possibilities open to him.

All German-language jurists have either studied or used one of the earlier editions of Benkard's *Kurzkommentar*; its importance need not be emphasized here. It is sufficient merely to point out that the 7th edition maintains the same high level of quality as those which preceded it.

GRW

**Das Recht des unlauteren Wettbewerbs in den Mitgliedstaaten der Europäischen Wirtschaftsgemeinschaft — Band VI: Vereinigtes Königreich von Grossbritannien und Nordirland**, by H. von Westerholt und Gysenberg. Carl Heymanns Verlag, Köln, etc., 1981. — 326 pages.

This collection, established under the auspices of the EEC, initially included studies on unfair competition law in each of the first six Member States of the Community. In view of the fact that membership in the Community has increased, the collection has been expanded to include Volume VI, which is devoted to the United Kingdom.

As Professor E. Ulmer points out in his preface, this new work is particularly interesting since British law is not based on the principle of unfair competition as expressed in Continental European legislation but on common law. The author was thus obliged to decipher the special features of British law and to bridge the gap between the British system and those of the Continent.

The first part of Volume VI therefore contains an exhaustive analysis of the British system, which is based on case law and completed by generally recent specialized laws (for example, the Fair Trading Act and the Restrictive Trade Practices Act, both of 1976). The second part is all the more interesting to non-British jurists in that it analyzes the material according to the usual Continental European methodology: one chapter is devoted to the risk of confusion, another to slavish imitation and another to geographic denominations, etc. This gives the reader an idea of the importance of this work, which takes its well-deserved place in the prestigious collection established within the framework of the Max Planck Institute.

GRW

**Patent and Trademark Tactics and Practice**, by D.A. Burge. John Wiley & Sons, New York, etc., 1980. — 186 pages.

This book was written by a practicing attorney. Its purpose is to describe the fundamental principles that should be understood by all those engaged in the development, protection and management of intellectual property, be they inventors, business people, or members of the bench or bar. It is an easily usable guide which demystifies the different and sometimes confusing approaches that can be taken to protect the various objects of intellectual property.

The first part of the book is entitled "The Patent Attorney's Bailiwick" and is devoted to presenting an overview of intellectual property rights as well as to providing helpful tips with regard to practicing intellectual property law and working with intellectual property lawyers. The remaining parts of the book are devoted to patents, trademarks, and other forms of intellectual property, respectively, and contain many practical suggestions as to how to obtain and maintain such rights.

While this book was intended principally for American readers, it is for the most part universally applicable. It constitutes a handy, readable reference work for practitioners and non-practitioners alike.

JAE

### Selection of New Publications

BARTON (H.M.), *Industrial Property Literature: a Directory of Journals*, The British Library, London, 1981. — 60 p.

COLEGIO UNIVERSITARIO DE ESTUDIOS FINANCIEROS, *La integración de España en la Comunidad Económica Europea, en materia de Propiedad Industrial*, Editorial Montecorvo, Madrid, 1979. — 460 p.

DAVID (L.), *Werbe und Vertriebsrecht (Nationales Recht, Richtlinien der Internationalen Handelskammer, und Grundsätze der Schweizerischen Kommission zur Überwachung der Lauterkeit in der Werbung)*, Schulthess Polygraphischer Verlag, Zürich, 1981. — 309 p.

HALLMANN (U.C.), *PCT: Vertrag über die internationale Zusammenarbeit auf dem Gebiet des Patentwesens (2nd ed.)*, Carl Heymanns Verlag, Köln, etc., 1981. — 204 p.

HENNING-BODEWIG (F.), *Die wettbewerbsrechtliche Haftung von Werbeagenturen und Massenmedien nach deutschem und amerikanischem Recht*, Carl Heymanns Verlag, Köln, etc., 1981. — 248 p.

*International Business Lawyers Index — Industrial Property*, DP Data-press Ltd., Geneva, 1981. — 120 p.

JENE-BOLLAG (I.), *Die Schutzfähigkeit von Marke und Ausstattung unter dem Gesichtspunkt des Freihaltebedürfnisses*, Helbing & Lichtenhahn, Basel, 1981. — 155 p.

