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Contents

INTERNATIONAL UNIONS	
— Nice Agreement (Classification/Marks). Ratification of the Geneva Act (1977): United Kingdom	123
— Patent Cooperation Treaty (PCT). Ratifications: Netherlands; Romania	123
— International Patent Classification (IPC) Union. Ratification: Italy	123
WIPO MEETINGS	
— WIPO Permanent Program for Development Cooperation Related to Industrial Property. Working Group on the Model Law for Developing Countries on Inventions and Know-How	124
— WIPO/Thailand. Group of Experts on the Legal Protection of Inventions, Innovations and Know-How in the Countries of the ASEAN Region	125
ACTIVITIES OF OTHER ORGANIZATIONS	
— International League Against Unfair Competition. Twenty-Fifth Congress	127
GENERAL STUDIES	
— Patentability of Pharmaceutical Products in Italy—Background and Recent Developments (S. Samperi)	128
NEWS FROM INDUSTRIAL PROPERTY OFFICES	
— Germany (Federal Republic of)	136
— Switzerland	140
EXHIBITIONS	
— Italy. Decrees Concerning Temporary Protection at Exhibitions	142
— Romania. Communications Concerning Temporary Protection at Two Exhibitions	144
CALENDAR OF MEETINGS	145
INDUSTRIAL PROPERTY LAWS AND TREATIES	
— <i>Editor's Note</i>	
— UNITED KINGDOM— The Patents Rules 1978	Text 2-002
— BILATERAL TREATIES	
CHINA/JAPAN — Agreement Concerning the Protection of Trademarks (of September 29, 1977)	Text 3-007

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International Unions

Nice Agreement (Classification/Marks)

Ratification of the Geneva Act (1977)

UNITED KINGDOM

The Government of the United Kingdom deposited on March 30, 1979, 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.

The Geneva Act (1977) of the said Agreement will enter into force, with respect to the United Kingdom, on July 3, 1979.

Nice Notification No. 45, of April 3, 1979.

Patent Cooperation Treaty (PCT)

Ratifications

NETHERLANDS

The Government of the Netherlands deposited, on April 10, 1979, its instrument of ratification, for the Kingdom in Europe and the Netherlands Antilles, of the Patent Cooperation Treaty (PCT) done at Washington on June 19, 1970.

The said Treaty will enter into force, with respect to the Netherlands, on July 10, 1979.

PCT Notification No. 26, of April 19, 1979.

ROMANIA

The Government of Romania deposited, on April 23, 1979, its instrument of ratification of the Patent Cooperation Treaty (PCT).

The said instrument of ratification contains the following reservation:

“The Socialist Republic of Romania declares in accordance with Article 64(5) that it does not consider itself bound by Article 59 of the Patent Cooperation Treaty.

“The Socialist Republic of Romania considers that disputes concerning the interpretation or application of the Treaty or the Regulations may only be brought before the International Court of Justice with the consent of all parties to the litigation, for each individual case.” (*Translation*)

Furthermore, the said instrument of ratification was accompanied by the following declaration:

“The Socialist Republic of Romania considers that the maintenance in a state of dependency of certain territories, to which the provisions of Article 62(3) and (4) of the Patent Cooperation Treaty refer, does not comply with the Charter of the United Nations nor with the documents adopted by the United Nations as regards the granting of independence to colonial countries and peoples, including the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, unanimously adopted by United Nations General Assembly Resolution No. 2625(XXV) of October 24, 1970, which solemnly proclaims the duty of States to promote realization of the principle of equal rights and self-determination of peoples in order to bring a speedy end to colonialism.” (*Translation*)

The said Treaty will enter into force, with respect to Romania, on July 23, 1979.

PCT Notification No. 27, of April 30, 1979.

International Patent Classification (IPC) Union

Ratification

ITALY

The Government of Italy deposited on March 28, 1979, in accordance with the provisions of Article 16(5) of the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971, its instrument of ratification to the said Agreement.

The said instrument of ratification was accompanied by the declaration that the Government of Italy intends to avail itself of the reservation provided for in Article 4(4)(ii) of the Agreement.

The said Agreement will enter into force, with respect to Italy, on March 30, 1980.

Strasbourg Notification No. 32, of March 30, 1979.

WIPO Meetings

WIPO Permanent Program for Development Cooperation Related to Industrial Property

Working Group on the Model Law for Developing Countries on Inventions and Know-How

Eighth Session
(Geneva, March 5 to 8, 1979)

NOTE*

Within the framework of the WIPO Permanent Program for Development Cooperation Related to Industrial Property, the Working Group on the Model Law for Developing Countries on Inventions and Know-How held its eighth session in Geneva from March 5 to 8, 1979. The list of participants follows this Note.

At its first sessions, held in November 1974,¹ May 1975,² and November 1975,³ the Working Group had examined draft model provisions prepared by the International Bureau for the purpose of the new Model Law for Developing Countries on Inventions and Know-How. The new Model Law is intended to replace the one published by BIRPI in 1965.

At its fourth, fifth and sixth sessions, held in June 1976,⁴ November/December 1976,⁵ and June 1977,⁶

the Working Group had examined a new draft of certain model provisions which had been prepared by the International Bureau in the light of the discussions of the first three sessions.

For the seventh session of the Working Group, held in May 1978,⁷ the International Bureau had prepared, in the light of the discussions of the fourth, fifth and sixth sessions, a "consolidated" version, constituting the last draft, of the new Model Law. The Working Group's task was to establish the new Model Law not only on the basis of this last draft but also in the light of the written comments of the Governments of the member States of the Permanent Committee and of certain of the organizations invited to the sessions of the Working Group.

Due to lack of time, the Working Group was able to examine entirely only Part I of the new Model Law, which is devoted to patents. For this reason, the Working Group met for an eighth and last session, at which it examined the rest of the new Model Law, namely the Parts concerning know-how, the examination and registration of contracts, inventors' certificates, innovations and transfer of technology patents.

In accordance with the decisions taken by the Governing Bodies of WIPO at their ninth series of meetings in September/October 1978,⁸ Part I of the new Model Law will be published during 1979, while the other Parts will be submitted for comments to the WIPO Permanent Committee for Development Cooperation Related to Industrial Property prior to publication. The publication of these Parts is foreseen for the middle of 1980.

* This Note has been prepared by the International Bureau.

¹ See *Industrial Property*, 1975, p. 49.

² See *Industrial Property*, 1975, p. 230.

³ See *Industrial Property*, 1976, p. 82.

⁴ See *Industrial Property*, 1976, p. 215.

⁵ See *Industrial Property*, 1977, p. 20.

⁶ See *Industrial Property*, 1977, p. 170.

⁷ See *Industrial Property*, 1978, p. 192.

⁸ See *Industrial Property*, 1978, p. 280.

LIST OF PARTICIPANTS*

WIPO/Thailand

I. Experts

J. Alvarez Soberanis (Mexico); G. Ancarola (Argentina); H. Bouhalila (Algeria); G. R. Clark (United States of America); J. Delicado Montero-Ríos (Spain); B. Fathallah (Tunisia); E. Fischer (Federal Republic of Germany); V. Iliyn (Soviet Union); J. King'Arui (Kenya); D. O. Lewis (United Kingdom); K. Luanda (Zaire); A. A. Omar (Egypt); Y. Plasseraud (France); J. M. Rodriguez Padilla (Cuba); Z. Szilvassy (Hungary).

II. Persons Accompanying the Experts

L. E. Bertone (Argentina); G. Pusztai (Hungary); L. Zebdji (Algeria).

III. Observers

United Nations Organizations

United Nations Conference on Trade and Development (UNCTAD): D. Chudnovsky. **International Labour Office (ILO):** S. C. Cornwell.

International Non-Governmental Organizations

European Federation of Agents of Industry in Industrial Property (FEMIP): M. G. E. Meunier. **Inter-American Bar Association (IABA):** A. Ladrón de Guevara. **International Association for the Protection of Industrial Property (IAPIP):** H. Wichmann. **International Chamber of Commerce (ICC):** D. Vincent. **International Federation of Inventors' Associations (IFIA):** H. Romanus. **Licensing Executives Society (LES):** J. Debétencourt; F. Gevers. **Union of Industries of the European Community (UNICE):** J. Neumann.

IV. Officers

Chairman: J. Alvarez Soberanis (Mexico).

V. WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); L. Baeumer (*Director, Industrial Property Division*); M. Porzio (*Director, Office of the Director General*); F. Curchod (*Head, Special Projects Section, Industrial Property Division*); S. Oddi (*Senior Legal Officer, Special Projects Section*).

Group of Experts

on the Legal Protection of Inventions,
Innovations and Know-How
in the Countries of the ASEAN Region

(Pattaya, Thailand, February 1 to 5, 1979)

NOTE*

A Meeting of a Group of Experts on the Legal Protection of Inventions, Innovations and Know-How in the Countries of the ASEAN Region was organized jointly by WIPO and the National Research Council and the Department of Commercial Registration of the Government of Thailand, from February 1 to 5, 1979.

The Governments of the five countries of the Association of South East Asian Nations (ASEAN) (Indonesia, Malaysia, Philippines, Singapore and Thailand) designated experts to participate in the Meeting. The heads of the delegations of the Governments of Malaysia, the Philippines and Thailand to the ASEAN Committee on Science and Technology (COST) also attended the Meeting. The United Nations Development Programme (UNDP) and the Asian Patent Attorneys Association (APAA) were represented by observers. In all, a total of 33 persons took part in the Meeting. The list of participants follows this Note.

The Meeting was opened by His Excellency, Mr. Prok Amranand, Deputy Minister for Commerce, Government of Thailand.

The discussions were based on a series of documents prepared by the International Bureau of WIPO dealing with the report of the Regional Workshop on the Patent System (Manila, April 12 to 15, 1978) and the report on the first meeting of the ASEAN Committee on Science and Technology (COST) (Baguio City, June 20 to 22, 1978), a study of the various legal systems or other measures in the ASEAN countries for the protection of inventions, suggestions for the improvement of those systems and measures, and arrangements for the legal protection of innovations.

The Group of Experts reviewed the summaries of the national legal systems and other measures for the protection of inventions in the countries of the ASEAN region. The Group of Experts concluded that such summaries were useful and provided a basis for an exchange of experience and a means for keeping

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

* This Note has been prepared by the International Bureau.

abreast of the latest developments in the patent field in the ASEAN countries.

