

Industrial Property

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

24th Year - No. 10
October 1985

Monthly Review of the
World Intellectual Property Organization

Contents

NOTIFICATIONS	
Budapest Treaty. Change of Name: National Collection of Animal Cell Cultures (NCACC)	299
Nairobi Treaty. Ratification: Italy	299
ACTIVITIES OF THE INTERNATIONAL BUREAU	
Cooperation Agreement Among the World Intellectual Property Organization, the African Regional Centre for Technology, the African Intellectual Property Organization, and the Industrial Property Organization for English-Speaking Africa	300
ACTIVITIES OF OTHER ORGANIZATIONS	
International Federation of Industrial Property Attorneys	303
GENERAL STUDIES	
The Protection of Trademarks and Prevention of Unfair Competition in the Courts of Australia (A.L. Limbury)	304
CALENDAR OF MEETINGS	314

INDUSTRIAL PROPERTY LAWS AND TREATIES

Editor's Note

BARBADOS

Trade Marks Act, 1981-86 of December 21, 1981, as Amended by the Intellectual Property Acts (Amendment) Act, 1984-20 of June 22, 1984

Text 3-001

CHINA

Provisional Regulations on Claims of the Right of Priority with Respect to Applications for the Registration of Trademarks Approved by the State Council and Promulgated by the State Administration for Industry and Commerce of the People's Republic of China on March 15, 1985

Text 3-003

© WIPO 1985

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

Notifications

Budapest Treaty

Change of Name

NATIONAL COLLECTION OF ANIMAL CELL CULTURES (NCACC)

The Government of the United Kingdom has informed the Director General of WIPO by a communication of September 3, 1985, which was received on September 6, 1985, that, with immediate effect, the National Collection of Animal Cell Cultures, an international depositary authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, wishes to be known as the "European Collection of Animal Cell Cultures." The said Government furnishes assurances that the European Collection of Animal Cell Cultures will comply with the requirements specified in Article 6(2) of the Budapest Treaty.

Budapest Communication No. 26 [this Communication is the subject of Budapest Notification No. 48 of October 1, 1985].

Nairobi Treaty

Ratification

ITALY

The Government of Italy deposited, on September 25, 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 Italy, on October 25, 1985.

Nairobi Notification No. 31, of September 27, 1985.

Activities of the International Bureau

Cooperation Agreement Among the World Intellectual Property Organization, the African Regional Centre for Technology, the African Intellectual Property Organization, and the Industrial Property Organization for English-Speaking Africa

In July 1985, a quadripartite Cooperation Agreement among the World Intellectual Property Organization (WIPO), the African Regional Centre for Technology (ARCT), the African Intellectual Property Organization (OAPI) and the Industrial Property Organization for English-Speaking Africa (ESARIPO) was signed, at the headquarters of WIPO in Geneva, by the Heads of the four organizations. Several Permanent Representatives in Geneva of African countries attended the signing ceremony.

The main objective of the Agreement is to optimize the effects of the regional activities of the four organizations for the benefit of African countries. On the basis of that objective, the four organizations agreed, in particular, to cooperate in providing technological information contained in patent documents and in strengthening the negotiating capabilities of African countries in respect of transfer of technology arrangements where such technology is related to industrial property rights.

The text of the Cooperation Agreement follows:

COOPERATION AGREEMENT

AMONG

THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)
THE AFRICAN REGIONAL CENTRE FOR TECHNOLOGY (ARCT)
THE AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI)
THE INDUSTRIAL PROPERTY ORGANIZATION FOR ENGLISH-SPEAKING AFRICA (ESARIPO)

The World Intellectual Property Organization (WIPO) (hereinafter referred to as "WIPO"), the African Regional Centre for Technology (ARCT) (hereinafter referred to as "ARCT"), the African Intellectual Property Organization (OAPI) (hereinafter referred to as "OAPI") and the Industrial Property Organization for English-Speaking Africa (ESARIPO) (hereinafter referred to as "ESARIPO") (hereinafter referred to as "the Four Organizations"),

