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Royal Decree on the Filing of a European Patent Application, its Conversion into a National Patent Application and the Registration of European Patents Having Effect in Belgium	Text 2-002
Royal Decree on the Filing of International Patent Applications in Belgium (of August 21, 1981, as Amended by the Royal Decree of December 2, 1986, on Applications for Patents and the Granting and Maintenance of Patents)	Text 2-003

(continued overleaf)

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Patent Law (of March 28, 1984) (replacement sheet)	Text 2-004
Royal Decree on Applications for Patents and the Granting and Maintenance of Patents (of December 2, 1986)	Text 2-005

SWEDEN

Act for the Protection of the Layout-Design of the Circuitry in Semiconductor Products (No. 1425, of December 18, 1986)	Text 1-002
Regulation Concerning the Application of Act No. 1425 of December 18, 1986, on the Protection of the Layout-Design of the Circuitry in Semiconductor Products in Relation to Other Countries (of March 7, 1987)	Text 1-003

Notifications Concerning Treaties

Patent Cooperation Treaty (PCT)

Withdrawal by Japan of its Declaration Made Pursuant to Article 64(2)(a)

The Government of Japan has notified, in its notification received on September 8, 1987, the withdrawal of the declaration made pursuant to Article 64(2)(a) of the Patent Cooperation Treaty (PCT), done at Washington on June 19, 1970 (see PCT Notification No. 22, of July 1, 1978¹).

The withdrawal of the said declaration will take effect on December 8, 1987.

PCT Notification No. 51, of September 15, 1987.

¹ See *Industrial Property*, 1978, p. 192.

Budapest Treaty

Acquisition of the Status of International Depositary Authority

THE NATIONAL BANK FOR INDUSTRIAL
MICROORGANISMS AND CELL CULTURES
(NBIMCC)

The following written communication addressed to the Director General of WIPO by the Government of the People's Republic of Bulgaria under Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on September 3, 1987, and is published by the International Bureau of WIPO pursuant to Article 7(2)(a) of the said Treaty:

In accordance with Article 7(1) of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter referred to as "the Treaty"), the Government of the People's Republic of Bulgaria proposes that the National Bank for Industrial Microorganisms and Cell Cultures (hereinafter referred to as "the Bank") be recognized as an international authority for the deposit of microorganisms for the purposes of patent procedure.

The Bank can and will comply with all requirements envisaged by the Treaty and the Regulations

for its application, in its capacity as national authority for the deposit of microorganisms for the purposes of patent procedure.

The Bank was established by Decree No. 56 of the Council of Ministers of the People's Republic of Bulgaria of December 30, 1983, as an independent legal entity. The Bank's headquarters is in Sofia, 125 Lenin Blvd., Block 2. The Bank is a member of the World Federation for Culture Collections (WFCC) under No. 135, and of the European Culture Collections Organization (ECCO), since July 14, 1987.

The Bank possesses, at the present stage, 1,271 strains of microorganisms, 231 of which are legally protected within the People's Republic of Bulgaria.

The overall equipment of the Bank meets all the requirements for ensuring conditions for the existence of the microorganisms deposited and for eliminating the slightest possibility of infection. Most advanced up-to-date scientific methods are used for the reception, conservation and storage of the microorganisms deposited, according to the Regulations for the application of the Budapest Treaty for the Deposit of Microorganisms for the Purposes of Patent Procedure.

The Bank will accept for deposit the following microorganisms: bacteria, actinomycetes, microscopic fungi, yeasts, microscopic algae, animal cell lines, animal viruses and plasmid containing microorganisms.

At present the Bank has 46 highly qualified specialists, 26 of whom are university graduates, including nine research associates and seven masters of science. The Scientific-Technological Board at the Bank comprises specialists in microbiology, mycology, virology, etc., possessing the necessary scientific degrees.

The official languages that the Bank will use are English and Russian.

The recognition of the Bank as an international authority for the deposit of microorganisms for the purposes of patent procedure will take effect as of the date of the publication of the present communication.