The Group of Experts concluded that the preparation of uniform or model provisions for inclusion in the patent legislation of the countries of the ASEAN region appeared to be premature for the time being inasmuch as the registration systems in two countries (Malaysia and Singapore) were apparently functioning well and were based on legislation existing in the United Kingdom, whose patent system was similar to that existing in the Philippines, and that it appeared that the preparation of the draft legislation under consideration in the two other countries (Indonesia and Thailand), which had not yet adopted a patent system, had taken into account the provisions of the Model Law on Inventions and recent trends in reforms leading to the harmonization of laws in other regions of the world.¹

The Group also discussed other possibilities of continuous cooperation and closer relations among the ASEAN countries, particularly as concerns measures in respect of patent documentation and information. Among the possibilities mentioned were the exchange among the patent offices of their patent documents, the establishment of lists of patents granted or registered, and the publication of the bibliographic data in respect of applications filed for patents and patents granted or registered. The Group of Experts concluded that as an initial step towards cooperation in the patent documentation and information field, it would be desirable if the patent offices of the countries of the ASEAN region could provide, when requested by another such patent office, information on applications filed and patents granted or registered insofar as such information could be made available by the competent authorities in conformity with their national legislation and any requirements pertaining to the disclosure of information concerning official documents.

The Group of Experts expressed the view that the Meeting had provided the opportunity for a fruitful exchange of views and experiences among the experts from the countries of the ASEAN region and enabled the participants to be informed about the more recent developments in the field of the legal protection of technological inventions and innovations in the ASEAN countries and in other countries and regions of the world and that similar meetings should be held to consider various questions in the industrial property field.

The Group of Experts was of the opinion that contacts and exchanges of views should continue in the framework of an ASEAN-WIPO Development

Cooperation Project on Technological Inventions and Innovations, whose aim would consist in studying and recommending means for encouraging technological inventive and innovative activity, modernizing, where necessary, the institutions dealing with the protection of inventions, improving, for the ASEAN countries, conditions for the acquisition of foreign technology protected by patents and improving the conditions for inventors of the ASEAN region for the protection of their inventions abroad. The Group of Experts recommended that an ASEAN-WIPO Group of Experts be established to deal with industrial property questions, in order to exchange information and discuss possibilities of common or coordinated attitudes and that the Group should inform the ASEAN Committee on Science and Technology (COST) from time to time of the activities of the Group.

LIST OF PARTICIPANTS*

I. States

Indonesia: I. Gambiro; W. Martosewojo; P. M. Luhulima; N. Bakar. **Malaysia:** S. A. L. Mohammed Hashim; N. Abidin; A. S. Yasin. **Philippines:** R. C. Cruz; F. A. Adriano; T. P. Velasco; G. Calleja, Jr. **Singapore:** L. Woon Yin; L. Yoon Kee. **Thailand:** S. Kraichitti; S. Sabhasri; P. Talerngsri; C. Swasdiyakorn; A. Bhumiratana; C. Wanwiwake; A. Sumawong; K. Garnjana-Goonchorn; R. Parichatkul; P. Meekun-iam; S. Chivasutho; R. Charoenphandhu; P. Arayasiri; Y. Phuagrach; V. Disathannarj.

II. Observers

Thailand: N. Pichayaphanich; C. Nitayaporn; N. Chandravithun.

III. Intergovernmental Organizations

United Nations Development Programme (UNDP): R. England.

IV. Non-Governmental Organizations

Asian Patent Attorneys Association (APAA): S. Lewmanomont.

V. Officers

Chairman: S. Kraichitti (Thailand). **Vice-Chairmen:** I. Gambiro (Indonesia); S. A. L. Mohammed Hashim (Malaysia); R. C. Cruz (Philippines); L. Yoon Kee (Singapore).

¹ Shortly after the Meeting of the Group of Experts was held, Thailand enacted—for the first time in its history—patent legislation. The Patent Act B.E.2522 (A.D. 1979) enters into force on September 13, 1979. The text of that Act will be published in a future issue of this review.

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

VI. Organizing Committee of the Government of Thailand

Chairman: S. Sabhasri. *Co-Chairman:* P. Talerngsri. *Members:* C. Swasdiyakorn; A. Bhumiratana; Y. Phuangrach; P. Thanasukarn; P. Akanark.

VII. WIPO

A. Bogsch (*Director General*); G. Ledakis (*Legal Counsel*); L. Kadirgamar (*External Relations Officer, External Relations Section, Development Cooperation and External Relations Division*).

Activities of Other Organizations

International League Against Unfair Competition

Twenty-Fifth Congress
(Strasbourg, September 6 to 10, 1978)

The 25th Congress of the International League Against Unfair Competition (LICCD) was held in Strasbourg under the chairmanship of *Maitre J. Lassier*.

The Congress was attended by participants from 15 different countries. A number of prominent personalities were present, including representatives of the Minister of Economy, of the *Préfet* of the *Bas-Rhin*, of the Strasbourg municipal authorities, and also representatives of international organizations, notably the Commission and the Court of Justice of the European Communities, the Council of Europe and various associations concerned with the law of competition, industrial property and copyright. WIPO was represented by its Director General, Dr. Arpad Bogsch, and by Mr. F. Curchod. The French National Institute of Industrial Property (INPI) was represented by its Deputy Director, Mr. G. Le Tallec.

The work of the Congress covered the following subjects:

- Development in the protection of indications of source and appellations of origin since the 1976 Munich Congress;
- Relationship between fair competition and the interests of consumers;
- Comparative advertising;

- Respect of the rights of the defense in actions against restrictive practices;
- International protection of trade names;
- The most-favored-customer clause.

Additionally, two seminars were devoted to competition and the transfer of technology in developing countries, and the decisions taken by national authorities following preliminary rulings given by the Court of Justice of the European Communities in respect of the rules of competition and the right of establishment, respectively.

The following motions were adopted at the close of the Congress:

QUESTION No. 1

Comparative Advertising

The LICCD

notes the complexity of the problem of comparative advertising, particularly in view of the recent developments that have taken place at the social, legal and technological levels,

also notes the divergence of opinion among the participants at the Congress and postpones to its next meeting the adoption of a position on this question of principle,

decides therefore to pursue its study and to include the examination of the conditions under which, without prejudging its decision of principle, comparative advertising practices could be accepted or refused,

affirms, finally, its intention of taking into consideration the status of voluntary restraint and of administrative controls, and to maintain study of the matter in the work schedule drawn up at the Edinburgh study session.

QUESTION No. 2

**Respect of the Rights of the Defense in Actions
Against Restrictive Practices**

The LICCD,

having heard the national reports on the rights of the defense in actions against restrictive practices, *notes* that the following principles form part of the elementary rights of the defense:

- the right to be heard in an *audita altera parte* procedure,
- the right to be assisted by a lawyer enjoying all the usual privileges of his profession,
- the right to call witnesses and to submit any piece of documentary evidence,
- the right against self-incrimination (right to refuse to give information),
- access to the case file,
- use of information limited to that which was heard in the *audita altera parte* procedure,
- confidential nature of information obtained,
- guarantees in respect of seizure and search,
- guarantees in respect of professional secrecy,
- unlimited right of appeal.

QUESTION No. 4

The Most-Favored-Customer Clause

The LICCD,

having heard the international report on the most-favored-customer clause,

considers that this clause may be defined as a contractual stipulation under which one of the contracting parties undertakes to afford to the other party, either automatically or at the latter party's request, those prices and terms deemed more favorable, which the first-mentioned party may afford in future in contracts or transactions of the same kind concluded with third parties,

notes that this type of clause, which has evolved from trade practice, has not as yet enjoyed the attention of lawmakers, courts or legal writers,

notes that the use of such a clause can prove valuable, particularly in long-term supply or procurement contracts and in nonexclusive industrial property licensing agreements,

decides to return to the study of this matter at its next meeting in the light of trends in business life and case law.

General Studies**Patentability of Pharmaceutical Products
in Italy — Background
and Recent Developments**

S. SAMPERI*

Social and Economic Considerations

The patentability of pharmaceutical products has always been the subject of numerous political, legal and economic discussions in Italy.

None of the draft laws that have attempted to extend patentability to medicines (to manufacturing processes only, in some cases, and to the products themselves, in others) has ever gone the full course of parliamentary procedure. Thus, Section 14 of Royal

Decree No. 1127 on Patents, of June 29, 1939,¹ laying down that, "Neither medicinal products of any kind whatsoever nor the processes for their manufacture may be the subject matter of a patent," has therefore remained in force.

However, the survival of such a ruling has come more and more to be regarded as a legal anachronism at a time when, due to the highly developed domestic industry, it is no longer the lack of pharmaceutical specialities that is to be deplored but, on the contrary, the inflation of their number, and at a time when the State is armed with the necessary machinery and powers to fix fair retail selling prices for medicinal products.

For years, this question has been the subject of heated debates. The representatives of small pharmaceutical undertakings, and even of a number of medium-sized firms, have pointed to the economic advantages inherent in the non-patentability of

* Director, Central Patent Office, Ministry of Industry, Commerce and Handicrafts, Rome.

¹ See *La Propriété industrielle*, 1940, p. 84.

medicinal products, enabling them to be freely reproduced, particularly those of foreign origin, without their having to pay royalties or to comply with any other conditions of contractual licenses. Against this argument, it has been pointed out that if non-patentability were of real use to the pharmaceutical industry, it would be very difficult to understand why the laws of those countries where the industry was most developed provided for the patentability of medicinal products and why the most highly qualified Italian firms—those, therefore, that bear the greater part of the research and testing costs—have been pressing for many years for the patent system to be extended to pharmaceutical products.

Although the absence of the constraints deriving from patents can help to promote industry in its development phase, during which it can be advantageous to make free use of others' experience, it would seem just as true that the subsequent strengthening of the industry at both the national and international levels is stimulated most effectively by patent legislation. It is generally felt, disregarding the current economic situation, that the Italian pharmaceutical industry is now ready for the patent system, which would determine its subsequent development and place it on an equal footing, as regards competition, with the corresponding foreign industries.

In view of the level of development achieved, it seems just as obvious that the system of imitation (which is clearly parasitic) can no longer be justified for reasons of public interest but solely in order to maintain the existing advantageous situation and the resultant profit for the exclusive benefit of those concerned.

It has also been commented that both at the European level and in one country where medicinal products are not patentable, it is of course possible for a pharmaceutical industry to exist to a certain extent but that it is condemned to trail along behind the foreign firms since its activities consist mainly in copying their products without making any serious research effort. The most qualified Italian firms have been making considerable efforts for some years to reject this role of imitator and have already made their own inventions for which, of course, they can only obtain protection abroad. They demand, therefore, that their discoveries also be protected in Italy by appropriate legislation, which would also stimulate research.

The opponents of patents for pharmaceutical products point out that the introduction of patents would enable the large firms to strengthen their monopolistic position at the cost of the small firms and of the majority of consumers for whom the only result of patentability would be an increase in the prices of new medicinal products. Experience has shown, however, that pharmaceutical products are no more expensive in countries accepting patentability than in the few

countries that do not because the most favorable price is the result of large-scale production which can only be achieved when it is not dispersed among a large number of marginal undertakings.