1. being aware (i) of the importance of industrial property and technological innovation in general to the development objectives of developing countries in Africa, (ii) of the importance of industrial property for the transfer, acquisition and development of technology and industrialization through, among other things, adequate access to and use of technological information contained in patent documents, (iii) that, because of the lack of adequate administrative infrastructure in the

field of industrial property in developing countries, it has not been possible, so far, for the countries to take full advantage of the possibilities offered by industrial property, in particular, in the use of technological information contained in patent documents and related literature,

2. recognizing the practical advantages of dealing with some aspects of industrial property at a regional or subregional level in order to achieve better results and a more efficient administration of the scarce resources available, in the light of the increasing demands made on those resources,

3. desirous of serving better their member States through close cooperation among the Four Organizations in the field of the dissemination and use of patent information and documentation and transfer, acquisition and development of technology for the benefit of

the African continent as a whole and of all and each of its individual States,

hereby conclude the present Cooperation Agreement:

*Article I
Objectives*

The Four Organizations shall, through cooperation among them, endeavor to increase their usefulness to their member States in their technological development efforts.

To that end, the Four Organizations shall, in particular, cooperate in

(i) providing technological information contained in patent documents;

(ii) strengthening negotiating capabilities for transfer of technology arrangements where such technology is related to industrial property rights.

*Article II
Technological Information*

In the field of technological information contained in patent documents

(i) WIPO shall advise and assist ESARIPO and OAPI in enriching the patent documentation centers they maintain;

(ii) WIPO shall facilitate the training of the staff of ARCT, OAPI and ESARIPO responsible for the processing and dissemination of technological information in the field of industrial property and patent documents;

(iii) ESARIPO and OAPI shall, at the request of ARCT and on conditions that will be agreed upon in each case, furnish technological information that may be derived from the patent documentation centers that ESARIPO and OAPI maintain, or if necessary from other patent or industrial property offices.

*Article III
Strengthening Negotiating Capabilities
for Transfer of Technology*

In the field of transfer and acquisition of technology arrangements where the technology is related to industrial property rights,

(i) WIPO shall facilitate the training of specialists nominated by ARCT, OAPI or ESARIPO whose task is to negotiate licensing agreements or other arrangements or agreements of transfer and acquisition of technology in the name of the governments, or any industrial enterprise, in Africa;

(ii) WIPO shall facilitate the training of the staff of ARCT, ESARIPO and OAPI responsible for advisory services in the field of transfer and acquisition of technology.

*Article IV
Means of Action*

The following shall be among the means of achieving the objectives mentioned in Article I, above:

(i) manuals, guides and other publications, serving as reference or teaching material, jointly prepared by two, three or all of the Four Organizations, for the benefit of African countries;

(ii) training courses, seminars and workshops, jointly organized by two, three or all of the Four Organizations, for the benefit of African countries.

*Article V
Joint Consultative Committee*

In order to plan, implement and evaluate the activities carried out, or to be carried out, under the present Agreement, representatives of the Four Organizations shall meet at least once a year in what shall be called the "Consultative Committee of WIPO, ARCT, ESARIPO and OAPI." The meetings shall be held in turn in Dakar, Geneva, Harare and Yaoundé.

*Article VI
Exchange of Publications*

Each of the Four Organizations shall furnish free of charge to the others copies of its publications of interest to them.

Such exchange of publications shall include, in particular, the furnishing by WIPO of a set of issues of the *PCT Gazette* and of the microfilms of published PCT applications to the patent documentation centers of ESARIPO and OAPI.

*Article VII
Representation at Meetings*

Subject to the applicable rules of each of the Four Organizations and any bilateral agreement between any two of them, each Organization shall invite the others to participate, as observers, in its meetings of interest to them.

*Article VIII
Duration*

This Agreement shall enter into force when the competent Governing Bodies of all Four Organizations

have endorsed it. Pending such endorsement, the Secretariats of the Four Organizations shall apply this Agreement on a provisional basis.