FEES FOR THE DEPOSIT OF STRAINS OF
MICROORGANISMS FOR THE PURPOSES OF PATENT
PROCEDURE ACCORDING TO THE TREATY

In accordance with Article 3(1)(a) of the Treaty, upon the lodging of an application for an authorship

certificate or a patent, regarding a strain of microorganism or its use, a deposit is required.

Upon the lodging of an application for an authorship certificate, the deposit with the Bank is free.

Upon the lodging of an application for a patent, the following fees are paid for the deposit with the Bank:

	Leva
— for the initial deposit and 30-years' storage	1,000
— upon prolongation of the deposit for every next five-year period	150

— for the furnishing of a sample of a deposited strain of microorganism 100

[End of text of the communication of the Government of the People's Republic of Bulgaria]

Pursuant to Article 7(2)(b) of the Budapest Treaty, the National Bank for Industrial Microorganisms and Cell Cultures acquires the status of international depositary authority as from October 31, 1987.

Budapest Communication No. 40 (this Communication is the subject of Budapest Notification No. 65, of September 16, 1987).

Budapest Treaty

International Depositary Authority

THE NATIONAL BANK FOR INDUSTRIAL MICROORGANISMS AND CELL CULTURES (BULGARIA)

The following communication is addressed to the Contracting Parties to the Budapest Treaty... Pursuant to Article 7(2)(b) of the Budapest Treaty, the National Bank for Industrial Microorganisms and Cell Cultures acquires the status of international depositary authority as from October 31, 1987.

WIPO Meetings

Paris Union

Committee of Experts on the Protection Against Counterfeiting

Second Session
(Geneva, May 25 to 29, 1987)

NOTE*

The Committee of Experts on the Protection Against Counterfeiting (hereinafter referred to as "the Committee of Experts") held its second session in Geneva from May 25 to 29, 1987.¹

The following States were represented at the session: Algeria, Argentina, Australia, Austria, Brazil, Bulgaria, Canada, China, Colombia, Côte d'Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Greece, India, Indonesia, Ireland, Italy, Japan, Libya, Madagascar, Mexico, Morocco, Netherlands, Norway, Pakistan, Panama, Republic of Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States of America (37). In addition, representatives of five intergovernmental organizations (WHO, GATT, CEC, CCC, INTERPOL/ICPO) and 26 non-governmental organizations participated as observers. The list of participants follows this Note.

The discussions were based on documents entitled "Protection Against Counterfeiting (Paris Convention, Model Provisions, Information Meetings)" (hereinafter referred to as "the Memorandum") and "Provisions of National Laws on Protection Against Counterfeiting."

The Director General, in introducing the documents prepared for the second session of the Committee of Experts, pointed out that the Memorandum dealt not only with counterfeiting where trademark rights were violated but also with the counterfeiting of the appearance of goods and the designs or lettering on them: the outward appearance of goods, if imitated, had in most cases exactly the same misleading effect on consumers as the wrongful use of a trademark. He mentioned in that connection that the mandate of the Committee of Experts, as defined by the General Assembly of WIPO at its 1985 session, went beyond trademark counter-

feiting and covered the infringement of all industrial property rights.

In the course of the general discussion, however, a number of delegations considered that the mandate given to the Committee of Experts had been confined to trademarks, and that only a decision of the General Assembly of WIPO could change them. Other delegations considered on the contrary that it was appropriate to address also the question of counterfeiting of the appearance of the product and of the designs or lettering on it, as proposed in the Memorandum, and that the mandate given to the Committee of Experts by the General Assembly of WIPO would not be overstepped thereby. The representative of one non-governmental organization also declared himself in favor of broadening the discussion to cover the protection of designs and the shape of the product.

The Chairman then suggested that the Committee of Experts should start by concentrating on trademark-related questions and that, once those discussions had been completed, it could turn its attention to other aspects of counterfeiting and decide then whether all members agreed to discuss that type of question.