The main arguments in favor of patentability of medicinal products may therefore be summarized as follows:

(i) Patents are the only means of effectively protecting the inventor of a new medicinal product and of compensating him for the heavy expenditure he has had to invest in its development and testing, and which therefore also has the effect of promoting scientific research;

(ii) Patents constitute a barrier to the proliferation of identical or similar pharmaceutical products;

(iii) Patents would put an end to the possibility of copying inventions and would therefore raise the moral standard of the pharmaceutical sector and, at the same time, provide an incentive to research.

The Jurisdictional Phase

Under these circumstances, it is easy to understand the position of a large number of Italian and, above all, foreign pharmaceutical firms that have questioned the constitutionality of this exception to patentability by means of an administrative jurisdictional appeal (14 foreign firms and one Italian firm).

A long-awaited decision on the constitutionality of Section 14 of Royal Decree No. 1127 of June 29, 1939, has at last been given by the Constitutional Court in its Judgment No. 20 of March 9, 1978, deposited with the Chancellery on March 19. This decision is already famous in the interested circles where it continues to be the subject of numerous debates both on its direct and indirect consequences and also as regards subsequent regulations in this field.

The importance of the decision (that the first paragraph of Section 14 mentioned above, which states that, "Neither medicinal products of any kind whatsoever nor the processes for their manufacture may be the subject matter of a patent," is unconstitutional) has been pointed out in all interested quarters. The latter have omitted, however, to highlight the historical study on which it is based and the interpretative effort devoted to the content of various ordinary and constitutional provisions which, after having been analyzed one by one, were subsequently evaluated as a whole to arrive at a conclusion of perfect and laudable stringency.

Without wishing to reproduce the decision here, or to summarize it, it would nevertheless seem of interest to describe how this question of constitutionality was

related, following a close historical analysis of the matter, to a large number of articles of the Constitution.

According to the decision, the prohibition laid down by Section 14 originated in Section 6 of Law No. 782 of March 12, 1855, according to which "medicinal products of any kind whatsoever . . . shall not be the subject of a monopoly," and was a result of the concern of the Deputy Luigi Carlo Farini for the need to avoid both "the increase in costs caused by monopolies" and the risk of "charlatans, apothecaries and all those who fabricate secret preparations, profiting from the monopoly situation in order to sell products of no use to health."

This historical background is supplemented in the decision by a reference to the contents of the report in which Antonio Scialoja, who was at the time Royal Commissioner for the debate in the Chamber, pointed out that, "If it is true that the inventor of a process to preserve any type of material from degradation has the right to a monopoly, why then should such right be refused to the inventor of a medicinal product intended to preserve the life of man?"

The justification for such a question was emphasized even more strongly by the entry into force of the Constitution, numerous principles of which were in conflict with the above-mentioned Section 14. As a large number of attempts at the legislative level to eliminate the text's lack of coherence failed, there remained only an appeal to the court competent to judge constitutionality if this provision was to be repealed at last, which constituted not only an exception within the Italian patent system but also within the European and Community systems.

The Constitutional Court (just as the Appeal Committee) did not fail to note the conflict between Section 14 and the various Articles of the Constitutional Charter, of which I shall only mention, for the sake of brevity, those affecting the following Articles:

– *Article 3*: concerning inequality of treatment "for the inventor of medicinal products and new manufacturing processes for medical products to have formal and full *erga omnes* recognition of his authorship of the invention";

– *Article 9*: (i) concerning the lack of encouragement of research "financed by public bodies (as is generally the case in the field of pure research); in other cases, the funding of scientific and technical research is based on the rights deriving from patents which are, moreover, of a limited duration"; (ii) concerning the obvious disadvantage for those undertakings that carry out research (often very costly) as compared with those that imitate both Italian and foreign inventions.

After having carried out this survey of the legal background to the question, it should be noted that the publication of the decision in question raised a number of problems, not particularly as regards the

administrative consequences leading up to the granting of a patent (or to its refusal on other grounds), but for reasons of substantive law deriving from certain administrative and civil aspects of the patent system and from other systematic aspects of the relationship between a person who has applied for a patent and a person holding no title and who has already worked an invention relating to medicinal products.

Trends in the Regulations

The adoption of a legislative text has often been advocated to regulate the relationships and questions arising in this context. Numerous press releases appeared to announce the definitive version of the draft law² to which great attention was devoted by specialists and which gave rise to a number of positions being taken.

Among these positions, it is worth mentioning, in view of the precision of the analysis it contains, that of Professor Giuseppe Sena of the University of Milan and also that of Dr. Mario Bellenghi, Director of the Patents and Documentation Service of the Lepetit Group.

For a better understanding of the immediate needs to be met by a relevant legislative text, particularly in relation to the past and present situations, it is not without interest to refer, for the sake of a systematic treatment, to Article 136 of the Constitution stipulating that, "Where the Court declares a provision of law or an instrument having the effect of law to be unconstitutional, the provision shall cease to have effect on the day following the publication of the decision."

It would therefore seem fairly obvious to deduce from the above that: (i) the *ex nunc* effect of the provision declared to be unconstitutional and which, contrary to the general principle of *quod nullum est nullum producit effectum*, would preserve all its effects since its entry into force and up to the moment at which it was declared nonexistent from a legal point of view; and (ii) the possibility that the effect referred to under (i) could feasibly mean that the Court's decision would be deprived of all effect as regards those situations created prior to the date of repeal, even with respect to the subject matter of the applicant's request.

This interpretation may appear mistaken inasmuch as it does not tie in with the actual purpose of the appeal submitted, but is not illogical within the system, particularly since Section 30 of Law No. 87 of

² The text of this draft law is reproduced in Annex I of this study. According to additional information in the press, this draft law was subsequently withdrawn to enable a new version to be prepared.

March 11, 1953, on the Constitution and the functioning of the Constitutional Court is adduced in support of that conclusion, according to which "provisions declared unconstitutional shall cease to be applicable as from the day following publication of the decision."

Although the provision may not be invoked after the decision, it may be deduced from the citation that *ex tunc* nullity cannot be excluded. It does seem to the author, however, that the lawmaker was wise not to have mentioned the *ex tunc* effects of the decision pronouncing the unconstitutionality of a ruling since this question is resolved on a case-by-case basis, either at the judicial level, as regards acts before the courts, or at the legislative level, but always taking into account rights acquired in good faith and without prejudice to the definitive effects of the provision itself (final judgment, limitation, etc.).

However that may be, it must be mentioned that the Central Patent Office is required to take into account *jus superveniens* (repeal of Section 14) in conducting the patentability procedure even for applications prior to the date of publication of the decision but not for those in respect of which the procedure is exhausted by renunciation of the appropriate remedies.

In this context, it would be possible to claim the priority filing of an application already made abroad under the Paris Convention, but this possibility would be excluded in the event of the patent application being filed either in Italy after the expiry of twelve months following the initial filing or by a national of a State not party to that Convention itself. As regards these latter points, however, some uncertainty has started to become apparent in the case law.

Faced with this multitude of considerations and consequences, the same Constitutional Court has endeavored to invite the legislators to regulate the specific situations arising therefrom, such as:

(i) that of inventors who, in view of the prohibition of patentability, have not even filed an application, thus leading to a situation which is assimilatable in some respects to that of prior use;

(ii) that of persons who, in view of the rule of non-patentability, have invested in the pharmaceutical industry on account of the very existence of that rule;

(iii) that of persons who filed a new patent application after March 30, 1978, although a preceding patent application had already been rejected under Section 14 and the invention had not been disclosed by means other than the application itself. In this case, a possible solution would be to give effect to the patent as from the date of submission of the second application. This opinion would appear logical since the applicant has not made use of the possibility of appealing and procedure is therefore voluntarily exhausted;

(iv) that of persons who have filed a patent application prior to the Court's decision and for which the procedure was still pending on the date of the decision since "*failing a transitional ruling to the contrary*, the working of an invention by third parties after submission of the application, even preceding the Court's decision, would constitute an infringement" in view of the fact that "the effects of the exclusive right conferred by the patent always apply in respect of them as from the filing date of the application."

In this latter case, however, it may be noted that the working would have concerned an invention for which a patent application was pending but which could not have been patented. Although taking into consideration the effects over time of the Constitutional Court's decision, the interests constituted in good faith cannot be ignored and it would be to show excessive stringency to claim that the inventor should have already evaluated the—more or less constitutional—content of the regulations in force and drawn his own conclusions in respect of any appeals to be submitted. The legislators who did not discover in good time the incompatibility of the current regulations with the requirements of the Constitution would seem even more at fault.

We are forced to come to the conclusion that this conflict between two perfectly legal but diametrically opposed positions cannot be solved without transitional regulations to cover this strange situation. It has been noted that "this hypothesis warrants explicit transitional regulations and it would be desirable for the legislator's intervention *to center upon and to be limited to this question.*"

These were the matters that Section 5 of the draft law was intended to regulate, as was Section 6 for a very similar case, by acknowledging certain valid solutions put forward in legal writings and by numerous large economic bodies in this sector.

However, the above-mentioned analysis of the value of Sections 2, 3 and 4 of the aforementioned text leads just as explicitly to the question whether it would be sufficient to do nothing other than to apply to pharmaceutical patents the regulations in force which are common to all other inventions.

In fact:

(i) Section 2 aims at regulating—by recognizing their compatibility—the relationship between exploiting the patent on an industrial scale (conditions for patentability expressly required by Section 12 of the Patent Law) and the preparation in a pharmacy of a medicine in accordance with a medical prescription or the use for private, experimental or research purposes (except, therefore, as part of working) (provisions laid down explicitly by the Community Patent Convention);

(ii) Section 3 provides for action by the Minister of Health in adopting decrees granting, refusing, modi-

fying or revoking a compulsory license, for the exploitation of a pharmaceutical patent, and it is therefore unclear why, in a similar situation, the competence of the Minister of Health, in addition to that of the Minister of Industry and Commerce, should be ignored;

(iii) Section 3 adds a further point that is to be found neither in the Patent Law nor in the regulations on compulsory licensing, that is to say the possibility of considering the elimination or suppression of impurities as constituting notable technical progress in respect of medicinal products. This provision cannot fail to seem worthy of interest, even if some difficulty is to be apprehended in the possible definition of the notion of "notable technical progress," but it is a quite frequent occurrence for magistrates to use the services of experts in such cases;

(iv) Finally, Section 4 establishes and regulates the possibility of granting a compulsory license "for serious and confirmed reasons related to the protection of public health." Here again, it could prove very difficult to define what is meant by serious and confirmed reasons and how they can be determined, but it is true that in all areas legislation abounds with similar provisions and there is therefore no reason why, in this specific case, the executive should be deprived of the possibility of taking emergency measures, particularly in view of the fact that, failing agreement on the amount of remuneration, "the parties maintain their right to appeal to a judicial authority."

