

Industrial Property

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Plant Varieties

International Convention for the Protection of New Varieties of Plants

Accession

HUNGARY

The Government of Hungary deposited, on March 16, 1983, its instrument of accession to the International Convention for the Protection of New Varieties of Plants (UPOV) of December 2, 1961, as revised at

Geneva on November 10, 1972, and on October 23, 1978.

The said instrument of accession contains the declaration that Hungary will apply the said International Convention to all botanical genera and species.

For the purpose of determining its share in the total amount of the annual contributions to the budget of UPOV, one-half of one contribution unit is applicable to Hungary.

The said International Convention as revised in 1978 entered into force, with respect to Hungary, on April 16, 1983.

UPOV Notification No. 28, of March 21, 1983.

Activities of Other Organizations

JAPAN INSTITUTE OF INVENTION AND INNOVATION

World Exhibition of Young People's Inventions, Tokyo, 1985

WIPO has been informed by the Japan Institute of Invention and Innovation that it is planning to hold a "World Exhibition of Young People's Inventions" in 1985. The Exhibition has the support of the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of International Trade and Industry, the Science and Technology Agency and the Japanese Patent Office.

The objects of the Exhibition are "to collect devices originally designed by young people from various countries of the world, with different manners and customs, based on their fresh scientific ideas, promote scientific, technological and cultural exchange between these countries through the Exhibition, and strengthen the ties of friendship and bring about a better understanding between the countries of the world."

Entrants must have been born on or after January 1, 1964. Applications must be posted on or before March 31, 1984. Transportation expenses of accepted entries will be paid by the sponsors. Three winners will be invited to the Exhibition. All the exhibits will be returned.

A pamphlet "Notes for Entrants" and application forms can be obtained from:

Administration Office for the World Exhibition of Young People's Inventions
c/o Japan Institute of Invention and Innovation
9-14, Toranomon 2-chome, Minato-ku
Tokyo 105, Japan
Telephone: 03-502-0511.

BANGLADESH

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 Asociación nacional de inventores
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- MOROCCO**
 Mustapha Aksiman, Président
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- PORTUGAL**
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 Associação Portuguesa de Criatividade
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- UNITED STATES OF AMERICA**
 J. Phil Richey, President
 National Congress of Inventor Organizations (NCIO)
 c/o American Association of Engineering Societies
 345 East 47th Street
 New York, NY 10017

General Studies

Industrial Property in Peru

B. KRESALJA R.*

News from Industrial Property Offices

CANADA

Activities of the Bureau of Corporate Affairs in 1980-81*

The Bureau administers a group of federal laws and regulations that constitute part of the general legal framework in which all economic activity takes place. These laws encompass the fields of bankruptcy, corporation law, and intellectual property, which covers patents, copyright, trade marks, industrial designs and timber marking. Each law contributes in its own field to a general orderliness in the conduct of business affairs.

The Bureau of Corporate Affairs consists of the Bankruptcy Branch, Corporations Branch, the Directorate of Intellectual Property which comprises the Patents Branch, Trade Marks Branch and the Copyright and Industrial Design Branch, and the Research and International Affairs Branch.

The Intellectual Property Directorate comprises the Patent Office, the Trade Marks Office, and the Copyright and Industrial Design Office. Besides contributing to the orderly conduct of business, intellectual property laws provide economic incentives intended to encourage the creation and dissemination of new ideas.

Much of the work of the Directorate, in administering Canada's intellectual property laws, consists of examining applications for the granting of intellectual property rights filed by Canadians and the citizens of over 60 countries around the world.

Reflecting the international scope of intellectual property, the Directorate cooperates with other industrialized countries, under the auspices of WIPO, in helping developing countries to establish intellectual property offices and in providing training in their administration. The Directorate also cooperates in international programs that facilitate the exchange of documentation and statistical data to make patented technology accessible to developing countries, and by sharing information on the development of computerized information storage and search systems.

Fiscal year 1980-81 was an active year for the Directorate in international cooperation. During the year the Directorate completed in-house training programs for a

number of representatives of the People's Republic of China and of the Government of Thailand, and also conducted a seminar in Bangkok on patents for inventions and designs. Information on recent accomplishments in the reduction of backlogs, the applications of word processing equipment and computerized production of the *Patent Office Record* and the *Trade Marks Journal* were shared with officials of the United States Patent and Trademark Office. Officers of the Patent Office represented Canada at meetings in Geneva of various working groups of WIPO, such as the Permanent Committee for Patent Information's Working Group on Search Information.

Patents

The Patent Office administers the Patent Act and Patent Rules, and grants patents for new and often unusual inventions. Examination of patent applications involves a search for novelty, a decision regarding patentability and verification of compliance with procedural requirements.

