

# Industrial Property

Published monthly  
Annual subscription:  
Sw.fr. 155.-  
Each monthly issue:  
Sw.fr. 16.-

25th Year - No. 2  
February 1986

Monthly Review of the  
World Intellectual Property Organization

---

## Contents

|  |            |
|--|------------|
| NOTIFICATIONS  |            |
| Nice Agreement, Ratification of the Geneva Act (1977); Switzerland .....   | 55         |
| WIPO MEETINGS  |            |
| Paris Union, Committee of Experts on the International Registration of Marks .....   | 56         |
| Nice Union, Committee of Experts for the International Classification of Goods and Services for the Purposes of the Registration of Marks .....  | 58         |
| GENERAL STUDIES  |            |
| Protection of Industrial Designs in Italian and Comparative European Law (F. Benussi) .....  | 61         |
| Principal Legislative Developments in the Field of Industrial Property and Related Rights in Spain between 1979 and 1984 (A. de Elzaburu and M.A. Baz) .....   | 73         |
| CALENDAR OF MEETINGS .....   | 87         |
| NEWS FROM INDUSTRIAL PROPERTY OFFICES  |            |
| Peru (Corrigendum) .....   | 88         |
| INDUSTRIAL PROPERTY LAWS AND TREATIES  |            |
| Editor's Note  |            |
| AUSTRIA  |            |
| Patent Law (Federal Law of 1970, as last amended by the Law of May 23, 1984, amending the Patent Law and the Law Introducing Patent Treaties) (first segment) .....  | Text 2-001 |
| Federal Law on the Introduction of the European Patent Convention and the Patent Cooperation Treaty (Law Introducing Patent Treaties) (of December 16, 1978, as amended by the Federal Law of May 23, 1984) .....  | Text 2-002 |
| HUNGARY  |            |
| Law on the Protection of Inventions by Patents (No. II of 1969, as amended by Decree-Law No. 5 of 1983) (replacement sheets) .....   | Text 2-006 |
| Joint Decree Relating to the Execution of the Law on the Protection of Inventions by Patents (No. 4/1969 (XII.28) OMFB-IM of the President of the National Committee for Technical Development and the Minister of Justice, as amended by Decree No. 4/1983 (V.12) IM of the Minister of Justice) (replacement sheets) ..... | Text 2-007 |
| MEXICO   |            |
| Resolution Granting a General Extension of One Year as from December 29, 1985, for Compliance with the Obligations Specified in Sections 127 and 128 of the Law on Inventions and Marks (of December 3, 1985) .....  | Text 1-012 |

---

© WIPO 1986

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

### Nice Agreement

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

##### SWITZERLAND

The Government of Switzerland deposited, on January 22, 1986, 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 Geneva Act (1977) of the said Agreement will enter into force, with respect to Switzerland, on April 22, 1986.

Nice Notification No. 63, of January 22, 1986.

## WIPO Meetings

### Paris Union

#### Committee of Experts on the International Registration of Marks

Second Session  
(Geneva, December 11 to 13, 1985)

#### NOTE\*

The Committee of Experts on the International Registration of Marks (hereinafter referred to as "the Committee of Experts") held its second session in Geneva from December 11 to 13, 1985.<sup>1</sup> The following States were represented: Algeria, Austria, Belgium, Bulgaria, Canada, China, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Equatorial Guinea, Finland, France, Germany (Federal Republic of), Greece, Hungary, Ireland, Italy, Japan, Morocco, Netherlands, Norway, Panama, Portugal, Romania, Soviet Union, Spain, Sudan, Sweden, Switzerland, Tunisia, United Kingdom, United States of America, Viet Nam, Yugoslavia (34). In addition, representatives of two intergovernmental organizations and 27 non-governmental organizations participated as observers. The list of participants follows this Note.

The discussions were based on a memorandum by the Director General of WIPO entitled "Detailed Outline of a Proposed New Treaty on the International Registration of Trademarks" (document IRM/CE/II/2).

The participants first engaged in a general debate as to the advisability of establishing a new system for the international registration of marks, in addition to those established by the Madrid Agreement Concerning the International Registration of Marks and the Trademark Registration Treaty, and then concentrated their discussions on a few specific issues. The discussions on some of those issues are summarized below.