Under the circumstances, it would seem possible to state that the guiding principles behind the draft law appear interesting, not only as regards the transitional provisions (Sections 5 and 6) but also for the relevant standing regulations in view of the fact that the numerous cases that cannot possibly be provided for in detail should be based on sober, clear provisions that are coherent with the rest of the regulations in force. This system should, moreover, be adapted without delay to the rules concerning European patents, which consider the patentability of medicinal products to be a perfectly normal factor, and in respect of which Italy made no reservations whatsoever, even at the time of ratification.

As was to be foreseen, of course, proposals for readjustment and adaptation to other requirements which were not regulated were soon submitted. The result was a draft law approved by the Council of Ministers on October 20, 1978,³ of which the following Sections could usefully be given special study, particularly as a result of the interesting round table discussion held in Milan on October 21 at which the most highly qualified experts and representatives in this field were gathered.

³ The text of this draft law is reproduced in Annex II of this study.

Section 1. There is great difficulty in defining that which is patentable as medicinal products or manufacturing processes for medicinal products since such a definition may possibly not cover inventions or types of inventions which have not yet been identified and which may in the (sometimes near) future be justly considered as medicinal products or as related processes. Since it would seem that under the European Patent Convention patentability as products (and not only as manufacturing processes for such products) extends to natural substances as yet unknown but which are capable of being definitively specified (e.g. structural formulae or an adequate number of physico-chemical parameters) and which may possibly be reconstituted by synthesis (see p. 60 of the Directives on the substantive examination for European patents), the outcome could be different treatment for the persons adopting the national route for obtaining a patent (small or medium-sized undertakings), who could not enjoy the protection provided in this case, and those (large-scale or multinational undertakings) who, on the contrary, by means of the European procedure for obtaining a patent, could enjoy such protection, also extending to Italy, in view of the scope of the European patent.

Section 2. This would preserve inequality between the treatment of inventors in the pharmaceutical field and inventors in other fields (Article 3 of the Constitution) by reason of the very limitations it imposes (for example, no details are required for herbicides or pesticides). And even in this case, the European patent route could prove arduous in view of the relevant rules being worded in general terms, thus:

(i) the claims defining the matter for which protection is sought are to be supported by the description;

(ii) the scope of the claims is to be supported by the contents of the description and of the drawings (Article 84; Rule 29; Guide, C-III, 1.1 and 1.3);

(iii) the description should disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Article 23; Rule 27).

Particular reference should be made to the Directives for the practical examination of the European patent, Part C, Chapter II, page 11, where, although providing that claims covering a large field should be supported by a "certain number" of examples, it is stated that in some cases a very large field may also be covered by a limited number of examples.

It should also be noted that the necessary harmonization of the Italian patent legislation with the European regulations will not be able to avoid eliminating the two above-mentioned Sections or recasting them in terms compatible with the European regulations. As far as the implications which may arise

at the Italian Patent Office as regards the examination of patent applications still pending and which have not been drawn up in accordance with the requirements of the articles concerned, the result may, as appropriate, be the granting of patents with broad claims (for applications submitted before the promulgation of the Law) and patents with restricted claims (for applications submitted afterwards).

It has been observed in this context that the limits and definitions such as illustrated cannot be compared with the patent legislation of any country and that there exist no precedents in this respect.

Section 5 (Time limit within which a compulsory license may be requested). The proposal to extend this period to five and six years would seem to ignore the rules in force in most Paris Union countries, under which such licenses may not be requested before three years have expired as from the granting of the patent or four years as from the filing of the relevant application.

It is difficult not to harbor certain doubts in this respect since:

(i) in the WIPO framework, developing countries are seeking to obtain, through the revision of the Paris Convention, a *shorter* period following which compulsory licenses may be granted;

(ii) in the near future, a fairly large number of European and Community patents concerning medicinal products will take effect in Italy and these patents will be subject to the same regulations as those applied to national patents concerning medicinal products (for the European patent because it corresponds to a national patent and for the Community patent in application of Article 46);

(iii) the small and medium-sized national undertakings, at least those not capable of carrying out their own research, will count on obtaining licenses for the exploitation of inventions made by foreigners, whether these be voluntary or compulsory licenses.

The question cannot, however, escape a critical examination taking into account the opposing interest involved.

Section 6 (Compulsory license). Italian law provides for the granting of a compulsory license to work a dependent patent on condition that the latter constitutes, in relation to the subject matter of the previous patent, notable technical progress (Section 54.2) to avoid the institution of the patent being automatically deprived of its meaning by simple procedures of pure form and in the absence of an adequate examination of the value of the invention.

The words "each time it produces a result having a therapeutic interest" would be vague if they were not accompanied by the notion of technical progress. A result having a therapeutic interest could also be constituted by new dosing or, possibly, by methods of administration that had not been foreseen or de-

scribed in the previous patent. The dependent patent, used to obtain the compulsory license, could in fact simply refer to a pharmaceutical formulation concerning a new dosing or new mode of administration without representing notable technical progress compared with the preceding invention.

It would seem in this case that a renewed use is being made of a distinction between inventions in the pharmaceutical field and inventions in all other fields or sectors of chemistry.

Section 9 (Reopening of time limits). This Section governs the situation of persons who, due to the prohibition under Section 14 of the Patent Law:

(i) did not submit patent applications but had made a pharmaceutical invention (medicinal products or processes for their manufacture) in Italy;

(ii) have had their application refused prior to the publication of the Constitutional Court's decision.

For such cases, the reopening of the time limits for submitting patent applications, within 180 days following the entry into force of the new law, has been envisaged, subject to it being proved that the same application has already been filed in other EEC States.

Certainly, this solution would not seem altogether justified as regards the first case envisaged in Section 9 (non-submitted application), whereas the move towards accepting the possible reopening of the time limits (in the second case referred to above, where the application has been rejected), or merely taking into account previous filings effective in EEC Member States, raises problems.

It is not evident why other States not belonging to the EEC, such as Switzerland or Sweden, should be excluded and why there should be a requirement that the applications be filed in at least four (out of eight) EEC States since, at least in the first case, Italy has of course to be excluded from the count.

We cannot ignore, moreover, the fact if the reopening of the time limits were to lead to the granting of compulsory licenses against remuneration, we could be faced with unending disputes as to the amount of remuneration and, in addition, the Italian undertakings using inventions could be required to support a very heavy burden of royalties, which would have unforeseeable negative effects on Italy's balance of payments, since these undertakings have filed patent applications for pharmaceutical products rejected prior to March 30, 1978, practically all of which are of foreign origin. Section 9 consequently raises problems which necessitate a thorough study and, moreover, many voices have spoken up to recommend its suppression.

Section 10. This Section provides for the granting of free nonexclusive compulsory licenses to anyone who has already used the invention and, subsequently, has been protected by a patent granted under the criteria

stipulated by Section 9, or who has (irreversibly, of course) made investments for the purpose of using the invention, the expression "investment" in this case extending to the production, sale or importation of the active ingredients.

It should be emphasized in this context that although the granting of a nonexclusive compulsory license does not depart from conventional arrangements, on the other hand the fact that the actual grant is to be free would seem problematic since it would be tantamount to reducing to nought the effects of the patent and would furthermore push into the background the most important objective of the new law, which should be to regulate, as mentioned above, the opposition between two interests, each of which had a legitimate origin in the past.

Section 11 (Nonexclusive compulsory license for consideration). The obligation placed on owners of patents (meeting the criteria defined in Section 9) to grant nonexclusive licenses to anyone so requesting, for consideration, makes use, for that purpose, of the criteria already envisaged in the first set of provisions.

To conclude, in the hope that all the hypotheses to be studied and to be regulated have been taken into consideration, it remains also to be hoped that the Italian Parliament will succeed in satisfying both the demand for equity by all the parties involved and the need to avoid any breach of the fundamental laws of the State since that could lead to other requests to examine the constitutionality of the texts.

It would therefore seem desirable that the matter should be rapidly settled by the legislature since it would seem improbable that the judiciary could fully deal with the delicate and complex function falling to it in view of the numerous and difficult cases with which it would be faced.

ANNEX I

The text of the draft law, which was subsequently withdrawn, is as follows:

1. Section 32 of Royal Decree No. 1127 of June 29, 1939, shall not apply in the examination procedure for a patent application relating to medicinal products or their manufacturing processes.

2. The grant of patents for medicinal products or their manufacturing processes shall not prevent the extemporaneous preparation for individual cases in a pharmacy of a medicine in accordance with a medical prescription and shall not exclude working of the invention privately or for private purposes or for experimental purposes or for study or research purposes.

3. For patents relating to medicinal products or their manufacturing processes, the Decrees of the Minister of Industry, Commerce and Handicrafts on the granting, refusal, modification and revocation of compulsory licenses, provided for in Sections 54*quinquies* and 54*sexies* of Royal Decree No. 1127 of June 29, 1939, shall be promulgated in collaboration with the Minister of Health, with the concurring opinion of the Health Council.

For the purposes of granting a compulsory license, the notable technical progress referred to in Section 54, second paragraph, item 2, of Royal Decree No. 1127 of June 29, 1939, may also be constituted by the elimination or the suppression of impurities.

4. The following Section shall be inserted following Section 54*sexies* of Royal Decree No. 1127 of June 29, 1939:

"Section 54*septies*. For series and confirmed reasons related to the protection of public health, patents relating to medicinal products or their manufacturing processes may, by Decree of the Minister of Industry, Commerce and Handicrafts, promulgated at the request of the Ministry of Health, after obtaining the opinion of the Health Council, be subjected to special compulsory licensing arrangements for the period and subject to the conditions stated in the Decree.

The Decree of the Minister of Industry, Commerce and Handicrafts shall be notified by the Central Patent Office to the owner of the patent and shall subsequently be published in the Official Gazette.

After publication of the Decree, any undertaking having the necessary technical capability to manufacture the medicinal product may request the Central Patent Office to grant a special compulsory license for the patents designated in the Decree.

The technical capability of the applicant shall be verified by the Minister of Health who may, for that purpose, carry out inspections on the applicant's premises.

The Decree granting a license shall be promulgated by the Minister of Industry, Commerce and Handicrafts, in conjunction with the Minister of Health, and shall set out the conditions for granting the license and its duration.

The amount of the remuneration shall be mutually agreed between the parties or, failing agreement and without prejudice to the right of the parties to appeal to a judicial authority, by an arbitration board of three members, of whom two shall be appointed, respectively, by the parties and the third by the first two or, in the event of disagreement, by the presiding judge of the court of the patent owner's place of residence.