JUCKER (E.), *Patents and Pharmaceuticals*, Sandoz AG., Basel, 1980. — 108 p.

Katzarov's *Manual on Industrial Property* (9th ed.), Geneva, 1981. — 2 looseleaf volumes.

*La concurrence parasitaire en droit comparé, Actes du Colloque de Lausanne*, Librairie Droz, Genève, 1981. — 167 p.

LIEBERSTEIN (S.H.), *Who Owns What Is In Your Head?: Trade Secrets and the Mobile Employee*, Hawthorn Books, New York, 1979. — 296 p.

MÜHLENDAHL (A. v.), *Territorial begrenzte Markenrechte und einheitlicher Markt*, Carl Heymanns Verlag, Köln, etc., 1981. — 337 p.

OPPENHEIM (S.C.), WESTON (G.E.) and McCARTHY (J.T.), *Federal Antitrust Laws, Cases, Text, and Commentary* (4th ed.), West Publishing Co., St. Paul (Minn.), 1981. — 1168 p.

PASTOR (W.L.), *Der Wettbewerbsprozess (Verwarnung—Einstweilige Verfügung—Unterlassungsklage)* (3rd ed.), Carl Heymanns Verlag, Köln, etc., 1980. — 1001 p.

*Protecting Trade Secrets*, Practising Law Institute, New York, 1981. — 464 p.

RIMMER (B.M.), *Guide to Official Industrial Property Literature: the Netherlands, Belgium, Luxembourg, Benelux*, The British Library, London, 1981. — 28 p.

SCHULTE (R.), *Patentgesetz* (3rd ed.), Carl Heymanns Verlag, Köln, etc., 1981. — 787 p.

TROLLER (A.) and TROLLER (P.), *Kurzlehrbuch des Immaterialgüterrechts* (2nd ed.), Helbing & Lichtenhahn, Basel, 1981. — 201 p.

### Selection of Recent Articles

AGOSTINI (E.), "La contrefaçon de marques de vins: les protagonistes et les conditions de constitution du délit," *Recueil Dalloz Sirey*, 1980, no. 39, pp. 535-539.

ANDREWS (D.), "Licensing Computer Software," *LES Nouvelles*, 1981, vol. 16, no. 1, pp. 78-85.

ARNOLD (T.), "Innovation and the Patent System Role in It: a Patent Lawyer's Point of View," *APLA Quarterly Journal*, 1980, vol. 8, no. 2, pp. 131-154.

BANNER (D.W.), "Innovation, Patents and the National Interest," *Intellectual Property Law Review*, 1980, pp. 37-68.

CAWTHRA (B.), "The Work of the Legal Division in the European Patent Office," *European Intellectual Property Review*, 1981, vol. 3, no. 1, pp. 20-23.

DAVIS (S.J.), "The Restoration of Lapsed Patents," *Journal of Business Law*, January 1981, pp. 23-31.

DE CALUWE (A.), "La publicité comparative et le droit des marques," *BMM Bulletin*, 1981, vol. 7, no. 1, pp. 25-34.

DESJEUX (X.), "Quelle protection juridique pour le modèle 'fonctionnel' (le design ou la création d'une valeur économique personnelle à l'entreprise)," *Gazette du palais*, June 14-16, 1981, nos. 165-167, pp. 4-7.

DIDIER (P.) and SALLE (M. de), "La brevetabilité des produits pharmaceutiques selon les conventions sur le brevet européen et sur le brevet communautaire," *Revue de droit intellectuel, l'Ingénieur-Conseil*, 1980, vol. 70, no. 10/11, pp. 235-249.

FINNEGAN (M.B.), and IRVING (T.L.), "A Three Country Conundrum in Conflict of Laws or Who Gets the Patent?," *Intellectual Property Law Review*, 1980, pp. 539-558.

GEMIGNANI (M.C.), "Legal Protection for Computer Software," *Rutgers Journal of Computers, Technology and the Law*, 1980, vol. 7, no. 2, pp. 269-312.

GANSSE (G.), "L'érosion de la protection des inventions dans les pays d'économie libérale et en voie de développement," *CBI Informations*, 1980, no. 21, pp. 2-7.