In general, all the participants who took the floor declared themselves in favor of the continuation of WIPO's work on counterfeiting.

After the general discussion, the participants proceeded to consider the specific questions dealt with in the Memorandum.

Counterfeiting and Paris Convention

This Chapter, which had been considered in detail at the first session, was not discussed further.

Model Provisions

The Memorandum contained four model provisions intended to afford guidance to national legislators

* Prepared by the International Bureau.

¹ For a note on the preceding session, see *Industrial Property*, 1986, p. 300.

wishing to strengthen protection against trademark counterfeiting: they concerned counterfeiting (Article A), conservatory measures (Article B), civil remedies (Article C) and criminal sanctions (Article D).

Counterfeiting

This model provision defines counterfeiting by listing what are deemed to be acts of counterfeiting and defining what is meant by counterfeit goods.

The majority of the delegations considered that the matter of fraudulent intent should not appear in the actual definition of the act of counterfeiting but that it should be taken into account in connection with sanctions, particularly criminal sanctions. It was moreover considered by a number of participants that it was not a criterion that there should be a commercial advantage or financial gain for there to be counterfeiting.

Several delegations expressed the wish that the act of packaging counterfeit goods might be considered an act of counterfeiting in the same way as manufacture: the counterfeit product was often exported without any trademark and given a trademark in the country of importation. It was pointed out in that connection that the counterfeiter frequently used the appearance of the packaging in such a way as to mislead the consumer. It was important therefore to be able to intervene at the stage of the preparation of the packaging or of the mere printing of the trademark, even if they were not yet being used in connection with the counterfeit product.

Several delegations pointed out that the Article under consideration defined what counterfeit goods should be taken to mean, but without giving a definition of counterfeiting itself and that such a definition should be given in the Article. It was emphasized in that connection that counterfeiting was something more than mere violation of trademark rights.

The Delegations of Brazil, Colombia and France proposed amended versions of Article A. Their written proposals were discussed in the course of the session.

Conservatory Measures

This model provision deals with the conservatory measures that may be instituted by the law enforcement authorities, with the prior authorization or subsequent ratification of the court authorities, at the request of the person injured by an act of counterfeiting to prevent acts of counterfeiting from being committed or to provide evidence.

It was pointed out that the law enforcement authorities that were empowered to institute conservatory measures could be either administrative authorities like the police or customs or judicial authorities. It was also mentioned that it was for each country to specify the authorities responsible for the implementation of the law and that national legislation was free to decide whether prior authorization was necessary or whether subsequent approval of conservatory measures was sufficient.

A number of participants asked for it to be mentioned that the authorities responsible for the implementation of the law could, if that law permitted, act on their own initiative (*ex officio*). It was also pointed out that the customs could in general act without prior authorization, subject to subsequent approval by the competent authorities, but that the customs authorities had no jurisdiction as to substance.

With regard to the seizure of the tools that could be used to manufacture the counterfeit goods, the wish was expressed that the seizure of the material used for the packaging of counterfeit goods be also provided for in the Article concerned.

There was a difference of opinion on whether the present wording, according to which the law enforcement authority or the court "shall order" that the party requesting the institution of conservatory measures post a bond, should be retained or whether the former wording, according to which the court or authority "may" order the person who had asked for the measure to provide security.

Some participants considered that the owner of a trademark who in good faith had requested the taking of conservatory measures should not be made to pay damages when the court found that there was no counterfeiting. Other delegations, however, considered that it was difficult to relieve of all liability a person who had brought an action without justification. It was a general principle of law that any person who does harm to a third party has to provide compensation.

Civil Remedies

This model provision introduces the civil remedies that may be sought in compensation for the prejudice suffered by the person injured by an act of counterfeiting (payment of damages, prohibition of the acts of counterfeiting). It also deals with the eventual fate of the counterfeit goods and of the tools used for the counterfeiting.