Failure to agree on the amount of remuneration shall not suspend application of the decree granting the license."

5. Any person who has made use in his own undertaking of inventions made by others and which relate to medicinal products of any kind or to their manufacturing processes and for which a patent has been granted to a third party following an application filed prior to the declaration on the unconstitutionality of Section 14 of Royal Decree No. 1127 of June 29, 1939, may continue to work such inventions, even after the granting of the patent, where the invention has been worked during the twelve months preceding the date of the above-mentioned declaration. In return for such working, the owner of the patent shall be entitled to remuneration, the amount of which shall

be decided, failing agreement between the parties, by the Minister of Industry, Commerce and Handicrafts. In any event, the remuneration shall be decided for the complete duration of the patent and the amount of the remuneration which may be demanded for the first two years may not be more than a quarter of the amount that has been or will be laid down for the subsequent years.

6. Any person who has made use in his own undertaking of an invention he has made himself relating to medicinal products of any kind or their manufacturing processes, and for which he has not filed a patent application, may continue to work the invention within the limits of the prior use, where a patent is granted to a third party as a result of an application filed prior to the declaration on the unconstitutionality of Section 14 of Royal Decree No. 1127 of June 29, 1939.

7. The right provided for in Sections 5 and 6 may only be assigned together with the undertaking or the part of the undertaking in which the invention is worked. The person concerned shall be required to provide evidence of prior working and of the extent thereof.

ANNEX II

The text of the draft law approved by the Council of Ministers on October 20, 1978, is as follows:

1. New inventions relating to medicinal products of any kind whatsoever, to substances and compounds, to their manufacturing processes, including new manufacturing processes for substances existing in nature, to new therapeutical uses of substances or compounds already known in the state of the art, may form the subject matter of a patent.

2. In the case of patents for medicinal products, the invention must relate to a substance or a homogeneous series of well-defined substances, for each of which the patent application shall contain a correct description of the main chemical and physico-chemical properties, the manufacturing process or processes which can be reproduced, together with the pharmacological properties on which its therapeutical value is based.

3. The second paragraph of Section 14, Section 32 and the second paragraph of Section 52 of Royal Decree No. 1127 of June 29, 1939, shall not apply to inventions relating to medicinal products or their manufacturing processes.

4. The granting of a patent for medicinal products or for their manufacturing processes shall not prevent

the extemporaneous preparation for individual cases in a pharmacy of a medicine in accordance with a medical prescription and shall not exclude the use of the invention in a private context or for a private purpose or for experiments or for purposes of study or research.

5. The following paragraph shall be added after the first paragraph of Section 54 of Royal Decree No. 1127 of June 29, 1939, as amended by Section 1 of the Decree of the President of the Republic No. 849 of February 26, 1968:

"For inventions made in the field of medicinal products, the time limit stated in the above paragraph in respect of working the patented invention shall be extended to five years as from the date of granting of the patent or six years as from the date of filing of the application, respectively, should the latter time limit expire later than the preceding one."

6. In the case of the patents referred to in Section 1, the compulsory license provided for in Section 54, second paragraph, item 2, of Royal Decree No. 1127 of June 29, 1939, as amended by Law No. 849 of February 26, 1968, shall be granted where necessary to exploit the invention, by a Decree of the Minister of Industry, Commerce and Handicrafts, after having heard the opinion of the Minister of Health, in accordance with the procedure provided for in Sections 54*quater*, 54*quies* and 54*sexies* of the above-mentioned Royal Decree, in those cases where a proven pharmacological result having an effective therapeutical value is to be expected.

7. The following Section shall be added after Section 54*sexies* of Royal Decree No. 1127 of June 29, 1939:

"Section 54*septies*. For serious and confirmed reasons relating to the protection of public health, patents relating to medicinal products or their manufacturing processes may, by Decree of the Minister of Industry, Commerce and Handicrafts, taken at the request of the Minister of Health, on the opinion of the Health Council, be subjected to the arrangements for special compulsory licenses for a period and subject to conditions stated in the Decree.

The Decree of the Minister of Industry, Commerce and Handicrafts shall be notified by the Central Patent Office to the owner of the patent and shall be subsequently published in the Official Gazette.

After publication of the Decree, any undertaking having the necessary technical capability may apply to the Central Patent Office for the grant of a special compulsory license in respect of the patents specified in that Decree. The technical capability of the applicant shall be checked by the Minister of Health, who, for this purpose, may conduct inspections at the premises of the applicant. The Decree granting the license shall be promulgated by the Minister of Industry, Commerce and Handicrafts, in conjunction with the Minister of Health, and shall state the conditions under which the license is granted and its duration. The amount of the remuneration shall be fixed by agreement between the parties or, failing agreement and without prejudice to the parties' right of recourse to a judicial authority, by an arbitration board composed of three members of whom two shall be appointed by each of the parties, respectively, and the third by the first two or, failing agreement, by the President of the Court designated in application of Section 75 of Royal Decree No. 1127 of June 29, 1939.

Failure to reach agreement on the amount of the remuneration shall not suspend application of the Decree granting the license."

Pending a judgment on the well-foundedness of the arbitration findings, the licensee shall remain under the obligation to pay the remuneration fixed by the arbitrator.

8. The owners of patents granted on applications submitted prior to March 30, 1978, shall be required to grant a nonexclusive compulsory license to any persons having used the invention covered by the patents concerned, or who have made investments for the purposes of using that same invention prior to March 30, 1978, whereby the expression "investment" shall extend to the production, sale or importation of the active ingredients covered by the patents granted under this Section, and/or their use in registered proprietary medicinal products or for which, as at March 30, 1978, there had been filed a request for registration supported by full pharmacological, toxicological and clinical documentation as required by the provisions in force.

The owner of a patent referred to in the above paragraph shall be entitled, for a period subsequent to March 30, 1978, to a remuneration to be fixed in accordance with the conditions set out in Section 11, below. Failure to agree on the amount of the remuneration shall not suspend the application of the compulsory license.

9. All persons who, in application of paragraph 1 of Section 14 of Royal Decree No. 1127 of June 29, 1939, have not submitted in Italy patent applications for inventions relating to medicinal products or to their manufacturing processes or whose applications have been definitively rejected prior to March 30, 1978, may, within 180 days following publication of this Law, submit or resubmit a patent application for the above-mentioned inventions, after having proved that the same application has already been submitted previously in at least four of the Member States of the EEC on the date of the first application. The term of

the patent shall start on the filing date of the application in the first foreign country.

The patent shall have effect as from the filing date of the application in Italy.

10. Any person who can prove that he has used the invention covered by a patent granted in application of Section 9 of this Law prior to March 30, 1978, shall be entitled to a free nonexclusive compulsory license.

Any person who can prove that he has made investments for the use of the inventions referred to in the above paragraph shall be entitled to the same right, whereby the expression "investment" shall have the meaning already defined in Section 8.

11. Subject to Section 10, the owners of the patents granted in application of Section 9 shall be required to grant nonexclusive licenses to whomsoever requests.

The amount of the remuneration shall be fixed by agreement between the parties or, failing agreement and without prejudice to the parties' right of recourse to a judicial authority, by an arbitration board composed of three members of whom two shall be appointed by each of the parties, respectively, and the third by common agreement between the parties or, failing agreement, by the President of the Court designated in application of Section 75 of Royal Decree No. 1127 of June 29, 1939.

Failure to reach agreement on the amount of the remuneration shall not suspend application of the Decree granting the license.

Pending a judgment on the well-foundedness of the arbitration findings, the licensee shall remain under the obligation to pay the remuneration fixed by the arbitrator.

12. The rights relating to licenses referred to in Sections 8, 10 and 11 may only be assigned together with the undertaking or the part of the undertaking where the invention is worked.

News from Industrial Property Offices

GERMANY (FEDERAL REPUBLIC OF)

Activities of the German Patent Office in 1977*

1977 was a jubilee year for the German Patent Office. A ceremony was held on June 30 to commemorate the entry into force of the first German Patent Law and the consequent establishment of the

Imperial Patent Office in Berlin on July 1, 1877, at which the Federal President, the Federal Minister of Justice and a large number of prominent representatives of domestic and foreign politics, business and science took part, thus demonstrating their interest in the protection of industrial property. A commemorative publication, entitled *Hundert Jahre Patentamt* was produced to mark the jubilee.¹

* This Report, prepared by the International Bureau, consists of extracts from the Report for 1977 of the German Patent Office.

¹ For a review of this publication, see *Industrial Property*, 1977, p. 223.

The German Patent Office has continued in 1977 to perform its statutory tasks, despite a volume of activities which was practically the same as in the preceding year and a staff establishment numbering some 100 officials less.

The considerable increase in revenue for the reported year may be essentially attributed to the entry into force on November 1, 1976, of the Law Concerning the Fees of the Patent Office and Patent Court of August 25, 1976.

As shown in the reports on the individual sectors, considerable efforts have also been made in 1977 to further improve the services offered by the German Patent Office and to make additional contributions to ensuring the progress of technology.

I. Patents

Summary

During 1977, 60,401 patent applications were filed with the German Patent Office as against 61,705 in 1976. 30,247 (50.1 percent) were national applications; 343 (0.6 percent) came from the German Democratic Republic; 14,205 (47.6 percent) came from other European countries; and 15,606 (52.4 percent) came from countries outside Europe. The largest number of foreign applications came, as in previous years, from applicants in the United States of America (10,283), Japan (4,626), France (2,761), Switzerland (2,611) and the United Kingdom (2,573).

The applications concerned principally chemistry (4,273 national applications and 7,519 applications from other countries), mechanical technology (9,882 and 7,863), mechanical engineering (7,485 and 5,647), electrical engineering (5,781 and 5,207) and physics (2,826 and 3,918).

In 1977, 4,851 requests for isolated searches in accordance with Section 28a of the Patent Law² were received; 1,965 (40.5 percent) of these originated from abroad.

The number of examination requests under Section 28b of the Patent Law amounted to 39,311 in 1977, that is to say 6,222 requests less than in 1976.

The drop in requests for isolated searches and examination requests compared with the unusual numbers in the preceding year is almost certainly attributable to the increase in fees on November 1, 1976, as a result of the Law on the Fees of the Patent Office and the Patent Court, which had provoked a sharp increase in such requests up to October 1976.

In 1977, 41,293 examination and opposition procedures were dealt with, or 257 more than in 1976. The number of applications remaining to be examined at the close of 1977 was 121,988, or 781 less than in the preceding year. The average time taken to complete a patent granting procedure, counted from the filing of the examination request under Section 28b of the Patent Law up to publication, i.e. up to the beginning of provisional protection under Section 30 of the Patent Law, is currently two years four months. If the appeals procedure is included, this period becomes approximately three years.