GOTTI PORCINARI (L.), "Della disciplina degli agenti di brevetto europei," *Rivista di diritto industriale*, 1980, vol. 29, no. 4, pp. 397-404.

GAUMONT (R.), "Le médicament: brevetabilité et portée du brevet," *Revue trimestrielle de droit commercial et de droit économique*, 1980, vol. 33, no. 3, pp. 441-471.

HÄUSSER (E.), "The Patent System and the Medium-Sized Industry," *World Patent Information*, 1980, vol. 2, no. 4, pp. 155-158.

HARMAN (M.G.), "When Should an Invention Not Be Regarded as Such?," *CIPA*, 1981, vol. 10, no. 6, pp. 274-280.

ICART FERRER (C.), "Transferencia de tecnología extranjera y contratos de asistencia técnica," *Revista de Derecho Privado*, February 1981, pp. 117-127.

JONES (C.), "The Whole Content Effect," *CIPA*, 1980, vol. 10, no. 1, pp. 11-15.

KAYTON (I.), "Update of Legal Protection of Computer Software via Patents," *APLA Quarterly Journal*, 1980, vol. 8, no. 3, pp. 273-278.

LE STANC (C.), "Trade Secrets Law: the Protection of Know-How in France," *European Intellectual Property Review*, 1981, vol. 3, no. 1, pp. 13-19.

MANDELL (F.A.), "Personal Name Trademarks: Your Name May Not Be Your Own," *Trademark Reporter*, 1980, vol. 70, no. 4, pp. 326-338.

MATHÉLY (P.), "La lutte contre le tabagisme et le droit des marques," *Annales de la propriété industrielle, artistique et littéraire*, 1980, vol. 114, no. 2, pp. 157-163.

PETRY (M.), "The United States Patent and Trademark System is Changing for the Better," *CIPA*, 1981, vol. 10, no. 5, pp. 206-216.

PETITPIERRE (E.), "Une nouvelle étape vers la création d'une marque communautaire européenne," *Revue suisse du droit international de la concurrence*, 1981, no. 12, pp. 43-50.

PETERS (G.), "Erosion der Markenrechte?," *Markenartikel*, 1981, no. 1, pp. 31-37.

PINSON (M.), "La protection des inventions dans les entreprises françaises," *CBI Informations*, 1980, no. 21, pp. 13-19.

REINLÄNDER (C.), "Die Mittlerrolle des Patentanwalts," *Mitteilungen der deutschen Patentanwälte*, 1981, vol. 72, no. 2, pp. 35-37.

SCHICKENDANZ (W.), "Sind 20 Jahre Patentschutz Genug?," *Gewerblichen Rechtsschutz und Urheberrecht*, 1980, vol. 82, no. 9, pp. 828-832.

SORDELLI (L.), "Denominazione di origine e indicazione di provenienza (Diritto nazionale e comunitario)," *Appendice del Novissimo Digesto Italiano*, vol. II, UTET, Torino, 1981, pp. 1050-1065.

SUZUYE (T.), "Utility Model Law and Patent Law as Distinguished," *Japan Patents and Trademarks*, 1981, no. 28, pp. 1-12.

TRÜSTEDT (W.), "Patentierung mikrobiologischer Erfindung," *Gewerblichen Rechtsschutz und Urheberrecht*, 1981, vol. 83, no. 2, pp. 95-107.

WHITE (F.), "Trademark Protection of Computer Software," *APLA Quarterly Journal*, 1980, vol. 8, no. 3, pp. 279-293.

## Calendar

### WIPO Meetings

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

#### 1981

**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 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 23 to 27 (London) – Permanent Committee on Patent Information (PCPI) – Working Group on Search Information – Subgroup on IPC Classes G 01, G 05, G 11 and H 02**

**November 30 to December 7 (Geneva) – Berne Union – Executive Committee – Extraordinary Session** (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

**December 1 to 4 (Geneva) – International Patent Classification (IPC) Union – Committee of Experts**

**December 7 to 11 (Geneva) – Permanent Committee for Patent Information (PCPI) and PCT Committee for Technical Cooperation**

#### 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

**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**

**Pacific Industrial Property Association: November 4 to 6 (New York City) – International Congress**