

Industrial Property

Published monthly
Annual subscription:
Sw.fr. 140.-
Each monthly issue:
Sw.fr. 14.-

24th Year - No. 5
May 1985

Monthly Review of the
World Intellectual Property Organization

Contents

NOTIFICATIONS

Budapest Treaty	
I. Ratification: Denmark	163
II. Extension of the List of Kinds of Microorganisms Accepted (Rule 3.3 of the Regulations under the Budapest Treaty): National Collection of Cell Cultures (NCACC)	163
III. Change in Fees, and Extension of the List of Kinds of Microorganisms Accepted (Rules 12.2 and 3.3, Respectively, of the Regulations under the Budapest Treaty): American Type Culture Collection (ATCC)	163
Nairobi Treaty. Ratification: Mexico	164

WIPO MEETINGS

Paris Union. Committee of Experts on the International Registration of Marks	165
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GENERAL STUDIES

The Role of Patents in Research and Development in India (M.P. Bhatnagar)	167
A Look at the Present Position Regarding Employees' Inventions in France (A. Bouju)	173

NEWS FROM INDUSTRIAL PROPERTY OFFICES

Brazil, Pakistan	186
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CALENDAR OF MEETINGS	186
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INDUSTRIAL PROPERTY LAWS AND TREATIES

Editor's Note

UNITED STATES OF AMERICA

United States Code, Title 35—Patents (as last amended by Public Laws 98-620 and 98-622 of November 8, 1984)	Text 2-001
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ISSN 0019-8625

Notifications

Budapest Treaty

I. Ratification

DENMARK

The Government of Denmark deposited, on April 1, 1985, its instrument of ratification of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977.

The said Treaty will enter into force, with respect to Denmark, on July 1, 1985.

Budapest Notification No. 42, of April 9, 1985.

II. Extension of the List of Kinds of Microorganisms Accepted (Rule 3.3 of the Regulations under the Budapest Treaty)

NATIONAL COLLECTION OF CELL CULTURES (NCACC)

The following notification addressed to the Director General of WIPO by the Government of the United Kingdom under Rule 3.3 of the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on April 3, 1985, and is published by the International Bureau of WIPO pursuant to Rule 13.2(b)(ii) of the said Regulations:

The assurances furnished in the communication of the Government of the United Kingdom of June 13, 1984, as published in the September 1984 issue of *Industrial Property*, that the NCACC complies and will continue to comply with the requirements specified in Article 6(2) of the Budapest Treaty, are extended to include viruses capable of assay in tissue culture. A statement regarding their possible pathogenicity to man and/or animals is required at the time of deposit. Up to and including ACDP Category 3* can be accepted for deposit. The fees are as follows in regard to the items indicated:

- | | |
|---|------|
| (a) for storage in accordance with the Treaty | £800 |
| (b) issuance of a viability statement in those cases in which, in accordance with Rule 10.2, a fee may be charged | 100 |
| (c) furnishing of a sample in accordance with Rule 11.2 or 11.3 | 80 |

The fees are payable to the Public Health Laboratory Service Board. Fees paid within the United Kingdom are subject to Value Added Tax at the current rate.

[End of text of the notification of the Government of the United Kingdom]

Pursuant to Article 7(2)(b) of the Budapest Treaty, the assurances furnished in the said notification of the Government of the United Kingdom will apply as from May 31, 1985 (date of the present publication).

Budapest Communication No. 22 (this Communication is the subject of Budapest Notification No. 43, of April 26, 1985).

III. Change in Fees, and Extension of the List of Kinds of Microorganisms Accepted (Rules 12.2 and 3.3, Respectively, of the Regulations under the Budapest Treaty)

AMERICAN TYPE CULTURE COLLECTION (ATCC)

The following notification addressed to the Director General of WIPO by the Government of the United States of America under Rules 12.2(a) and 3.3 of the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on April 15, 1985 and is published by the International Bureau of WIPO pursuant to Rule 12.2(b) and Article 7(2)(a) of the said Regulations and Treaty:

The Fee Schedule of the American Type Culture Collection (ATCC) as published in the July/August 1982 issue of *Industrial Property* is changed as follows in respect of the fee for the furnishing of a sample under Rules 11.2 and 11.3 of the said Regulations:

* Advisory Committee on Dangerous Pathogens: Categorisation of Pathogens according to Hazard and Categories of Containment ISBN 0/11/883761/3 HMSO London.

ATCC Cultures

— United States non-profit institutions	US \$40.00*
— Foreign non-profit institutions	40.00**
— Other United States and foreign institutions	64.00*
— Cell lines ordered as flasks of growing cells, additional laboratory fee	35.00*

ATCC Preceptrol Cultures

— All United States and foreign customers	12.00*
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* Per sample.