In the case of 193,734 applications, no request for examination under Section 28b of the Patent Law had been made since the application date. Since the seven-year period for submitting the examination request in respect of the applications has not yet expired, they remain "dormant."

In 1977, 56,528 patent specifications were published, and 25,645 applications were advertised. During the same period, 21,749 patents were officially granted, or 784 more than in 1976. At the close of 1977, a total of 129,058 patents were in force, or 2,627 more than at the end of 1976.

Frequency of Patent Applications

The largest number of patent applications received in 1977 are to be found in Classes C 07 (Organic Chemistry) (3,705 applications), H 01 (Basic Electric Elements) (3,417) and G 01 (Measuring; Testing) (2,994).

Frequency of Patents Granted

The greatest number of patents (1,433) was granted in 1977 in the field of Basic Electric Elements (Class H 01). This was followed by Organic Chemistry (Class C 07) (1,365) and Measuring and Testing (Class G 01) (1,090). In all other Classes, less than 1,000 patents were issued in each case.

Trends and Innovative Activities

Outstanding activity on the part of inventors and applicants was apparent in various fields of technology during the reported year.

Particularly striking were developments in the fields of thermal utilization of solar energy, heat pump installations and the use of waste heat and geothermal heat. The tendency, especially in the utilization of solar energy, was towards more reasonably priced equipment, new assembly and fitting methods and higher degrees of efficiency.

² See *Industrial Property Laws and Treaties*, GERMANY, FEDERAL REPUBLIC OF—Text 2-002 (*Industrial Property*, April 1977).

The principal other field of inventive activity was that of electrical engineering, where mention should be made of the inventions in the field of micro-processors and highly integrated semiconductor circuits and those concerning miniaturization and improved handling in the field of digital electronically-operated display arrays for the visualization of information.

II. Utility Models

Whereas the number of principal applications showed a slight drop in 1977 (12,623 as against 13,180 in 1976), the number of subsidiary applications remained practically the same (27,962 as against 27,929). Of the total of 40,585 applications in 1977, 11,908 (29.34 percent) originated from abroad. A total of 14,941 (16,596 in 1976) utility models were registered and 28,740 (27,875 in 1976) procedures were completed without registration. The processing of subsidiary applications is included in both figures. The time taken for a registration procedure is approximately four months. At the close of the year, 5,081 principal applications and 157,384 subsidiary applications were still pending. Extensions of protection from three to six years were applied for in respect of 9,004 registered utility models, with the result that the number of utility models in force at the end of 1977 amounted to 74,039. Industry therefore continues to show keen interest in the registration and maintenance of utility models as speedily obtainable protection rights for everyday appliances and utensils.

Of the 177 requests received in the reported year, a total of 147 utility model cancellation procedures were carried out. At the end of the year, 264 procedures were still pending. The relatively long average time of 18 months required for the procedure can be explained by lack of staff at the German Patent Office, by extra time requested by the parties concerned, by the need to issue provisional decisions and the statutory oral procedure. It will be possible to shorten the procedure once the staffing problems have been solved and efforts are being made in this direction.

III. Trademarks

The number of applications for trademarks fell slightly during the reported year: 18,855 as against 19,124 in 1976. 4,361 (23.1 percent) of these originated from abroad.

Whereas the number of oppositions had been getting smaller and smaller for years, in 1976 a non-negligible increase became obvious. This tendency

also continued in 1977. 16,853 oppositions were filed (as against 16,031 in 1976). An upwards tendency has been achieved for new registrations of which there were 13,350 (compared with 12,718 in 1976). 6,601 applications were rejected or withdrawn.

The number of cancellations and partial cancellations dropped considerably: 9,661 total cancellations (12,365 in 1976) and 1,603 partial cancellations (1,974 in 1976). The year 1977 saw 11,025 transfers and 9,849 renewals of trademarks.

Furthermore, 1,896 applications (as against 2,152 in 1976) for the international registration of German trademarks and 4,851 applications (as against 4,571 in 1976) for the protection of internationally registered foreign trademarks were received.

IV. Industrial Designs

The number of applications for registration in 1977 was 1,220 (as against 1,128 in 1976). The number of registered designs at the close of 1977 amounted to 4,896 (as against 4,744 at the end of 1976). Renewals increased slightly from 942 in 1976 to 957 in the reported year.

V. Arbitration Office for Employees' Inventions

The Arbitration Office set up at the German Patent Office in Munich and at its Berlin Branch Office under the Law on Employees' Inventions has been entrusted by Section 28 of that Law with the task of achieving an equitable settlement in all disputes between employers and employees.

The Arbitration Office in Munich was called in on 101 cases in 1977, concerning a total of 261 titles of protection; the Arbitration Office in Berlin was called in on five cases. Sixty-two conciliation proposals were made to the parties concerned and 40 were accepted.

VI. Classification

Since January 1, 1975, the German Patent Office has been classifying all patent documents (applications, patent specifications, special publications and patents) and documentation in respect of the registration of utility models exclusively in accordance with the International Patent Classification (IPC). Use is made solely of the classification symbols of the current version of the IPC, which is revised at five-year intervals. In view of the continuing development of technology, it is unavoidable that the existing IPC should fail to contain classification units for certain

new technical areas. Where classification units are lacking, they may be replaced at national level by so-called X-notations.

In 1977, there was a considerable increase in the requests for classification in the 31 X-notations introduced so far by the German Patent Office. Transfers, that is to say changes in the classification of patent applications filed with the Patent Office, had to be undertaken in 3,017 cases.

The examination files (printed publications) of the Patent Office, containing the patent documents of altogether eight Patent Offices, in addition to various other publications, has in the meantime run to more than 18 million documents. The annual growth rate is over 500,000 documents.

The conversion of such a large number of documents to a new classification system naturally takes quite some time. The first areas to be converted were those in which the files are most frequently used. The Patent Office will have reclassified its entire examination documentation in accordance with the current version of the IPC by 1980.

VII. Documentation

Use of EDP-Orientated Patent Documentation System

Following completion of the jointly financed project of the German Patent Office and the Institute for Documentation Studies (*Institut für Dokumentationswesen*) (IDW), "Utilization of developed patent documentation systems," there now exist in the Patent Office 13 operational automated documentation systems containing some 150,000 domestic and foreign searchable patent documents in 13 areas of technology. These patent documentation systems are primarily available to the Office's examiners for searches in examination procedures (in 1977 alone, some 430 such investigations were carried out). In the more distant future they will be able to provide rapid and reliable information to inventors, firms and searchers in addition to their use in official examination procedures in accordance with Section 23(3) of the Patent Law. Some 650 test searches were carried out using these systems as part of an extensive experimental program during 1976 and 1977, in which the usefulness of the systems was successfully tested.

Introduction of IDC Searching in the Chemical Sector

In view of the fact that in the foreseeable future it will no longer be possible with the current tools to maintain the requisite search quality needed for the reliable examination of patent applications, particu-

larly in the chemical area, further preparations were made for the introduction of GREMAS, the documentation system developed by the International Documentation Society for Chemistry (*Internationale Dokumentationsgesellschaft für Chemie*) (IDC) for the area of low molecular chemistry. The test program for proving the GREMAS system was continued in 1977. The IDC, acting as the specialized information center for chemistry as from the beginning of 1977, supplied almost 400 searches. The test program is receiving the support of the Federal Minister for Science and Technology.

Development and Testing of IPC Dialogue System

Automated searching systems for limited technical areas have proved their worth but the outlay for setting them up and operating them is so high that their use in future will remain limited to a small number of particularly suitable technical sectors in which manual searching is very difficult. In order to be able to extend EDP support to more extensive areas of technology, a concept is being developed for an EDP system for patent searching based on the International Patent Classification. A working model of such a system was tested in 1977. The first results achieved in 1977 gave good grounds for the current preparation of a larger scale practical trial. The purpose of this trial is to utilize the EDP dialogue system in two examining offices as a test and, in the case of a positive result, to draw up a schedule of requirements for a system to apply to the entire area of technology.

Exchange of Data with INPADOC

As part of the contractually agreed exchange of data with the International Patent Documentation Center (INPADOC) in Vienna, the German Patent Office supplied a total of 118,371 sets of data stored on magnetic tape in 1977. The weekly deliveries covered the bibliographic data of newly published patent specifications, examined patent applications, patents granted and the documentation for registered utility models. In exchange, the German Patent Office received during the same period from INPADOC data tapes containing 835,790 sets of bibliographic data of the patent documents of 45 States, which had been published in 1977.

Document Service

The Document Service of the German Patent Office, located at the Berlin Branch Office, supplied German documents to industry at home and abroad on individual orders and subscriptions and to domestic

patent documentation centers and foreign Patent Offices under the international exchange of documentation.

The printing of the various patent documents and the fabrication of the corresponding microfilm aperture cards (containing also documentation on registered designs) was carried out by the Federal Printing Office.

The Documentation Service is equipped with the most modern machines and facilities. Data processing installations are used to control the printing orders, the subscriptions and sales invoicing.

In 1977, the Federal Printing Office printed a total of seven million documents on behalf of the German Patent Office and supplied them to the Document Service for distribution and sale.

VIII. Information

General

As part of the planning work for the information and documentation program of the Federal Government (*IuD-Programm*), a planning group was set up for an information service dealing specifically with patents (*IbZ-Patente*). In addition to representatives of industry, the relevant associations and the documentation centers, the German Patent Office also participated in the implementation of this planning work. Its participation was primarily to make the Office's documentation available to a wide public. A planning report, which views the establishment of a specialized information facility for patents as a decisive improvement in the possibility of obtaining information from patent documentation for the general public, is to be published in the near future.

Library

The library of the German Patent Office is one of the largest specialized technical and scientific libraries in the world. Its primary purpose is to provide support for the examiners in the German Patent Office and the judges of the Federal Patent Court. Almost the entire collection of the library, however, is accessible to the public. 39,800 visitors made use of this facility in 1977 and 489,578 items were borrowed, constituting 50.3 percent of the total lendings of the library.

Original literature may not be borrowed and therefore, in the reported year, approximately 950,000 photocopies, mainly from the area of patent literature, were made for users not belonging to the Office.

IX. International Cooperation

In 1977, the focal point of the Patent Office's activities in the international sector was constituted by its cooperation with the World Intellectual Property Organization (WIPO) in Geneva and its collaboration in most of the International Unions concerned with the protection of industrial property administered by that Organization.

The Patent Office sent representatives to all important conferences and collaborated in numerous working groups. Particular emphasis may be given to its participation in the Diplomatic Conference on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure in Budapest. The Office also collaborated in the coordination meetings and in the sessions of the Preparatory Intergovernmental Committee for the Revision of the Paris Convention.