*Should International Applications Be Required to Be Based on a National (or Regional) Registration, a National (or Regional) Application or Neither of the Two? Where Should or Could International Applications Be Filed?* The delegations representing countries *not*

*party* to the Madrid Agreement that took the floor unanimously stated that a new system of international registration of marks in which an international application would be required to be based on a registration of the mark in a national or regional trademark register would be totally unacceptable. The majority of those delegations were also of the opinion that an international application should in no case be required to be based on an application for a national registration and that filing an international application directly with the International Bureau should be allowed.

The majority of the delegations of the countries *party* to the Madrid Agreement, while expressing their satisfaction with the requirement of a national registration as presently in force in the Madrid Agreement, stated that they were willing to accept that a national application be a sufficient basis for the filing of an international application, in order to facilitate the adherence of countries not members of the Madrid Union to the new system for the international registration of marks. A number of those delegations stated, however, that the national application should, in order to be able to serve as a basis for an international application, lead to a national registration and that, should the national application be refused within a certain time limit after the filing of the international application, the effects of the international registration would cease to exist; another delegation suggested that the possibility, in such a situation, of the international registration being transformed in each designated State into a national registration benefiting from the filing or priority date of the international application be studied. One suggestion that was proposed would, along the lines of Articles 4(6) and 5(2) of the Trademark Registration Treaty, allow the country of origin of the applicant to require that the mark be the subject of a national application in that country at the time of the (direct) filing of the international application with the International Bureau.

*Should the Possibility Be Provided for a Central Attack of the International Registration?* The majority of the delegations representing countries *party* to the Madrid Agreement stressed the advantages of a system in which, during a certain period of time, the effects of the international registration may come to an end in all the designated countries as a consequence of the registration in the country of origin ceasing during that period of time either as the result of an action brought against the registration (central attack) or as a result of some other fact. Those delegations, however, recognized that central attack could lead to unjust results

\* Prepared by the International Bureau.

<sup>1</sup> For a Note on the first session, see *Industrial Property*, 1985, p. 165.

since a ground for cancellation in one country might very well not be a ground for cancellation in other countries and said that alternative solutions allowing the elimination of such unjust consequences should be studied.

All the delegations of countries *not party* to the Madrid Agreement that took the floor on the central attack question expressed their strong opposition to including the institution of central attack in the envisaged new system.

The majority of the representatives of non-governmental organizations, speaking largely in the name of trademark owners who can and do use the Madrid Agreement, expressed their preference for a central attack system, since it allowed for good protection of the owners of any prior rights.

A possible compromise solution that was suggested for further study would provide that the owner of an international registration that loses its effect as a consequence of a successful central attack could file applications for national registrations in the designated countries and that such applications would be considered as if they had been filed on the filing or priority date of the application for international registration.

*What Should the Effects of International Registration Be?* Attention was drawn to the fact that it was conceivable to give very different effects to an international registration in the designated countries. As a minimum, the internationally registered mark would be treated in each designated country as if it had been the subject, on the same day, of a national application in that country, whereas all other conditions for protection would be left to the national law of the designated country. As a maximum, the international registration would have the full effects of a national registration in each designated country. Several intermediate solutions could also be envisaged.

The Committee agreed that the International Bureau would study various alternative solutions and would analyze the consequences of each of them.

*Fees.* A number of delegations *not party* to the Madrid Agreement considered that a solution according to which each country party to the new treaty would have the choice between a system comparable to that of the Madrid Agreement (in which the designation fee for each country is the same and is fixed by the Assembly of the Madrid Union and in which the fees are distributed among the members States taking into consideration the degree of examination to which they must proceed under their national laws) and a system under which each designated State would charge the same amount as for national applications was acceptable. The delegations of countries that undertook a substantive examination of applications for the registration of marks stated that their countries' choice would be for the second system. It was said that even if all countries

opted for that system, it would still be financially advantageous for applicants.

*Time Limit for Provisional Refusal.* The Committee of Experts considered the question of what, under any future system of international registration of marks, should be the time limit for issuing a notice of possible refusal, or "provisional refusal." A considerable number of delegations (including member countries of the Madrid Agreement) stated that the time limit of 12 months for the provisional refusal under the Madrid Agreement was too short, in particular for countries with a more elaborate examination system. Several member countries of the Madrid Agreement, however, stated that they were satisfied with the existing time limit under that Agreement and were of the opinion that it gave sufficient opportunity for timely refusal.