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

The Office publishes the *Patent Office Record*, a weekly magazine providing details of all Canadian patents granted during the previous week. It also maintains a search room and library where the public may obtain information concerning Canadian and foreign patents.

In 1980-81, the Office dealt with an average of 463 requests for information daily. The number of search inquiries from patent agents and the public totalled 3,368, down from 3,525 inquiries last year.

The complete Patent Office file of 1,092,750 issued patents is organized in technological classes which are constantly reviewed, revised or extended as different technologies emerge or as new combinations of known technologies are developed. By March 31, 1981, the file consisted of 340 main classes of technology, which were then condensed into 35,081 subclasses. During the year, three classes consisting of 313 subclasses were completely revised, 623 new subclasses were established and 372 old subclasses were abolished in the partial revision of existing classes.

In the past ten years, 265,087 applications were filed and 231,036 patents were issued.

The following table summarizes the transactions of the Patent Office during the past two years:

* Excerpted from the Annual Report, Consumer and Commercial Affairs, Canada, for the year ended March 31, 1981.

	1979-80	1980-81
Caveats registered	179	151
Applications for patents	24,347	25,431
Applications restored under Section 75 after failure to pay final fee	106	129
Applications reinstated under Section 32 after abandonment for failure to reply to an official action	129	83
Examiners' Reports	28,431	21,045
Applications allowed	24,354	23,525
Applications forfeited	407	653
Patents issued (for 17 years)	22,872	24,146
Patents reissued	22	19
Patents issued under Public Servants Inventions Act	75	76
Assignments recorded	21,993	19,662
Petitions for a compulsory licence under Sections 41 and 67	33	33
Duly Registered Patent Agents	1,645	1,615
Canadian Resident Agents	286	296
Canadian Firms	68	63
Non-resident	1,291	1,256

Patent Appeal Board

The Patent Appeal Board reviews final rejections of applications for the grant of patents and for the registration of industrial designs. The Board may hold formal hearings as part of the review procedure. The following table summarizes the rejections reviewed for the past two years:

	1979-80	1980-81
Patents		
Rejections referred to Board	185	124
Rejections affirmed	84	83
Rejections reversed	45	28
Otherwise disposed of	29	28
Hearings held	70	66
Pending	200	176
Decisions published in the <i>Patent Office Record</i>		
full	25	8
part	14	13
Industrial Designs		
Rejections affirmed	4	2
Rejections reversed	0	3
Hearings held	2	3

Compulsory Licenses

The Patent Appeal Board is also responsible for assisting the Commissioner of Patents in the exercise of his statutory powers to grant compulsory licences of patents. Under Section 41(3) of the Patent Act, licences may be granted to manufacture foods, and under Section 41(4) to manufacture or import medicines. Under Section 67, licences may be granted if the invention is not worked in Canada or for other abuses as defined in Section 67. The Board's activities for the past two years under these Sections of the Act are summarized in the following table:

	1979-80	1980-81
Section 41(3)		
Applications received	2	—
Licences granted	—	—
Applications pending	2	2
Section 41(4)		
Applications received	29	52
Licences granted	22	17
Licences refused	—	1
Applications withdrawn	6	—
Applications pending	39	73
Section 67		
Applications received	2	4
Licences granted	—	—
Licences refused	—	1
Applications withdrawn	4	—
Applications pending	6	9

Industrial Designs

The Copyright and Industrial Design Office administers the Copyright Act, Industrial Design Act, Timber Marking Act and their regulations.

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

The following chart summarizes the industrial design transactions of the Copyright and Industrial Design Office during the last two fiscal years:

	1979-80	1980-81
Industrial Designs		
Applications received	1,818	1,707
Designs registered	1,544	1,313
Registrations renewed	283	340
Assignments recorded	369	232

Trade Marks

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

Trade mark applications are advertised in the weekly issues of the *Trade Marks Journal* to enable persons to

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

The following table summarizes the Office's transactions over the past two years:

	1979-80	1980-81
Trade mark applications filed	14,448	16,126
Trade mark applications advertised	16,327	16,799
Trade mark registrations	9,905	15,462
Registered user applications filed	2,696	4,922
Number of trade marks governed by registered user applications (registered and pending)	11,714	13,875
Registered users registered in respect of trade marks	18,403	12,683
Registered user registrations cancelled in respect of trade marks	4,797	3,277
Transfer applications filed	9,186	10,097
Transfers registered	9,283	8,660
Trade mark registrations renewed	3,659	3,192
Trade mark registrations expunged	3,976	3,524
Amendments entered on the register	5,379	1,985
Copies prepared	458,737	444,176
Duly registered trade mark agents	6,268	6,611
Oppositions filed	488	1,043

Research and International Affairs

The Research and International Affairs Branch is responsible for the Bureau's legislative revision, the economic and legal research associated with this process and the overall evaluation of the efficacy of the legislation. As well, the Branch is responsible for monitoring international developments and for negotiating treaties to which Canada adheres in those areas falling within the jurisdiction of the Bureau.

