

# Industrial Property

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## International Unions

### Hague Agreement

#### Ratification of the Hague Act (1960)

#### FEDERAL REPUBLIC OF GERMANY

According to information received from the Government of the Netherlands, the Government of the Federal Republic of Germany deposited, on March 14, 1983, its instrument of ratification of the Hague Act of

November 28, 1960, of the Hague Agreement Concerning the International Deposit of Industrial Designs of November 6, 1925.

The said instrument was accompanied by the following declaration:

"The Agreement and the Protocol which belongs to it, as well as the new Regulations, will apply to Berlin (West) with effect from the date on which they will enter into force for the Federal Republic of Germany." (Translation)

The date of entry into force of the said Hague Act (1960) will be notified when the required number of ratifications is reached in accordance with Article 26(1) of the said Agreement.

The Hague Notification No. 18, of April 28, 1983.

### Nairobi Treaty (Olympic Symbol)

#### Ratification

#### TUNISIA

The Government of Tunisia deposited, on April 21, 1983, its instrument of ratification of the Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981.

The said Treaty will enter into force, with respect to Tunisia, on May 21, 1983.

Nairobi Notification No. 10, of April 22, 1983.

## General Studies

### State Registration and Legal Protection of Industrial Designs in the Soviet Union

L. E. KOMAROV\*











## News from Industrial Property Offices

### FRANCE

#### Activities of the National Institute of Industrial Property (INPI) in 1981\*

##### Patents

Since July 1, 1979, all patent applications filed are subject to Law No. 78-742 of July 13, 1978.<sup>1</sup> Which amended that of January 2, 1968. Applications filed before that date are examined according to the earlier legislation, with the exception of those for which the first draft documentary report had not been drawn up on July 1, 1979; their examination is governed by the amendments introduced by the Law of 1978.

The PCT and above all the European Patent Convention continue to have a considerable influence on the development of the patent system in France.

Indeed, while the transfer to international procedures of applications for protection of foreign origin, which previously followed the national route, slowed down in 1980, it speeded up again in 1981.

The annual loss of national filings of foreign origin since the entry into force of the two international treaties on June 1, 1978, is thus as follows:

1978	-2,475	- 8.8%
1979	-4,821	-21%
1980	-3,882	-18.6%
1981	-3,266	-19.2%

This phenomenon is even more striking when one realizes that the number of applications of French ori-

gin, which had dropped by 2.7% in 1980, was practically stationary in 1981.

Patent Applications	1981	1980	%
of French origin	10,945	11,000	- 0.05
of foreign origin	13,723	16,989	-19.2
Total . . . . .	24,668	27,989	-11.9

Moreover, the smaller number of filings caused a drop in the number of patent applications and patents in force on December 31, 1981, which was 305,306 (1980: 322,251). This number has been decreasing since 1977 (from about 350,000), even though now one should add to the figure European patents granted for France, which are about 2,500 in number.

#### Overall Increase in Applications for Protection in France

The transfer to international procedures has been reflected overall in an increase in the number of applications for protection in France; this increase continued in 1981.

Applications for Protection in France	1981	1980
Applications for national patents	24,668	27,989
European patent applications	20,202	15,337
PCT international applications	3,157	2,259
Total . . . . .	48,027	45,585
%	+5.4	+5.4

However, whereas applications for French patents resulted in the grant of the patent in the majority of cases, this was not true of applications for protection by the European patent or PCT routes (examination, withdrawal of designation, renunciation, etc.).

\* Excepted from INPI'S Activity Report for 1981.

<sup>1</sup> See *Industrial Property Laws and Treaties, FRANCE—Text 1-001*.

It should also be mentioned that applications for protection by the international routes overlap applications for French patents. There is thus reason to believe that about 865 European patent applications of French origin filed in 1981 claimed the priority of an earlier application for a French patent. Similarly, applications for protection of foreign origin are filed parallel by the international and national routes.

So while the increase in applications for protection is indeed partly an optical illusion, the fact remains that, in spite of the economic situation, their number is almost back up to the level of 1967 (49,486), which, if one discounts 1968, an exceptional year, as it came immediately before the implementation of the new legislation, is still the year in which the number of applications for protection in France was the highest.

Applications of French origin, which in 1967 numbered 17,347, did not exceed 11,000 in 1981. The progress of applications of foreign origin, which is associated with the worsening of the "patent and license" balance of technology transfers, serves to confirm the bold of foreign technology on our industry.

#### *Foreseeable Development of the Number of Applications for National Patents*

Projections worked out by INPI together with the EPO indicate that the number of applications for national patents should continue to decrease until 1983.

These projections proved correct in 1979, when there were 32,000 filings against 31,800 expected, and also in 1980, when 27,600 filings were expected and almost 28,000 were in fact filed.

On the other hand, whereas 26,000 filings were expected in 1981, only 24,668 applications were in fact filed. This 5% drop is the result of an increase in the number of filings of European patent applications, which was "significantly above expectations," as Mr. van Benthem, President of the EPO, put it to the Administrative Council of that Organisation in December 1981.