This Agreement shall remain in force until it is amended or replaced by a new Agreement or is terminated through denunciation. Any of the Four Organiza-

tions may denounce this Agreement, subject to a notice of six months. Denunciation by any one Organization shall not necessarily cause the termination of the Agreement among the remaining signatories.

* * *

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have affixed their signatures to two originals, in English and French, of this Agreement, both texts being equally authentic.

For the World Intellectual
Property Organization:

Arpad Bogsch
Director General

For the African Intellectual
Property Organization:

Gérard Meyo-M'Emane
Director General a.i.

For the African Regional Centre
of Technology:

D. Bahatunde Thomas
Executive Director

For the Industrial Property Organization
for English-Speaking Africa:

J.H. Ntabgoba
Director

July 22, 1985

Activities of Other Organizations

International Federation of Industrial Property Attorneys

World Congress

(Augsburg, June 3 to 7, 1985)

NOTE*

The International Federation of Industrial Property Attorneys (FICPI) held its World Congress in Augsburg (Federal Republic of Germany) from June 3 to 7, 1985. More than 600 participants from 44 countries attended the Congress, which was presided over by Dr. Heinz Bardehle, patent attorney from Munich and President of FICPI. The World Intellectual Property Organization (WIPO) was represented by Dr. K. Pfanner, Deputy Director General.

The subject of the FICPI Congress was the level of inventive step and its influence on the willingness of industry to invest in research and development. This topic was dealt with in a number of working sessions devoted to discussions on the requirement of inventive step, its history, its treatment under various legal systems, its criteria and its application by the courts. Those discussions were supplemented by lectures on the influence of the patent system on the willingness of industry to invest, from the point of view of both a research economist and an entrepreneur. The WIPO representative gave a lecture on the Patent Cooperation Treaty (PCT) as a medium for the harmonization of patent law, particularly as regards the requirement of

inventive step. Another lecture dealt with inventive step as a prerequisite for better acceptance of the patent system in developing countries.

At the end of the Congress, a number of resolutions were adopted. Those resolutions call for the following:

- that all available facts relating to an invention, in particular, so-called secondary indicators and, in order to protect industry's investment, the results of any practical implementation of the invention, be taken into account by examining authorities;
- that the need for the average man skilled in the art to combine his knowledge of the technological field to which the invention relates with knowledge of prior art outside his field of technology should be considered as an indicator of the presence of inventive step;
- that applicants should be provided with search and examination results sufficiently early to enable them to assess their chances of success and decide whether or not to proceed with their applications in time to prevent the publication of those applications if they so wish;
- that inventions should be examined with reference to all features in the claims, independently of whether those features appear in the preamble or the characterizing portion thereof;
- that legislatures and authorities should achieve uniformity in their assessment of inventive step, particularly in order to reduce the incidence of differing decisions in parallel proceedings; and
- that the dialogue among judges, patent office examiners, inventors, industrialists and patent attorneys to achieve further cooperative efforts to create a method of assessing inventive step that meets the practical needs of inventors and industry should continue.

* Prepared by the International Bureau of WIPO.

General Studies

The Protection of Trademarks and Prevention of Unfair Competition in the Courts of Australia*

A.L. LIMBURY**

WIPO Meetings

WIPO Meetings

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

1985

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 Intellectual Property in Respect of Integrated Circuits

December 2 to 6 (Paris) — Committee of Governmental Experts on Model Provisions for National Laws on Publishing Contracts for Literary Works (convened jointly with Unesco)

December 3 to 6 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property

December 11 to 13 (Geneva) — Committee of Experts on the International Registration of Marks

UPOV Meetings

1985

November 12 and 13 (Geneva) — Technical Committee

November 14 and 15 (Geneva) — Administrative and Legal Committee

Other Meetings Concerned with Industrial Property

1986

January 14 to 17 (Munich) — European Patent Organisation: Administrative Council

March 14 (London) — Pharmaceutical Trade Marks Group: 32nd General Assembly

June 1 to 4 (San Diego) — The United States Trademark Association: Annual Meeting

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