** Subject to an additional US \$24.00 per culture handling and processing charge.

Pursuant to Rule 3.3 of the Regulations under the Budapest Treaty, the kinds of microorganisms that the ATCC has accepted for deposit under the Budapest Treaty (see note C.3749 of December 3, 1980) are extended and, will be the following:

algae, animal viruses, bacteria, cell lines, fungi, hybridomas, oncogenes, phages, plant tissue cultures, plant viruses, plasmids, protozoa, seeds, yeasts.

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

The fees set forth in the said notification of the Government of the United States of America will apply as from the thirtieth day following the date (May 31, 1985) of the publication of the said fees in the present

issue of *Industrial Property*, that is, as from June 30, 1985 (see Rule 12.2(c) of the Regulations under the Budapest Treaty), whereas the kinds of microorganisms to which the list of microorganisms accepted for deposit has been extended will be accepted as from the date (May 31, 1985) of the publication, in the said issue, of the list set forth in the said notification (see Article 7(2)(b) of the Budapest Treaty and Rule 3.3 of the Regulations). The said fees and the said list will replace the fees for the furnishing of a sample under Rules 11.2 and 11.3 and the list of the kinds of microorganisms accepted for deposit by the ATCC, as published in the July/August 1982 and the January 1981 issues of *Industrial Property*, respectively.

Budapest Communication No. 23 (this Communication is the subject of Budapest Notification No. 44, of April 26, 1985).

Nairobi Treaty

Ratification

MEXICO

The Government of Mexico deposited, on April 16, 1985, 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 Mexico, on May 16, 1985.

Nairobi Notification No. 28, of April 16, 1985.

WIPO Meetings

Paris Union

Committee of Experts on the International Registration of Marks

First Session
(Geneva, February 11 to 14, 1985)

NOTE*

Convened by the Director General of the World Intellectual Property Organization (WIPO), the Committee of Experts on the International Registration of Marks (hereinafter referred to as "the Committee of Experts") met in Geneva from February 11 to 14, 1985.

Forty-two States participated in the meeting; four intergovernmental organizations and 20 non-governmental organizations were present in an observer capacity. The list of participants follows this note.

The Committee of Experts was convened following a decision taken by the Assembly of the International (Paris) Union for the Protection of Industrial Property at its ninth session (September 1984), at which the Assembly had examined a document that reported on a letter received by WIPO from the International Association for the Protection of Industrial Property (AIPPI). In its letter, AIPPI had expressed new ideas on the system of international registration of marks and had suggested, in particular, a new "variant" of the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as "the Madrid Agreement") containing provisions differing from the current text of the Madrid Agreement to make it more attractive for countries that were not at present party to the Agreement.

The Committee of Experts was convened in order to give the International Bureau advice on a number of proposals contained in a memorandum drawn up by the Bureau, entitled "Some Ideas on a Possible Treaty on the International Registration of Marks." This memorandum highlighted the limited territorial scope of the Madrid Agreement, the reasons for its lack of attractiveness for the member States of the Paris Union not party to the Agreement and the need to seek solutions that could be accepted by the greatest possible number

of countries as well as to devise a system that was as simple and as cheap as possible for users. The memorandum then set out the main possible differences between the Madrid Agreement and a new treaty that would coexist with that Agreement and would institute an international system of registration of marks that was attractive both to the member countries of the Madrid Union and to those that had remained outside the Union. The following are the matters whose solutions in the Madrid Agreement would seem to constitute the main obstacles to a territorial extension of the Madrid Union:

(1) the principle of dependency of the international registration on a basic national registration under which each international application has to be preceded by registration of the mark in the national register of marks of the country of origin and under which the international registration remains dependent on the national registration for a period of five years after registration; this principle has prevented accession by some countries for the reason that a national registration may be impossible, either on grounds specific to the national legislation of the country or on account of a prior mark existing in that country only, and also because the procedure for entering the mark in the national register of the country of origin may take more than six months, meaning that the rights under the Agreement would be lost;

(2) the system of "central attack" under which the protection deriving from the international registration can no longer be claimed in any of the countries concerned if protection in the country of origin ceases as a result of voluntary or *ex officio* cancellation of the basic national registration before expiration of five years from the date of the international registration; this system, bound up with the principal of dependency, was held to be inappropriate in view of the rule that the validity of a mark registered in a country depended solely on the national legislation of that country and should not be automatically affected by decisions taken in respect of that same mark registered in the country of origin;

(3) the time limit for national offices to declare that protection cannot, or probably could not, be afforded on their territory (the Madrid Agreement gives a one-year period as from the date of international registration); this time limit was held to be too short for those Offices that carried out a full examination of marks (examination of absolute causes of nullity and examination of anticipations, as a result of opposition by third parties or *ex officio*);

* Prepared by the International Bureau.