Several delegations said that they considered the destruction of the goods to be wrongly placed among the civil remedies and that the role of the courts under civil law was to cause the wrongful act to stop and not to inflict punishment.

Opinions differed on the two alternatives proposed, the first (Alternative (a)) stating the absolute principle of the destruction of the counterfeit goods, and the second (Alternative (b)) providing for the possibility of an exception to that principle in the case of unintentional counterfeiting, subject to certain conditions.

Certain participants considered that the counterfeit goods had to be put out of circulation and that the systematic destruction provided for in Alternative (a) was the best solution. They considered that Alternative (b) was dangerous, because it was based on the idea that there could be cases of unintentional counterfeiting, while in fact counterfeiting was a specific phenomenon,

different from the mere violation of trademark rights, and it was pointless to stress the eventuality of good faith on the part of the counterfeiter.

Several participants considered on the other hand that in many cases destruction was not an appropriate solution and that it was too extreme. One could contemplate surrendering the counterfeit goods to the owner of the trademark affected by the counterfeiting or distributing them to charities.

One delegation proposed amending Alternative (a) to provide for measures other than destruction which, after removal of the trademark, would deprive the counterfeiter of any economic benefit.

Certain delegations suggested that Alternative (b) could be replaced with a non-exhaustive list of means of disposing of counterfeit goods.

Criminal Sanctions

With regard to the penalties that might be inflicted on the counterfeiter, two alternatives were proposed, the first (Alternative (a)) providing for a fine or imprisonment, and the second providing for the same punishment as for theft, unless the counterfeiter could prove that the counterfeiting was not intentional.

Several delegations declared themselves in favor of Alternative (a), which took better account of their national legislation.

With regard to the provision that doubled the penalty in the event of a repeated offense, it was criticized by several delegations, which considered it too imperative. The question of imposing a more severe penalty in the event of a repeated offense was one that was associated with each country's policy on criminal law. The increased severity had to be varied according to the case, and it was not necessary to provide systematically for a doubling of the penalty. Due account should also be taken of the financial circumstances of the person who had committed the offense.

Information Meetings

The Delegations of Japan, Germany (Federal Republic of), Switzerland, Canada, the United States of America, Austria, the Netherlands, Bulgaria and China, and also the Representatives of the Commission of the European Communities (CEC), the American Bar Association (ABA), the United States Trademark Association (USTA) and the European Association of Industries of Branded Products (AIM) declared themselves in favor of the introduction of information meetings, so that definite solutions could be found to the problem of counterfeiting.

The Delegations of Colombia, India, Cuba, Brazil, Mexico, Egypt and Argentina considered the idea of information meetings premature, as in their opinion the Committee of Experts had not yet completed its work. One of the Delegations also pointed out that, should an exchange of information take place, it should in no event be allowed to become a forum of accusation, for

the problems that resulted from the counterfeiting of goods were conflicts between private persons and not between States.

Provisions of National Laws on Protection Against Counterfeiting

The Chairman invited the delegations that had comments to make on the headings of the documents entitled "Protection Against Counterfeiting (Paris Convention, Model Provisions, Information Meetings)" and "Provisions of National Laws on Protection Against Counterfeiting" to do so in writing.

Future Work

By way of conclusion, the Director General said that the draft program and budget for 1988-1989 did not provide for the continuation of the work of the Committee of Experts but proposed the holding of information meetings; those proposals could, however, be reexamined in the light of the outcome of the session.