### **Trademarks and Service Marks**

Trademark law is governed by the Law of December 31, 1964, as amended. The procedure for the registration of a mark provides for a legal examination of the distinctive character of the mark and of its freedom from information liable to mislead the public, but not of its novelty.

Applicants do, however, have the possibility of assuring themselves of the availability of the mark by consulting the computer file on the 450,000 marks at present in force in France, which is updated weekly. The file may be consulted in such a way as to cater for different types of anticipation search: identity, similarity, preselection, word root, prefix, suffix. More than 2,000 such searches are made every month.

This file makes it possible for monthly and two-monthly alphabetical and alphaphonetic lists to be drawn up of marks filed and published, and also concordance tables relating the number of the application for registration to that of the registration itself.

#### *Development of Applications for Registration of Marks*

If one considers first filings, the number of applications for the registration of national marks was slightly higher in 1981 (23,290) than in 1980 (22,940). On the other hand, there was a very marked decrease in requests for renewal (9,885 in 1981 against 21,790 in 1980): only registrations filed in 1971 (21,392) came to the end of their ten-year protection period.

### **Designs**

Under the Law of July 14, 1909, amended by the Law of January 18, 1979, a deposit effected with INPI or with the registry of a commercial court affords legal protection for 25 years, which may be extended once, for the creation of new shapes or patterns for objects or designs.

The number of design deposits, generally stable from year to year, increased slightly (1981: 4,578; 1980: 4,157; 1979: 4,203).

In accordance with the provisions of the 1979 Law, INPI centralizes all design deposits effected either on its own premises or at the registries of commercial courts. Each deposit may contain from one to 100 designs.

Protection may also be afforded to creators by way of the Law of March 11, 1957, on Literary and Artistic Property, proof of the date of creation being provided by the deposit of special double envelopes called "Soleau" envelopes, which are registered and kept in custody by INPI for five or ten years (74,000 envelopes are on file at present).

The number of Soleau envelopes filed (9,157), after having increased substantially from 1975 onwards, has now stabilized and even decreased, seemingly to the advantage of design deposits.

In collaboration with the *Centre de création industrielle*, INPI organized an industrial design exhibition at the Georges Pompidou Center in Beaubourg (Paris). This exhibition, which was held from March to June 1981 and for which an illustrated booklet was issued, aroused a great deal of interest on the part of visitors. On the occasion of the exhibition, an international symposium called "*Protéger la forme*" (protecting form) brought together, from March 11 to 13, French and foreign specialists whose exchanges were recorded in a booklet published by INPI.

The exhibition then travelled to the INPI regional centers, and in particular to the inauguration of the Sophia-Antipolis center.

## National Registers of Patents and Marks

The national registers of patents and marks, which are governed by the Laws of January 2, 1968, as amended, on Patents and of December 31, 1964, as amended, on Marks, contain entries relating to instruments transferring, assigning or modifying rights attaching to each patent or mark; entries are made either at the request of the owner of those rights, or *ex officio* following a judicial ruling.

The entries are binding on third parties and are brought to the notice of the public by the weekly publication of entries in the Official Bulletin of Industrial Property (BOPI). Their full text is available on request.

### Licenses of Right

The Law of July 13, 1978, gave the owners of patents wishing to make public offers of exploitation of their inventions the possibility of being granted a 40% reduction in the annual fees for keeping the patent in force.

Such an offer is allowed if the documentary report accompanying the patent does not reveal any anticipations that would manifestly affect the patentability of the invention. The number of offers dropped considerably in 1981: 186 as compared with 458 in 1980. The explanation for this drop may well lie in better information on the part of patent owners, as the patent has to have been the subject of a documentary report. However, many of the titles submitted in 1980 as being eligible for the reduction (utility certificates, patents granted without a documentary report, etc.) did not meet this condition. A large number of the offers rejected in 1981 (101) were rejected for that same reason; 129 offers were accepted and 44 are under consideration.

Accepted requests to benefit from the system of licenses of right, which are entered in the National Patent Register, should have resulted in applications being made for non-exclusive licenses. No such application has yet reached INPI, however.

### Reduction in Fees

The Law of July 13, 1978, by giving INPI the possibility, under certain circumstances, of reducing patent fees by 60%, allows persons whose income is below the taxable level to secure protection for their inventions with a minimum of financial strain.

The number of requests for reduction in fees increased (1981: 240; 1980: 197), probably on account of the improved publicity given to this arrangement: 96 requests were accepted, 96 rejected and 48 are under consideration.

The request is accepted unless the invention is obviously not patentable, and that was the ground on which the majority of the rejections were pronounced.

## International Transfer of Technology

INPI registers statements filed by French firms that enter into industrial property contracts with foreign firms: acquisition or assignment of patents, marks or designs; manufacturing licenses; payment of research costs; and technical assistance.

Decree No. 70-441 of May 26, 1970, made it mandatory to declare such contracts and report the corresponding transactions annually (before March 31 of the following year). Proof of registration of the contracts by INPI has to be supplied to approved agents before any funds are issued in this connection. INPI draws up and publishes statistics every year on the basis of this information.

The 1980 statistics were published in October 1981. They are reproduced here. The 1981 figures, with the exception of those relating to registered contracts, will be published in 1982.