(4) regional marks; the Madrid Agreement covers the case of a regional Office acting in place of the national Offices of a number of member countries that have unified their national laws on marks; this system is considered incomplete as it does not cover a system of regional marks constituting an alternative to existing national systems, such as will probably be adopted by the European Community;

(5) the working language, restricted to French by a provision in the Regulations under the Agreement; this restriction was considered an obstacle by the Offices and applicants in countries that were not French speaking.

For each of these questions, the memorandum contains ideas pinpointing the solutions that could be adopted under a new treaty.

Following a general discussion, during which the delegations of the States and organizations expressed their views on the memorandum by the International Bureau and on the ideas it contained, the Committee of Experts held a full exchange of views on the substantive matters referred to above and on new solutions to improve and extend the system of international registration. It also examined the financial aspects of a new treaty.

It emerged from the discussions that a number of countries had not acceded to the Madrid Agreement and were still not able to do so on account of one or more of the features mentioned above.

At the close of the session, the Director General of WIPO stated, *inter alia*, that the International Bureau would draw up a detailed outline of a new treaty and would carry out studies on the links with regional systems and on the financial aspects of such a new treaty. He also announced that the Committee of Experts would be convened for a new meeting to be held in the second half of 1985 for discussions on the basis of the said outline of a possible new treaty.

LIST OF PARTICIPANTS*

I. States

Algeria: F. Bouzid. Argentina: R. Villambrosa. Austria: E. Kubesch. Bahrain: M.D. Al-Shae'r. Belgium: W.J.S. Peeters. Bulgaria: O. Delev. Canada: J.I. Butler; R. Hornby. Cuba: M. Jimenez Aday. Czechoslovakia: J. Prošek. Democratic People's Republic of Korea: Chang Si Zik; Song Guang Guk. Denmark: L. Østerborg; I. Sander. Dominican Republic: D. Suazo; A. Bonetti. Finland: T. Kivi-Koskinen; K.-H. Henn. France: L. Nicodème; B. Vidaud. German Democratic Republic: S. Schröter. Germany (Federal Republic of): E. Steup; A. von Mühlendahl; M. Buehring. Greece: A. Cambitsis; P.

Geroulakos. Haiti: S. Theard Mevs. Hungary: I. Ivanyi; M. Bognár. Indonesia: S. Partodiwirjo. Ireland: M. Kennedy; V. O'Reilly. Italy: G.L. Milesi-Ferretti; M.G. Del Gallo Rossoni. Japan: S. Ono. Malawi: M.H. Chirambo. Morocco: M.S. Abderrazik. Netherlands: H.R. Furstner; E.C. Nootboom; M.C. Geuze. Norway: J. Smith. Panama: R. Decerega. Peru: S. Vegas. Portugal: J. Mota Maia; R. Serrão. Romania: R. Susan. Soviet Union: A. Grigoriev; I. Vedernikova. Spain: J. Gomez Montero. Sri Lanka: P. Kariyawasam. Sudan: A.E. Ibrahim. Sweden: H. Olsson; K. Sundström. Switzerland: R. Kämpf; K. Wüthrich. Thailand: N. Punyakij. Tunisia: M. Blanco; H. Boufares. United Kingdom: A. Sugden. United States of America: M. Laurence; R. Bowie; D.K. Hanna. Yugoslavia: M. Manigodić.

II. Intergovernmental Organizations

African Intellectual Property Organization (OAPI): K.A. Johnson. Benelux Trademark Office (BBM): L. van Bauwel. Commission of the European Communities (CEC): B. Schwab; A. Brun. European Free Trade Association (EFTA): J.G. Petersson. Secretariat of the Council of Ministers of the European Communities: H. Kunhardt.

III. Non-Governmental Organizations

American Bar Association (ABA): D.D. Fetterley. American Intellectual Property Law Association (AIPLA): M.W. Blommer. Benelux Association of Trademark and Design Agents (BMM): R.H. van Dijk. Centre for International Industrial Property Studies (CEIPI): P. Nuss. Committee of National Institutes of Patent Agents (CNIPA): T.L. Johnson; H.J. Müller. Council of European Industrial Federations (CEIF): A. Degen. Deutsche Vereinigung für Gewerblichen Rechtsschutz und Urheberrecht (DVGR): F. Winter. European Association of Industries of Branded Products (AIM): H. Molijn. European Communities Trade Mark Practitioners' Association (ECTMPA): W. Mak. Institute of Trademark Agents (ITMA): D. Lutkin. International Association for the Protection of Industrial Property (AIPPI): E. Armitage; D.H. Tatham; M.W. Metz. International Chamber of Commerce (ICC): J.M.W. Buraas; A. Thierri; F. Winter. International Federation of Pharmaceutical Manufacturers Associations (IFPMA): G. Peters; P.M.A. Bocken; R. Lerat. International Federation of Industrial Property Attorneys (FICPI): R.G. Jenkins; J. Villars-Dahl. Pharmaceutical Trade Marks Group (PTMG): D. Rossiter; S. Grandjean. The Chartered Institute of Patent Agents (CIPA): T.L. Johnson. The United States Trademark Association (USTA): R.A. Rolfe. Trade Marks, Patents and Designs Federation (TMPDF): T.F. Brazier; B.D. Freeman. Union des fabricants (UNIFAB): A. Thierri. Union of Industries of the European Community (UNICE): W. Mak; G. Peters.