Work continued in the interim committees of the Patent Cooperation Treaty (PCT) and in the PCT Working Groups during 1977. This was particularly important in view of the entry into force of the PCT in January 1978 and the resultant possibility, with effect from June 1978, of filing international patent applications with the German Patent Office.

The German Patent Office continued to take an active part in the work to prepare the newly-established WIPO Permanent Committee for Patent Information (PCPI), a committee that is to coordinate the work of WIPO's technical committees within the framework of the existing Unions and Agreements (IPC Union, PCT, ICIREPAT, etc.).

On October 7, 1977, the European Patent Convention entered into force. Up to the opening of the European Patent Office on November 2, 1977, the German Patent Office was most extensively involved in the interim work to prepare its opening. The European Patent Office Project Group set up within the Office to deal with the preparatory work ceased its activities on October 31, 1977, following the entry into force of the European Patent Convention since its tasks were then assumed by the European Patent Office itself.

SWITZERLAND

Activities of the Federal Bureau of Intellectual Property from 1974 to 1977*

The main industrial property activities of the Federal Bureau of Intellectual Property in 1972 and

* This report was prepared by the International Bureau on the basis of the Management Reports presented by the Federal Council to the Federal Chambers for the years 1974 to 1977.

1973 were described in the October 1974 issue of this review. In this report, we present a summary of the same activities as appearing in the Management Reports presented by the Federal Council (Swiss Government) to the Federal Chambers (Swiss Parliament) concerning 1974, 1975, 1976 and 1977.

Legislation

Work continued on the revision of the *Law on Patents*; this work was mentioned in the report published in 1974. It culminated in 1976 in the adoption of the revised Law by the Federal Chambers.¹ The Law entered into force on January 1, 1978, at the same time as the new Ordinance on Patents² (with the exception of the new Parts of the Law, entitled "European Patent Applications and European Patents" and "International Patent Applications," which entered into force on June 1, 1978.

The revision work on the *Trademark Law* was slowed down by the work on the Law on Patents. It should continue as from 1979.

Statistical Data

The number of *patent applications* filed continued to diminish during the years under review: 18,284 (including 12,767 foreign applications) in 1973; 17,429 (including 12,033 foreign applications) in 1974; 16,940 (including 11,106 foreign applications) in 1975; 16,513 (including 10,820 foreign applications) in 1976; 16,343 (including 10,801 foreign applications) in 1977.

The total number of *patents granted* followed the same curve: 13,210 without examination and 470 after examination in 1973; 12,509 without examination and 461 after examination in 1974; 13,160 without examination and 540 after examination in 1975; 11,781 without examination and 519 after examination in 1976. In 1977, the Federal Bureau took pains to complete the processing of as many patent applications as possible, owing to the new conditions of form provided for in the new Law (which, as we mentioned, entered into force on January 1, 1978); this explains why the number of

patents granted increased sharply in 1977: 21,972 without examination and 583 after examination.

The trend was the same for *marks*. The number of filings was: 6,555 in 1973; 6,408 in 1974; 6,229 in 1975; 6,151 in 1976; and 6,559 in 1977. The number of registrations (new registrations and renewals) was: 6,252 in 1973; 6,001 in 1974; 5,915 in 1975; 5,780 in 1976; and 5,283 in 1977. We would add that the same trend was apparent with marks of Swiss origin entered in the International Register (new registrations and renewals): 1,525 in 1973; 1,545 in 1974; 1,305 in 1975; 1,293 in 1976; and 1,256 in 1977.

For *industrial designs*, on the other hand, the situation improved: 583 new registrations in 1973; 531 in 1974; 678 in 1975; 777 in 1976; and 672 in 1977.

International Cooperation

In 1977, Switzerland ratified the *Convention on the Unification of Certain Points of Substantive Law on Patents for Invention* of November 27, 1963, the *Patent Cooperation Treaty* of June 19, 1970, and the *European Patent Convention* of October 5, 1973, this having been made possible by the adoption of the new Law on Patents.

In 1977, the Federal Chambers gave their consent to the ratification of the *Protocol of Geneva to the Hague Agreement* of August 29, 1975; the date of ratification of this instrument will be fixed in consultation with other interested States.

Switzerland also took part in 1977 in the work of the *Budapest Diplomatic Conference for the Conclusion of a Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure* and in that of the *Geneva Diplomatic Conference on the Revision of the Nice Agreement*. In the course of the years under review, Switzerland naturally took part in the preparatory work on both Conferences, not to mention the work on a possible new treaty on geographical denominations and on the revision of the Paris Convention.

The *bilateral treaties* concluded by Switzerland with Czechoslovakia³ in 1973 and with France⁴ and Spain⁵ in 1974 entered into force in 1976, 1975 and 1976, respectively. A similar treaty was signed in 1977 with Portugal. In addition, a treaty with the Republic of Korea on the Reciprocal Guaranteeing and Protection of Patent and Trademark Rights⁶ was signed in 1977 and entered into force the same year.

¹ For the text of this Law, see *Industrial Property Laws and Treaties*, SWITZERLAND — Text 2-001 (*Industrial Property*, June 1978). See also P. Braendli, "The New Swiss Patent Law," *Industrial Property*, 1978, p. 171.

² See *Industrial Property Laws and Treaties*, SWITZERLAND — Text 2-002 (*Industrial Property*, July/August 1978).

³ See *Industrial Property Laws and Treaties*, BILATERAL TREATIES — Text 5-006 (*Industrial Property*, October 1978).

⁴ *Ibid.*, Text 5-003 (*Industrial Property*, April 1976).

⁵ *Ibid.*, Text 5-007 (*Industrial Property*, October 1978).

⁶ *Ibid.*, Text 1-001 (*Industrial Property*, October 1978).

Exhibitions

ITALY

Decrees Concerning Temporary Protection of Industrial Property Rights at Exhibitions

Sole Section

Industrial inventions, utility models, designs and trademarks relating to objects appearing at the following exhibitions:

- I° SAMAB – Salone macchine, accessori industrie abbigliamento* (Milan, June 16 to 20, 1978);
- XXXIX^a Fiera di Messina campionaria internazionale* (Messina, August 5 to 20, 1978);
- XLII° Salone internazionale delle calzature, delle conterie, degli articoli per calzature e degli accessori per l'industria calzaturiera e conciaria – X MICAM* (Milan, September 1 to 4, 1978);
- XXXII^a Fiera campionaria nazionale del Friuli-Venezia Giulia* (Pordenone, September 1 to 10, 1978);
- Mostra nazionale delle sementi e delle attrezzature sementiere* (Vicenza, September 2 to 4, 1978);
- Esposizione Europea radio-televisione-elettroacustica: ERTEL 4* (Milan, September 7 to 11, 1978);
- XII° SIM – Salone internazionale della musica e High Fidelity 1978* (Milan, September 7 to 11, 1978);
- VIII° Mercato professionale nazionale del florovivismo da reddito FLORMART – FLORTECNICA – HOBBYFLORA* (Padua, September 8 to 10, 1978);
- VIII^a Mostra internazionale di conigliocultura – M.I.C. 1978* (Erba (Como), September 8 to 11, 1978);
- CHI-BI D'AUTUNNO '78 – Salone internazionale della chincaglieria, articoli per profumeria, bigiotteria, articoli di pelle e promozionali, articoli per fumatori* (Milan, September 8 to 12, 1978);
- MACEF – AUTUNNO 1978 – Mostra mercato internazionale degli articoli casalinghi, cristallerie, ceramiche, argenterie, articoli da regalo, ferramenta ed utensileria* (Milan, September 8 to 12, 1978);
- XLII^a Fiera del Levante – Campionaria generale internazionale* (Bari, September 8 to 18, 1978);
- Mostra internazionale del marmo e macchine per la lavorazione del marmo* (S. Ambrogio di Valpolicella (Verona), September 9 to 17, 1978);
- IV° Salone professionale internazionale caravan e accessori – CARAVAN EUROPA '78* (Turin, September 12 to 18, 1978);
- XVI^a Dimostrazioni di macchine impianti ed attrezzature per la raccolta, lavorazione e la conservazione dei foraggi and X^a Dimostrazioni di macchine, impianti e sistemi per la raccolta, lavorazione e la conservazione del mais* (S. Bellino (Rovigo), September 14 and 15, 1978);
- SAIT MODAMAGLIA – Salone dell'abbigliamento italiano* (Bologna, September 14 to 17, 1978);
- XXXI^a Fiera di Bolzano – Campionaria internazionale* (Bolzano, September 16 to 25, 1978);
- SMAU – Salone internazionale macchine, mobili, attrezzature ufficio* (Milan, September 21 to 26, 1978);
- EUROLUCE – Salone internazionale dell'illuminazione* (Milan, September 22 to 27, 1978);
- Salone internazionale del mobile* (Milan, September 22 to 27, 1978);
- X° Salone internazionale delle tecnologie per la lavorazione, conservazione e distribuzione delle carni – EUROCARNE* (Verona, September 27 to October 1, 1978);
- MODA '78 – Salone nazionale artigianato moda* (Turin, September 28 to October 2, 1978);
- II^a DETERGO – Mostra specializzata delle attrezzature, servizi, prodotti ed accessori per lavanderia e stireria* (Genoa, September 29 to October 2, 1978);
- MONTAGNA '78 – XV° Salone internazionale della montagna* (Turin, September 29 to October 8, 1978);
- TURISMART '78 – I^a Borsa mercato dell'offerta turistica e delle attività connesse* (Padua, September 30 to October 3, 1978);
- Mostra della gemmologia, mineralogia, paleontologia, strumenti gemmologici ed attrezzature per preziosi* (Vicenza, September 30 to October 4, 1978);
- XIII^a Esposizione internazionale delle attrezzature per le attività turistiche e ricettive EXPO TURISMO '78* (Bari, October 4 to 8, 1978);