	Expenditure	Income	Balance	Percentage Cover
Patents and licenses	2,927	1,226	-1,701	41.88
Research and technical assistance	1,738	2,673	+ 935	153.79

The deficit of the overall technology transfer balance grew in 1980, with the percentage cover falling from 85.7% in 1979 to 83.57% in 1980, on account of an increase in the item "patents and licenses" and a decrease in the percentage cover of other items, even though in fact they are still positive.

The fluctuations in the percentage cover during the 1970-1980 period show that the item "patents and licenses" deteriorated between 1970 and 1973 (falling from 52% to 43%). After rallying in 1974 (52%), it fell sharply to 42% in 1976 and rose again to 48% in 1978, before falling yet again in 1980 (42%). The deficit is partly offset by the "research costs" surplus (the percentage cover of "technical assistance" being either negative or just balanced), although the surplus has in fact been shrinking since 1978.

## Documentation

### Documentation Concerning Industrial Property Titles

INPI publishes and distributes French industrial property publications, and makes these and comparable foreign publications available to the public. Information technology may be used by the public for the documentary searching of patent applications and patents. In addition, INPI participates in industrial property documentation activities at the international level and manages the French search files in cooperation with the bodies competent in matters of research and innovation.

### Information Technology

In order to increase the potential of its search files, INPI has introduced a data bank of French patents called INPI-1, accessible by computer terminal.

INPI-1 includes about 500,000 patents filed since January 1, 1969, and may be interrogated according to various references: number, filing date, publication date, date of grant, priority references, name of applicant, IPC classification, title of invention for 1977 publications (corresponding to 1975 filings).

INPI-1 was opened for interactive use in 1980 on all networks usable in and from France (TSX, TRANSPAC, EURONET, etc.). The data base is directly accessible to all users linked to the Télésystèmes central computer. It is also accessible through INPI in Paris and the Bordeaux, Lyons, Marseilles, Sophia-Antipolis and Strasbourg centers by way of two new services:

- a Rapid Information Service (SIR), which enables users who have signed a specific agreement to obtain information simply by telephone or telex on the administrative status of French patents, and to have bibliographic searches and systematic monitoring carried out. This system, which meets all requests for the supply of primary documents (French and foreign patents and all communicable material in the file), had more than 200 subscribers at the end of 1981, and replied to about 20,000 questions in the course of the same year;
- a searching aid in the consultation rooms which, by means of terminals installed at INPI headquarters and at each center, allows the data base to be interrogated, depending on the problems to be solved for which the visitors require access to the patent document collections or use of the files.

The hours of interrogation of the data bases increased by 48% in one year. INPI-1, which is continually being expanded with new patent references, has been joined by two new data bases:

- INPI-2: research on this data base of European patents and the program for its introduction began in 1980, and culminated in its availability for interactive use in June 1981. The program allows the full procedure undergone by every published European patent application to be followed. The number of search criteria for each application can be as high as 51. On December 31, 1981, INPI-2 contained the

references of all the 42,736 published applications for European patents;

- INPI-3: this data base is of patent families (multinational and European filings of one and the same invention).

Training in the use of the data bases, in collaboration with Télésystèmes or the *Agence Universitaire pour la Documentation et l'Information Scientifique et Technique (AUDIST)*, and their presentation to the public in Paris, in the provinces and abroad, gave rise to 32 demonstrations.

### Legal, Technological and Economic Documentation

*JURINPI—Industrial Property Law Data Bank.* This data bank, set up in cooperation with the University of Montpellier, has existed for seven years. In 1981 it was made available for interactive use through the TRANSPAC network, and this has made it possible to reduce from 48 to 24 hours the time required for dealing with a question on patent or trademark law.

The legal data bank, which has been given the name of JURINPI, was publicized in an information campaign at the end of 1981, which was very well received by judges, lawyers and business people, and it has already given rise to additional interrogations.

*Publications, Library, Legal File. PIBD (Propriété Industrielle—Bulletin Documentaire),* which is published by *La Documentation française* but compiled by INPI, offers legal and factual information on the law, economics and techniques of industrial property.

The *Library*, which is specialized in industrial property law and in dictionaries and encyclopedias, is open to the public as well as to INPI staff. With stocks of more than 19,000 books and 420 periodicals, the Library's purchasing policy has not changed, and its holdings continue to grow, with particular emphasis on law and dictionaries.

The *legal file* is kept by the Library. It may also be consulted in certain regional centers of INPI, and also at the Center for the International Study of Industrial Property (CEIPI) in Strasbourg. It contains all the patent and trademark case law processed by JURINPI and a very large number of references on French and foreign doctrine, on design law and on the texts currently in force in various States.

# Calendar of Meetings

## WIPO Meetings

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

### 1983

- 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 17 to 21 (Geneva) — Committee of Governmental Experts on Model Statutes for Institutions Administering Authors' Rights in Developing Countries (convened jointly with Unesco)
- 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

- 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:** 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

### 1986

**International Association for the Protection of Industrial Property:** June 8 to 13 (London) — XXXIII Congress