IV. Bureau

Chairman: E. Steup (Germany (Federal Republic of)). Vice-Chairmen: M. Laurence (United States of America); M. Blanco (Tunisia). Secretary: F. Balleys (WIPO).

V. International Bureau of WIPO

A. Bogsch (Director General); K. Pfanner (Deputy Director General); L. Baeumer (Director, Industrial Property Division); F. Balleys (Head, Industrial Property Law Section, Industrial Property Division).

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

General Studies

The Role of Patents in Research and Development in India

M.P. BHATNAGAR*

**A Look at the Present Position
Regarding Employees' Inventions in France**

A. BOUJU*

News from Industrial Property Offices

BRAZIL

*President,
National Institute of Industrial Property*

We have been informed that Mr. Mauro Fernando Maria Arruda has been appointed President of the National Institute of Industrial Property (INPI).

PAKISTAN

*Registrar of Trade Marks,
Trade Marks Registry*

We have been informed that Mr. M. Jalilullah has been appointed Registrar of Trade Marks, Trade Marks Registry.

Calendar of Meetings

WIPO Meetings

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

1985

- June 6 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Planning and on Special Questions
- June 17 to 25 (Paris) — Berne Union: Executive Committee (Extraordinary Session) (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)
- June 26 to 28 (Paris) — Rome Convention: Intergovernmental Committee (Ordinary Session) (convened jointly with ILO and Unesco)
- July 8 to 12 (Geneva) — Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions
- September 11 to 13 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Patent Information for Developing Countries
- September 16 to 20 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)
- September 23 to October 1 (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 7 to 11 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information
- October 21 to 25 (Geneva) — Nice Union: Committee of Experts
- November 4 to 30 (Plovdiv) — WIPO/Bulgaria: World Exhibition of Young Inventors and International Seminar on Inventiveness for Development Purposes (November 12 to 15)
- November 18 to 22 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning
- November 25 to December 6 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- November 26 to 29 (Geneva) — Committee of Experts on a Treaty for the Protection of Integrated Circuits
- December 3 to 6 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property
- December 9 to 13 (Geneva) — Committee of Experts on the International Registration of Marks

UPOV Meetings

1985

- June 4 to 7 (Hanover) — Technical Working Party for Agricultural Crops, and Subgroup
June 18 to 21 (Aarslev) — Technical Working Party for Fruit Crops, and Subgroup
June 24 to 27 (Aars and Aarslev) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroups
July 8 to 12 (Cambridge) — Technical Working Party for Vegetables, and Subgroup
October 14 (Geneva) — Consultative Committee
October 15 and 16 (Geneva) — Meeting with International Organizations
October 17 and 18 (Geneva) — Council
November 12 and 13 (Geneva) — Technical Committee
November 14 and 15 (Geneva) — Administrative and Legal Committee

Other Meetings Concerned with Industrial Property

1985

- June 3 to 7 (Augsburg) — International Federation of Industrial Property Attorneys: World Congress
June 4 to 7 (Strasbourg) — Center for the International Study of Industrial Property: Seminar on Transfer of Technology (first module: Nature of License Contracts and of the Transfer of Technology)
June 11 to 14 (Munich) — European Patent Organisation: Administrative Council
September 2 to 6 (Budapest) — Hungarian Group of the International Association for the Protection of Industrial Property and the Hungarian Association for the Protection of Industrial Property: Sixth International Conference on "New Technical Tendencies and Industrial Property Protection"
September 16 to 18 (Geneva) — International Association for the Advancement of Teaching and Research in Intellectual Property: Assembly and Annual Meeting
September 24 to 27 (Strasbourg) — Center for the International Study of Industrial Property: Seminar on Transfer of Technology (second module: Strategy and Procedures for the Transfer of Technology)
September 27 and 28 (Wiesbaden) — International League for Competition Law (formerly International League Against Unfair Competition): *Journée d'études*
October 10 and 11 (Harrogate) — Pharmaceutical Trade Marks Group: 31st Conference on "Generic Prescribing—12 Diverse but Authoritative and Informed Viewpoints"

1986

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