As to the desirable time limit for the envisaged new system, it was noted that there was a general willingness in the Committee of Experts to move toward a period of 15 to 20 months from the publication of the international registration, while some delegations expressed a preference for 24 months.

*Languages.* The Committee of Experts noted with approval the proposal of the International Bureau that English and French should be the languages to be used under the new treaty. Several delegations expressed the opinion that the introduction of English should also be envisaged in connection with the Madrid Agreement.

*Planned Continuation of the Work.* At the end of the discussions of the Committee of Experts, the Director General said that those discussions had shown that views were divided on whether the conclusion of a new treaty or the revision of the existing Madrid Agreement should be aimed at, although the mandate that had been received thus far was the exploration of the possibilities for the conclusion of a new treaty.

On the continuation of the work, he said that he would convene a third session of the Committee of Experts and would prepare a preparatory document containing new proposals that would, in the light of the present discussions, contain various alternatives as to the effect of an international recordal.

Furthermore, the Director General said that since the delegates of several countries of the Madrid Union declared that they would be ready to make some modifications in the Madrid system and since the delegates of several countries not party to the Madrid Agreement declared that they might be interested in a revised Madrid Agreement, he would ask the Assembly of the Madrid Union to give, if it so wishes, directions to the International Bureau concerning the preparation of a possible conference of revision of the Madrid Agreement. If such a mandate—which did not exist at the present time—were given, the International Bureau would work on proposals for a possible revision on the basis of the statements made in the Committee of Experts.

## LIST OF PARTICIPANTS\*\*

## I. States

Algeria: F. Hamitou. Austria: O. Leberl. Belgium: W. Peeters. Bulgaria: P. Karajanev. Canada: G.W. Partington. China: Li Yuanmin. Czechoslovakia: J. Prosek. Democratic People's Republic of Korea: Yeung Seun Kwon. Denmark: L. Østerborg; C. Boysen Schmidt; I. Sander. Equatorial Guinea: C. Ocha'a Mve Bengobesama. Finland: S. Tanskanen; K.-H. Henn. France: B. Vidaud; G. Rajot. Germany (Federal Republic of): A. von Mühlendahl; M. Bühring. Greece: P. Geroulakos. Hungary: G. Vékás; M. Bognár; R. Sikos; E. Szigeti; B. Kende; A. Szentpéteri. Ireland: V. O'Reilly. Italy: G. Prigioni; M. Morandi. Japan: K. Mise; Y. Masuda. Morocco: H. Abbar. Netherlands: R. Fürstner; M.C. Geuze; E.C. Nootboom. Norway: A.G. Gerhardsen; M. Ruud. Panama: I. Aizpúrua Pérez. Portugal: J. Mota Maia; R. Serrão; A. de Sampaio. Romania: R. Susan. Soviet Union: A. Grigoriev. Spain: C. Gutierrez González. Sudan A.E.R.A. Ibrahim. Sweden: H. Olsson; K. Sundström. Switzerland: A. Rosenkranz. Tunisia: M. Blanco. United Kingdom: P. Shepherd; C.J.A. Parker. United States of America: L. Schroeder; R.G. Bowie; P.A. Woodring; W.A. Finkelstein. Viet Nam: Tran Viet Hung; Vu Huy Tan. Yugoslavia: M. Radivojevic.

## II. Intergovernmental Organizations

European Free Trade Association (EFTA): S. Norberg; J.G. Petersson. Benelux Trademark Office (BBM) L. Van Bauwel.