During 1980-81, work continued on revision of the four intellectual property acts. In the area of patents, approval was granted by Cabinet for the Department of Justice to begin drafting a patent law revision bill in cooperation with Consumer and Corporate Affairs Canada. This is currently in progress. Cabinet approval was also obtained to draft a bill related to trade marks, a first version of which was received from the Department of Justice in October 1980.

The Division's computerized patent data base, PATDAT, was augmented during fiscal year 1980-81 and now contains information on 145,000 patents, including all patents issued in 1978, 1979 and 1980.

News Items

EGYPT

Chairman of the Commercial Registration Administration

We have been informed that Mr. Ibrahim Fahmi Salem has been appointed Chairman of the Commercial Registration Administration.

Book Reviews

La Proprietà Industriale nel Mercato Comune, by Giorgio Florida (Extract of Vol. V of *Trattato di Diritto Commerciale e di Diritto Pubblico dell'Economia*, edited by Francesco Galgano). CEDAM, Padova, 1982. — 139 pages.

This study constitutes a substantial contribution to the ongoing debate on the relationship between European Community competition law and national industrial property systems. The author develops his examination of this complex subject along the following main lines: the coordination of European Community law with national industrial property laws; the integration of national industrial property rights in European Community law; and the future industrial property law of the European Communities as a result of this process of coordination and integration.

The author focuses his attention on the interpretation of Article 36 of the Rome Treaty as the basis of clarifying the relationship between Community law and national legislation and thus avoiding a conflict between the two systems. After having examined in detail the so-called theory of the *domaine réservé*, according to which the provisions of Article 36 are directed towards guaranteeing an institutional separation between national industrial property legislation and the competition law of the European Community, the author starts from the premise that there is no border line separating the competence of the Community from that of the Member States. He directs his research towards the discovery of a mechanism in the Rome Treaty to coordinate and integrate the two legal systems and identifies such a mechanism in Article 177. With that provision, the Member States have conferred on the Court of Justice the power to determine the scope of Community law and to modify national legislation to the same extent. The provisions of Article 36 are, therefore, seen as a vehicle which legitimizes the coordinating task conferred on the Court of Justice through the interpretation mechanism provided for under Article 177.

It is in the light of the considerations developed in Articles 36 and 177 that the author analyzes the case law of the Court of Justice on trademarks and patents, the exhaustion of national patent rights and the Community Patent Convention and, finally, patent license agreements in the framework of national industrial property systems and Community competition law.

The author devotes the final part of his study to examining the ongoing process of establishing an industrial property law of the European Community through the work of the Court of Justice and of the Commission. Particular attention is given, in this respect, to the draft regulations relating to patent licenses and to the draft regulations on the Community trademark prepared by the Commission; these two instruments are considered, together with the Community Patent Convention, as a concrete step towards the integration of national industrial property systems in the Community system.

This study can be recommended to everyone with a practical or academic interest in the complex issues arising in connection with the relationship between the Rome Treaty and national industrial property systems.

AI

The Industrial Property Citor, by M. Fysh and R.W. Thomas. European Law Centre Ltd., London, 1982. — 321 pages.

This citor of United Kingdom, Commonwealth and EEC case law on industrial property provides the practitioner with rapid and specific access to authorities as well as with a key to the principal topics within each object of industrial property. The decisions cited date back as far as 1956.

The work is divided into two parts. The first part consists of a general index showing all the cases listed in alphabetical order together with selected key words to indicate the principal issues in each case. The second part includes a detailed topical index of all United Kingdom cases as well as a subject matter index of the relevant decisions of each Commonwealth country and of the EEC.

Use of this citor will facilitate greatly the task of industrial property practitioners.

JE

Die europäische Patentanmeldung in Frage und Antwort, by Günter Gall. Carl Heymanns Verlag KG, Cologne, etc, 1982. — 155 pages.

This work, presented in a very handy format, is intended both for practitioners who have to interpret their national law in the light of the European Patent Convention and for the general public to inform them of the machinery set up to afford to inventors greater protection for their rights.

It deals, in the form of questions and answers, with problems concerning the European patent granting procedure which arise frequently in practice, whereby the most important subjects are arranged together in chapters.