- I^a Esposizione nazionale della raccorderia e valvolame, ricambi attrezzature per oleodotti, macchine ed attrezzature per la ricerca e la perforazione del sottosuolo, per l'industria petrolifera e dei pozzi d'acqua* (Piacenza, October 5 to 8, 1978);
- XI BI-MU – Biennale della macchina utensile* (Milan, October 7 to 14, 1978);
- XIV^o SAIE – Salone internazionale dell'industrializzazione edilizia* (Bologna, October 7 to 15, 1978);
- MIAS – Mercato internazionale dell'articolo sportivo* (Milan, October 8 to 10, 1978);
- XVIII^o Salone nautico internazionale and VIII^o SIAS – Salone internazionale delle attrezzature subacquee* (Genoa, October 14 to 23, 1978);
- Salone internazionale delle attività vinicole – VINITALY* (Verona, October 15 to 22, 1978);
- I^a Mostra convegno internazionale delle apparecchiature elietermiche* (Verona, October 19 to 22, 1978);
- Mostra nazionale specializzata della conceria pelli e cuoio* (Vicenza, October 20 to 22, 1978);
- VII^a INTERSAN – Mostra mercato internazionale dell'ortopedia tecnica e sanitaria, sanitari, strumenti chirurgici, attrezzature ospedaliere, apparecchi fisioelettromedicali, corsetteria, articoli sanitari per la prima infanzia* (Milan, October 21 to 23, 1978);
- VI^o SELE – Pel preselezione stagionale della pelletteria* (Milan, October 21 to 24, 1978);
- INTERPAMEX '78 – Mostra convegno nazionale di macchinari e materiali per l'industria cartaria* (Turin, October 25 to 29, 1978);
- TECNICA '78 – XXVIII^o Salone internazionale della tecnica* (Turin, October 25 to 31, 1978);
- X^a Mostra nazionale dei mangimi, delle attrezzature, per l'alimentazione del bestiame, delle attrezzature e strutture per stalla* (Piacenza, October 27 to 29, 1978);
- II^o IMMAGTRA – Salone italiano dell'imballaggio, magazzinaggio e trasporto* (Naples, October 27 to 30, 1978);
- II^o SIFUC – Salone italiano delle ferramenta, dei colori e dei casalinghi* (Naples, October 27 to 30, 1978);
- VIII^o MIPAN – Salone internazionale delle macchine, impianti e prodotti per la panificazione e la pasticceria* (Milan, October 28 to November 5, 1978);
- XIII^a Esposizione internazionale delle attrezzature per il commercio EXPO COMMERCIO '78* (Milan, October 29 to November 5, 1978);
- EIMA – Esposizione internazionale delle industrie di macchine per l'agricoltura* (Bologna, November 8 to 12, 1978);
- Fiera internazionale dei cavalli – Salone delle attrezzature e delle attività ippiche* (Verona, November 8 to 12, 1978);
- XV^a TECHHOTEL – Mostra internazionale delle attrezzature alberghiere e turistiche and IX^a BIBE – Mostra internazionale di vini, liquori ed altre bevande* (Genoa, November 11 to 19, 1978);
- XV^o BIAS – Convegno mostra biennale internazionale dell'automazione e strumentazione* (Milan, November 21 to 25, 1978);
- VI^a RICH – Rassegna internazionale della chimica and MAC '78* (Milan, November 21 to 25, 1978);
- VII^o CARNESUD – Salone nazionale della zootecnia* (Foggia, November 23 to 26, 1978);
- Salone nazionale "Fai da te hobby"* (Milan, November 29 to December 3, 1978);
- MAV '78 – XVII^a Mostre dell'avicoltura pregiata da carne ed ornamentale, dell'avifauna e della conigliocoltura – Attrezzature e prodotti relativi* (Padua, December 7 to 10, 1978);
- Mostra internazionale dell'oreficeria, gioielleria ed argenteria* (Vicenza, January 14 to 21, 1979);
- CART '79 – Salone internazionale della cartoleria, carta, prodotti cartotecnici, articoli per la scuola e belle arti* (Milan, January 19 to 24, 1979);
- CHIBICAR '79 – Salone internazionale degli articoli da regalo, della chincaglieria, degli articoli per profumeria, della bigiotteria, degli articoli per fumatori* (Milan, January 19 to 24, 1979);
- XVII^o Salone internazionale del giocattolo* (Milan, January 26 to February 1, 1979);
- X^o CATERING – Salone nazionale dei prodotti per alberghi, ristoranti, bar e comunità* (Naples, January 27 to February 4, 1979);
- II^o PASPANSUD – Salone delle attrezzature e dei materiali per la panificazione per la pasticceria e i prodotti dolciari* (Naples, January 27 to February 4, 1979);
- XVIII^o Salone internazionale delle attrezzature alberghiere, turistiche e di pubblico esercizio per il Mezzogiorno e l'oltremare* (Naples, January 27 to February 4, 1979);
- XI^o SIVEL – Salone nazionale dei vini e dei liquori* (Naples, January 27 to February 4, 1979);
- XVI^a Mostra internazionale di caravanning* (Florence, February 3 to 11, 1979);
- V^a INTEL '79 – Mostra internazionale dell'elettrotecnica* (Milan, February 8 to 12, 1979);
- Salone internazionale della ceramica, della porcellana e del vetro* (Vicenza, February 10 to 13, 1979);

SAIT MODAMAGLIA — *Salone dell'abbigliamento italiano* (Bologna, February 15 to 18, 1979);

IX° Mercato professionale internazionale del florovivaismo da reddito FLORMART — FLORTECNICA — HOBBYFLORA (Padua, February 16 to 18, 1979);

MACEF PRIMAVERA '79 — *Mostra mercato internazionale degli articoli casalinghi, cristallerie, ceramiche, argenterie, articoli da regalo e articoli di qualità per la casa* (Milan, February 16 to 20, 1979);

XIII° Salone internazionale delle vacanze (Turin, February 22 to March 5, 1979);

XX^a Mostra convegno riscaldamento condizionamento refrigerazione idrosanitaria (Milan, March 1 to 7, 1979);

XVIII° SUDPEL — *Salone nazionale della pelletteria del Mezzogiorno d'Italia* (Naples, March 2 to 5, 1979);

MIAS — *Mercato internazionale dell'articolo sportivo* (Milan, March 4 to 7, 1979);

Mostra nazionale dei vini a denominazione di origine controllata (Vicenza, March 9 to 12, 1979);

CASA '79 — *XVI° Salone internazionale delle arti domestiche* (Turin, March 22 to April 2, 1979);

Mostra internazionale dell'oreficeria, gioielleria ed argenteria (Vicenza, June 3 to 10, 1979);

MIAS — *Mercato internazionale dell'articolo sportivo* (Milan, October 7 to 9, 1979)

shall enjoy the temporary protection established by the decrees mentioned in the preamble.¹

¹ Royal Decrees No. 1127 of June 29, 1939, No. 1411 of August 25, 1940, No. 929 of June 21, 1942, and Law No. 514 of July 1, 1959. (See *La Propriété industrielle*, 1939, p. 124; 1940, pp. 84 and 196; 1942, p. 168; 1960, p. 23.)

ROMANIA

I

Communication

Concerning the Temporary Protection of Inventions, Trademarks and Service Marks Exhibited at the International Exhibition TIBCO '79 and at the International Chemistry Exhibition — Bucharest 1979

The International Exhibition TIBCO '79 and the International Chemistry Exhibition will be held in Bucharest from May 4 to 12, 1979.

Inventions, trademarks and service marks exhibited shall enjoy the temporary protection provided by Law No. 62/1974 on Inventions and Law No. 28/1967 on Trademarks and Service Marks.

The Administration of the International Exhibition TIBCO '79 and the International Chemistry Exhibition will issue certificates of guarantee, upon request, until the closing date of the Exhibitions.

II

Communication

Concerning the Temporary Protection of Inventions, Trademarks and Service Marks Exhibited at the International Exhibition TEHNOEXPO '79 — Bucharest 1979

The International Exhibition TEHNOEXPO '79 — Bucharest 1979 will be held in Bucharest from October 4 to 13, 1979.

Inventions, trademarks and service marks exhibited shall enjoy the temporary protection provided by Law No. 62/1974 on Inventions and Law No. 28/1967 on Trademarks and Service Marks.

The Administration of the International Exhibition TEHNOEXPO '79 — Bucharest 1979 will issue certificates of guarantee upon request, until the closing date of the Exhibition.

Calendar

WIPO Meetings

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

1979

- May 28 to June 1 (Geneva) — Berne Union — Working Group on Problems Arising from the Use of Electronic Computers** (convened jointly with Unesco)
- June 11 to 15 (Paris) — Satellites Convention — Committee of Experts on Model Provisions for the Implementation of the Convention** (convened jointly with Unesco)
- June 11 to 15 (Geneva) — Nice Union — Preparatory Working Group**
- June 11 to 15 (Washington) — Permanent Committee on Patent Information (PCPI) — Subgroup on IPC Class A 01, etc.**
- June 18 to 29 (Geneva) — Revision of the Paris Convention — Working Group on Conflict Between an Appellation of Origin and a Trademark**
- June 25 to 29 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information, and ICIREPAT — Technical Committee for Standardization (TCST)**
- July 2 to 6 (Paris) — Berne Union and Universal Copyright Convention — Working Group on the overall problems posed for developing countries concerning access to works protected under copyright conventions** (convened jointly with Unesco)
- July 2 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information**
- September 11 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- September 17 to 21 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- September 24 to October 2 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, 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 15 to 26 (Geneva) — Nice Union — Committee of Experts**
- October 18 and 19 (Geneva) — ICIREPAT — Plenary Committee**
- October 22 to 26 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)**
- October 22, 23 and 30 (Paris) — Rome Convention — Intergovernmental Committee** (convened jointly with ILO and Unesco)
- October 24 to 26 and 31 (Paris) — Berne Union — Executive Committee** (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)
- November 26 to December 13 (Madrid) — Diplomatic Conference on Double Taxation of Copyright Royalties** (convened jointly with Unesco)
- November 27 to 30 (Geneva) — Paris Union — Group of Experts on Computer Software**
- December 10 to 14 (Geneva) — International Patent Classification (IPC) — Committee of Experts**

1980

- February 4 to March 4 (Geneva) — Revision of the Paris Convention — Diplomatic Conference**

UPOV Meetings

1979

- June 5 to 7 (Avignon) — Technical Working Party for Vegetables**
- July 17 to 19 (Hanover) — Technical Working Party for Ornamental Plants**
- September 18 and 19 (Geneva) — Administrative and Legal Committee**
- September 25 to 27 (Wageningen) — Technical Working Party for Forest Trees**
- October 16 and 19 (Geneva) — Consultative Committee**
- October 17 to 19 (Geneva) — Council**
- November 12 to 14 (Geneva) — Technical Committee**
- November 15 and 16 (Geneva) — Administrative and Legal Committee**

Meetings of Other International Organizations Concerned with Industrial Property

1979

European Patent Organisation: September 12 to 14, November 27 to 29 (Munich) — Administrative Council

European Communities:

Working Group of the Commission of the European Communities for the Community Trade Mark:

July 2 to 5, September 17 to 20, November 5 to 7, December 10 to 13 (Brussels)

Inter-American Industrial Property Association: September 10 to 14 (Bogota) — Sixth Congress

International Association for the Protection of Industrial Property: September 23 to 28 (Toronto) — Executive Committee

International League Against Unfair Competition: September 9 to 12 (Prague) — Working Session (*Journées d'Etudes*)