LIST OF PARTICIPANTS**

I. States

Algeria: A.-E.-N. Belaid. Argentina: J.A. Vigano. Australia: I.W. McCay. Austria: G. Mayer-Dolliner. Brazil: R. Stille; S. Ribeiro Maia. Bulgaria: N. Totzev. Canada: H.P. Knopf; J. Butler; E. Feldman. China: Hao Zhixin; Li Yuanmin. Colombia: A. Gamboa Alder. Côte d'Ivoire: A. Toure; K.F. Ekra; A. Kouadio. Cuba: M. Jiménez Aday. Denmark: L. Østerborg; A.-M. Madsen. Egypt: W.-Z. Kamil. Finland: E. Wuori. France: J.-B. Mozziconacci; P. Nicora. Germany (Federal Republic of): R. Lutz. Greece: P. Geroulakos. India: R.A. Acharya. Indonesia: S. Sutoyo. Ireland: V. O'Reilly; N. Galvin. Italy: M.G. Fortini. Japan: Y. Masuda; Y. Yamamoto. Libya: G. Ferjani. Madagascar: R.G. Razafimanefa. Mexico: L.C. Tellez. Morocco: A. Benaoud. Netherlands: H.R. Fürstner. Norway: E. Liejegren; M. Edland. Pakistan: M.A. Khan. Panama: M. Saavedra. Republic of Korea: T.-C. Choi. Spain: J. Gómez Montero; M. Goizueta. Sweden: M. Göransson; K. Sundström. Switzerland: J.-D. Pasche. Turkey: A. Algan; A. Karanfil. United Kingdom: M. Todd; J. Caldwell. United States of America: R. Bowie.

II. Intergovernmental Organizations

World Health Organization (WHO): M. ten Ham. General Agreement on Tariffs and Trade (GATT): A. Otten. Commission of the European Communities (CEC): A. Brun. Customs Co-operation Council (CCC): G. Farines. International Criminal Police Organization (INTERPOL/ICPO): S.E. Ladefoged.

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

III. Non-Governmental Organizations

American Bar Association (ABA): C.W. Lackert. Asian Patent Attorneys Association (APAA): R.M. Bridge; V.L. Kandan; Y. Kumakura. Brazilian Association of Industrial Property (ABPI): J.R. Gusmão. Center for International Industrial Property Studies (CEIPI): J.R. Gusmão. Chartered Institute of Patent Agents (CIPA): T.L. Johnson. Committee Against Counterfeiting (CO.L.C.): F. Blum; C. Bossert; B. Sambeth. Committee of National Institutes of Patent Agents (CNIPA): T.L. Johnson; M. Moncheny; J.-J. Martin. European Association of Industries of Branded Products (AIM): D. Carlisle; A. Worsdall. European Communities Trademark Practitioners' Association (ECTA): M.J.M. van Kaam. European Council of Chemical Manufacturers' Federation (CEFIC): D.B. Lutkin. French Association of Practitioners in Trademark and Designs Law (APRAM): C.J.M. Wilson. Institute of Trade Mark Agents (ITMA): G.A.A. Ball; D.B. Lutkin. International Association for the Protection of Industrial Property (AIPPI): G.E. Kirker. International Chamber of Commerce (ICC): J.M.W. Buraas. International Federation of Film Producers Associations (FIAPF): A. Brisson. International Federation of Industrial Property Attorneys (FICPI): Y.J.-J. Plasseraud. International Federation of Phonogram and Videogram Producers (IFPI): P. Crockford. International League for Competition Law (LIDC): J. Guyet. International Patent and Trademark Association (IPTA): N.St. Landau. Licensing Executives Society (Intern-

tional) (LES): C.G. Wickham. Max Planck Institute for Foreign and International Patent, Copyright and Competition Law: R. Knaak. The New York Patent, Trademark and Copyright Law Association, Inc. (NYPTC): D.H.T. Kane. The United States Trademark Association (USTA): R. Rolfe. Trade Marks, Patents and Designs Federation (TMPDF): R.M. Downey. Union des fabricants (UNIFAB): M. Flechard. Union of Industries of the European Community (UNICE): M.J.M. van Kaam.

IV. Officers

Chairman: L. Østerborg (Denmark). *Vice-Chairmen:* Hao Zhixin (China); R. Stille (Brazil). *Secretary:* P. Mangué (WIPO).