Such subjects are principally the calculation of time limits, resumption of the procedure, reinstatement of rights, payment of fees, designation of States, appointment and powers of agents, naming of the inventor, priority, request for examination, annual fees, grant of the patent.

This handbook also contains an appendix giving a schematic presentation of the structure of the European Patent Convention and publication references of legal information published by the European Patent Office in its *Official Gazette*, gives models of new forms, describes the European patent granting procedure, shows very clearly, in schematic form, the interface between the national and European phases as regards notification by the examining division under Rule 51(4) of the Implementing Regulations to the Convention and, finally, gives a chronological example of the granting of a European patent from the priority date to publication of the notification of publication. It ends with an index of key words.

This work therefore constitutes a very handy and clear reference book of particular value to practitioners and to those persons wishing to obtain protection under the European Patent Convention.

EG

Les marques de fabrique, de commerce ou de service (Documentation pratique No 62). Chambre de commerce et d'industrie de Paris, Paris, 1982. — 36 pages.

The launching of a new mark by an enterprise is a delicate and often costly operation. This short work, which was prepared by the *Institut de Recherche en Propriété Industrielle Henri Desbois (IRPI)*, explains in easily understandable terms the fundamental principles of the French law on marks. Its purpose is to assure that enterprises obtain the best possible protection for their marks in France.

The publication deals with the following topics: the definition of a mark; the conditions for registrability; the acquisition of trademark rights; the term of registration and its renewal; the loss of trademark rights; the defense of a mark; the assignment and licensing of marks; and the protection of marks abroad. It is a very useful guide that will benefit all those desiring a basic understanding of trademark law.

JE

Protection et défense des marques de fabrique et Concurrence déloyale (5th edition), by Yves Saint-Gall. Editions Jacques Delmas et Cie., Paris, 1982. — 336 pages.

This is the fifth, updated, edition of the classic by Yves Saint-Gall, which first appeared in 1959. During the ensuing 20 years or so, protection of trademarks has undergone considerable legislative and case law changes. This explains the successive revisions of the work, whose purpose is to set out not in detail, but in a condensed and systematic form, the basic notions of trademarks and service marks.

This fifth edition is particularly welcome following the rapid evolution of trademark law — particularly during the last decade — both nationally and internationally. Although maintaining the general structure of preceding editions, this new edition has been entirely recast. It takes into account the most recent developments and comprises a very large quantity of useful information not only on the

provisions of the French Law of December 31, 1964, but also on foreign laws — particularly those of the Common Market countries — and on international conventions in this field. It further gives valuable information on the suppression of unfair competition and infringing acts.

The author's intention is that this work, thanks to its practical nature and to the quantity of information it contains, should constitute an important tool for all those interested in the protection of trademarks and in fair and healthy competition.

FB

Gewerblicher Rechtsschutz und Urheberrecht — Grundriss — Allgemeiner Teil, by F. Schönherr. Manzsche Verlags- und Universitätsbuchhandlung, Vienna, 1982. — 151 pages.

This summary of intellectual property law (industrial property and copyright) contains in a schematic form the essence of Austrian legislation in this field. It is aimed at students and sets out for them the general notions of intellectual property law, indicating the examination subjects by means of dots ahead of the margin notes. One of its purposes is also to assist future judges, lawyers, patent agents and notaries in preparing for their professional examinations. It similarly constitutes a reference work for practitioners who are not specialized in this subject by saving them lengthy research on a given point. For this purpose, the summary states the legal bases and the relevant court decisions. In addition, it constitutes an introduction to the study of Austrian legislation and case law for foreign specialists.

Following a clear scheme, the author has brought together the substance of a multitude of scattered provisions in order to study both the elements that are common to general civil law and the differences, which are often the result of mere chance.

The 1977 recast of the Patent Law and the Trademark Protection Law, which effected a vast unification of Austrian industrial property law, already took into account the suggestions made by the author, of whom a further aim is to assist the lawmaker in eliminating unnecessary differences.

In his day-to-day activity as a lawyer, the author was struck by the importance taken on by procedure and he has therefore dealt not only with actions for restraint and an injunction, but also with procedure before the Patent Office and the Supreme Patent and Trademark

Chamber, not to mention the most important points of taxation law.

In addition to a special chapter devoted to international law, particularly that of the major conventions, the book also contains references to comparative law, although it makes no claim to be exhaustive. Leading cases are cited in the notes as are the opinions of legal writers (where these do not duplicate case law).

EG

The New European Patent System, by R. Singer (translated and adapted by D.J. Devons). Seminar Services International, 1981. — 194 pages.