## III. Non-Governmental Organizations

American Bar Association (ABA): C.W. Lackert. Association française des praticiens du droit des marques et des modèles (APRAM): R. Baudin; R. Serain. Benelux Association of Trademark and Design Agents (BMM): F. Gevers. Bundesverband der Deutschen Industrie e.V. (BDI): F. Winter. Committee of National Institutes of Patent Agents (CNIPA): T.L. Johnson; M. Ruff. European Association of Industries of Branded Products (AIM): G.F. Kunze. European Communities Trademark Association (ECTA): J. Charrière; F. Gevers. European Federation of Agents of Industry in Industrial Property (FEMIP): S. Smith-Meyer. European Federation of Pharmaceutical Industries' Associations (EFPIA): P. Bocken. Institute of Patent Attorneys of Australia (IPAA): T.C. Collins; D.R. Shanahan. Institute of Trade Mark Agents (ITMA): G.A.A. Ball; D.B. Lutkin. International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP): D. Llewelyn; H.P. Kunz-Hallstein. 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; N.-A. Jensen; A. Thrierr; G.F. Kunze; D.H. Tatham; A. Pickford. International Federation of Industrial Property Attorneys (FICPI): H. Sonn; P.F. Heritier; R. Jenkins. International Federation of Pharmaceutical Manufacturers Associations (IFPMA): C.M. Sautory; N.H. Newey. International League for Competition Law (LIDC): J. Guyet. International Patent and Trademark Association (IPTA): G.R. Clark; L.J. Kaufman. Max Planck Institute for Foreign and International Patent, Copyright, and Competition Law: H.P. Kunz-Hallstein. Pharmaceutical Trade Marks Group (PTMG): D.T. Rossiter; G.J. Foot; D. Llewelyn; S. Grandjean. The Chartered Institute of Patent Agents (CIPA): T.L. Johnson. The United States Trademark Association (USTA): R. Rolfe. Trade Marks, Patents and Designs Federation (TMDPF): B.D. Freeman; T.F. Brazier. Union des Fabricants (UNIFAB): A. Thrierr. Union of European Practitioners in Industrial Property (UEPIP): C. Kik. Union of Industries of the European Community (UNICE): H. Molijn. United States Council for International Business (USCIB): E.W. Hanak.

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

## IV. Officers

Chairman: A. von Mühlendahl (Germany (Federal Republic of)). Vice-Chairmen: L. Schroeder (United States of America); A. Grigoriev (Soviet Union). Secretary: F. Balleys (WIPO).

## V. International Bureau of WIPO

A. Bogsch (Director General); K. Pfanner (Deputy Director General); F. Balleys (Head, Industrial Property (Special Projects) Division); P. Mangué (Head, Trademark and Industrial Designs Registration Division); Tran-Thi T.-L. (Senior Legal Officer, Industrial Property (Special Projects) Division).

## Nice Union

## Committee of Experts for the International Classification of Goods and Services for the Purpose of the Registration of Marks

Fifteenth Session

(Geneva, October 21 to 25, 1985)

## NOTE\*

The Committee of Experts set up under Article 3 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks met in Geneva from October 21 to 25, 1985.

The following member countries of the Nice Union were represented: Denmark, Finland, France, Germany (Federal Republic of), Netherlands, Norway, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America (12). Cameroon, China and Japan were represented by observers. The list of participants follows this Note.

At its fifteenth session, the Committee of Experts studied a number of proposals, submitted by various member countries of the Nice Union or by the International Bureau of WIPO, with regard to changes to be made to the Classification.

Those proposals had already been examined by the Preparatory Working Group set up in 1974 to prepare the decisions of the Committee of Experts.

At this, the fifteenth session, the Committee of Experts adopted, unanimously as far as the amendments were concerned, the majority of the proposals and recommendations prepared by the Working Group at its 1983 and 1984 sessions.

The Committee of Experts decided that the changes adopted would enter into force on January 1, 1987. A new (fifth) edition of the Classification will then be published.

\* Prepared by the International Bureau.

In addition, the Committee of Experts spoke in favor of setting up, in French and in English, a Keyword Index of the goods and services comprised in the Alphabetical List. This Index will reproduce under keywords all the goods and services listed by the Classification and will thus assist those who use the Classification by permitting them, once the fifth edition has been published, to consult it in addition to the List of Classes and the Alphabetical List, whose form and content will remain unchanged.

The Committee of Experts also noted with interest the progress achieved in the publication of official texts of the Classification in the languages referred to in Article 1(6) of the Nice Agreement. By the end of 1985, the fourth edition of the Classification had been published in Dutch, German, Italian, Portuguese and Spanish. The Russian version is under preparation. The amendments and additions adopted at the 1985 session of the Committee of Experts will be incorporated in those texts, and a new (fifth) edition will be published.

## LIST OF PARTICIPANTS\*\*

### I. Member States

**Denmark:** I. Sander; **B. Wiborg.** **Finland:** K.-E. Jungfelt. **France:** G. Rajot; M.-C. Bartoli. **Germany (Federal Republic of):** G. Jehle. **Netherlands:** F. Launspach. **Norway:** A. Kaarhus; S.-J. Bostad. **Soviet Union:** R. Shabanov; L. Bandourina. **Spain:** C. Carranza. **Sweden:** K. Sundström. **Switzerland:** J. Weber. **United Kingdom:** E.N. Haverty. **United States of America:** M. Hynak.