V. International Bureau of WIPO

A. Bogsch (*Director General*); A. Schäfers (*Deputy Director General*); L. Baeumer (*Director, Industrial Property Division*); P. Mangué (*Senior Counsellor, Industrial Property (Special Projects) Division*); H. Lom (*Senior Legal Officer, Industrial Property Division*); M. Weil-Guthmann (*Consultant, Industrial Property Division*).

Studies

The European Patent Convention 10 Years On— Review of the Past and Prospects for the Future

by P. Braendli,* K. Haertel and R. Singer*****

Books and Articles

Book Reviews

General Information Brochure of the Egyptian Patent Office. Cairo, 1987.—50 pages.

The Egyptian Patent Office has just published a new edition of its General Information Brochure.

The brochure, in Arabic, is made up of four chapters, containing accounts of the history and background of the Office and of its relations at the national and international levels, an Inventors' Guide, with all manner of useful information, and the plan for the development of the Office's activities, both present and future.

KI

Der Lizenzvertrag, by H. Stumpf. Verlagsgesellschaft Recht und Wirtschaft mbH, Heidelberg, 5th ed., 1984.—489 pages.

Der Know-How-Vertrag, by H. Stumpf. Verlagsgesellschaft Recht und Wirtschaft mbH, Heidelberg, 3rd ed., 1977.—360 pages.

Despite their eminent practical importance, license and know-how contracts are only to a relatively small extent governed by legislative provisions; the major part of the applicable law has been developed on the basis of court decisions. This creates a particular need for guidance on the negotiation and drafting of license and know-how contracts.

The books written by Dr. Herbert Stumpf fulfill this task in an excellent manner, since the author can rely on long-standing experience as Legal Adviser of the Association of German Machine and Plant Equipment Industry. Although based on the law of the Federal Republic of Germany, many of the explanations also concern the laws of other countries, which may be applicable in international technology transfer agreements. A shortened English version of the book on know-how contracts was published in 1984 under the title "The Know-How Contract in Germany, Japan and the United States," and translations into Chinese, Japanese and Russian have been published in China, Japan and the Soviet Union.

LB

News Items

SUDAN

Commercial Registrar General

We have been informed that Mr. Abdelsalam El-amin has been appointed Commercial Registrar General.

Calendar of Meetings

WIPO Meetings

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

1987

November 2 to 6 (Geneva) — Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Fourth Session)

November 23 to December 4 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

December 2 to 4 (Geneva) — Joint Unesco-WIPO Consultative Committee on the Access by Developing Countries to Works Protected by Copyright (convened jointly with Unesco)

December 7 to 11 (Geneva) — Committee of Governmental Experts on the Printed Word (convened jointly with Unesco)

UPOV Meetings

1988

June 7 to 9 (Edinburgh) — Technical Working Party on Automation and Computer Programs

June 14 to 17 (Wageningen) — Technical Working Party for Vegetables

June 20 to 24 (Melle) — Technical Working Party for Ornamental Plants and Forest Trees

June 28 to July 1 (Hanover) — Technical Working Party for Fruit Crops, and Subgroups

July 5 to 8 (Surgères) — Technical Working Party for Agricultural Crops

Other Meetings Concerned with Industrial Property

1987

November 8 to 11 (Budapest) — Pharmaceutical Trade Marks Group: 35th Conference entitled "Moscow to Madrid"

November 30 to December 4 (Strasbourg) — Center for the International Study of Industrial Property: Present Status of European Patent Law and Practice — Seminar on the Drafting of Claims and Oppositions

December 7 to 11 (Munich) — European Patent Organisation: Administrative Council

1988

January 25 to 30 (Strasbourg) — Center for the International Study of Industrial Property: Present Status of European Patent Law and Practice — Seminar on Legal Problems

March 24 (London) — Institute of Trade Mark Agents: International Conference on "New Vistas in Trade Marks"

June 27 to July 1 (Cannes) — International Federation of Industrial Property Attorneys: World Congress

September 15 to 18 (Angers) — International League for Competition Law: 30th Congress