This book, which first appeared in German (R. Singer, *Das Neue Europäische Patentsystem*, Baden-Baden, 1979), has now been published in an English version, translated and adapted by D.J. Devons.

The author traces the evolution of the patent system from a territorially-limited system towards an extra-territorial and supra-national system through the close examination of the provisions of three international treaties: the European Patent Convention; the Community Patent Convention; and the Patent Cooperation Treaty (PCT). These international instruments (of which the Community Patent Convention, however, has not yet entered into force) permit the patent applicant to choose, instead of filing with each national office, between two options in order to seek protection for his invention: regional filing under the European Conventions and international filing under the PCT.

Dr. Singer's study analyzes in great detail the characteristics of the European patent system, of the international patent system under the PCT and the connections between those two systems and national patent systems.

The last chapter outlines the possibilities that the new European patent system offers to the applicant for filing applications in European States; it presents a detailed "map" of the various options available, their relevant advantages and the estimated costs involved for any of those options.

This study can be recommended to everyone interested in the evolution of the European patent system and to the users of this system.

AI

Calendar of Meetings

WIPO Meetings

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

1983

May 26 to June 3 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions and Working Group on Planning

June 6 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information

June 13 to 17 (Geneva) — Committee of Experts on the Legal Protection of Computer Software

June 20 to 24 (Geneva) — Permanent Committee on Patent Information (PCPI) — Ad Hoc Working Group on the Revision of the Guide to the IPC

July 4 to 8 (Geneva) — Joint Unesco-WIPO Consultative Committee on the Access by Developing Countries to Works Protected by Copyright (convened jointly with Unesco)

September 12 to 20 (Geneva) — International Patent Classification (IPC) Union — Committee of Experts

September 14 to 16 (Paris) — Forum of International Non-Governmental Organizations on Double Taxation of Copyright Royalties (convened jointly with Unesco)

September 19 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)

September 26 (Geneva) — Paris Union — Celebration of the Centenary of the Paris Convention for the Protection of Industrial Property

- September 26 to October 4 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, Budapest, TRT 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)
- October 12 to 14 (Geneva, ILO Headquarters) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)
- October 17 to 21 (Geneva) — Committee of Governmental Experts on Model Statutes for Institutions Administering Authors' Rights in Developing Countries (convened jointly with Unesco)
- November 21 to 25 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information
- November 28 to December 2 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions and Working Group on Planning
- December 5 to 7 (Geneva) — Berne Union, Universal Copyright Convention and Rome Convention — Subcommittees on Cable Distribution of the Executive Committee of the Berne Union, of the Intergovernmental Copyright Committee and of the Intergovernmental Committee of the Rome Convention (convened jointly with ILO and Unesco)
- December 8 and 9 (Geneva, ILO Headquarters) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)
- December 12 to 16 (Geneva) — Berne Union — Executive Committee — Extraordinary Session (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

1984

- February 27 to March 24 (Geneva) — Revision of the Paris Convention — Diplomatic Conference

UPOV Meetings

1983

- May 30 to June 1 (Zaragoza) — Technical Working Party for Vegetables
- June 7 (Tystofte, Skaelskør) — Technical Working Party for Agricultural Crops — Subgroups
- June 8 to 10 (Tystofte, Skaelskør) — Technical Working Party for Agricultural Crops
- September 20 (Rome) — Technical Working Party for Fruit Crops — Subgroup
- September 21 to 23 (Rome) — Technical Working Party for Fruit Crops
- September 27 to 29 (Conthey) — Technical Working Party for Ornamental Plants and Forest Trees
- October 3 and 4 (Geneva) — Technical Committee
- October 11 (Geneva) — Consultative Committee
- October 12 to 14 (Geneva) — Council
- November 7 and 8 (Geneva) — Administrative and Legal Committee
- November 9 and 10 (Geneva) — Hearing of International Non-Governmental Organizations

Other Meetings Concerned with Industrial Property

1983

- European Patent Organisation: June 6 to 10; December 6 to 9 (Munich) — Administrative Council
- International Association for the Advancement of Teaching and Research in Intellectual Property: September 5 to 7 (Munich) — Assembly and Annual Meeting
- International League Against Unfair Competition: September 18 to 21 (Montreal) — Working Session (*Journées d'Etudes*)
- Pacific Industrial Property Association: October 19 to 21 (Washington) — 14th International Congress
- Pharmaceutical Trade Marks Group: October 13 and 14 (Edinburgh) — 27th Conference

1984

- Royal Patent and Registration Office: June 13 to 15 (Stockholm) — Symposium on the Centenary of the Swedish Patent System