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

### II. Observer States

**Cameroon:** C.-E. Mbella Ngom. **China:** Liao Nengjing; Wu Qun. **Japon:** Y. Masuda.

### III. Intergovernmental Organization

**Benelux Trademark Office (BBM):** F. Launspach; J.-P. Hoebreck.

### IV. Observer Organizations

**International Association for the Protection of Industrial Property (AIPPI):** G.E. Kirker. **International Chamber of Commerce (ICC):** J.M.W. Buraas.

### V. Consultant

J.-C. Tardy, SWORD S.A.R.L. (for point 5 of the Agenda).

### VI. Officers

*Chairman:* M. Hynak (United States of America). *Vice-Chairmen:* F. Launspach (Netherlands); R. Shabanov (Soviet Union). *Secretary:* C.J. Werkman (WIPO).

### VII. International Bureau of WIPO

L.E. Kostikov (*Deputy Director General*); C.J. Werkman (*Head, Trademark and Industrial Designs Classifications Section, Patent Information and Classification Division*); C. Leder (*Classification Officer, Trademarks and Industrial Designs Classifications Section*); M. Kaufmann (*Principal Examiner, Trademark and Appellations of Origin Registration Section, Trademark and Industrial Designs Registration Division*).





## General Studies

### **Protection of Industrial Designs in Italian and Comparative European Law**

F. BENUSSI\*

























---

**Principal Legislative Developments in the  
Field of Industrial Property and Related  
Rights in Spain between 1979 and 1984\***

A. de ELZABURU and M.A. BAZ\*\*































## Calendar of Meetings

### WIPO Meetings

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

#### 1986

- April 8 to 11 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property
- April 14 to 18 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information
- May 5 to 7 (Geneva) — Paris Union: Committee of Experts on Protection Against Counterfeiting
- May 12 to 14 (Geneva) — WIPO International Forum on Collective Administration of Copyrights and Neighboring Rights
- May 26 to 30 (Geneva) — Paris Union: Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions
- May 22 to June 6 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- June 2 to 6 (Paris) — Committee of Governmental Experts on Audiovisual Works and Phonograms (convened jointly with Unesco)
- June 4 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Patent Information for Developing Countries
- June 9 to 13 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning
- June 23 to 27 (Geneva) — Committee of Experts on Intellectual Property in Respect of Integrated Circuits
- September 1 to 5 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)
- September 8 to 10 (Geneva) — WIPO Patent and Trademark Information Fair
- September 8 to 12 (Geneva) — Governing Bodies (WIPO Coordination Committee, Executive Committees of the Paris and Berne Unions, Assembly of the Berne Union)
- October 13 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information
- November 24 to December 5 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- December 8 to 12 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning

### UPOV Meetings

#### 1986

- April 15 (Geneva) — Consultative Committee
- April 16 and 17 (Geneva) — Administrative and Legal Committee
- May 21 to 23 (Hanover) — Technical Working Party on Automation and Computer Programs
- May 26 to 29 (Pontecagnano-Salerno) — Technical Working Party for Vegetables, and Subgroup
- June 3 to 6 (Dublin) — Technical Working Party for Agricultural Crops, and Subgroup
- July 15 to 18 (Wageningen) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroup
- September 15 to 19 (Wädenswil) — Technical Working Party for Fruit Crops, and Subgroup
- November 18 and 19 (Geneva) — Administrative and Legal Committee
- November 20 and 21 (Geneva) — Technical Committee
- December 1 (Paris) — Consultative Committee
- December 2 and 3 (Paris) — Council

### Other Meetings Concerned with Industrial Property

#### 1986

- 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
- September 13 to 17 (Lucerne) — International League for Competition Law: XXIXth Congress

## News from Industrial Property Offices

### PERU

*Director General,  
Institute for Industrial Technological Research  
and Technical Standards (ITINTEC)*

(Corrigendum)

We have been informed that Mr. Jorge Succar Rahme has been appointed Director General of the Institute for Industrial Technological Research and Technical Standards (ITINTEC) and that Mrs. Quim. Olga Combe de Vertiz has been appointed Director of Industrial Property, Industrial Property Directorate.