

Industrial Property

Published monthly
Annual subscription:
180 Swiss francs
Each monthly issue:
18 Swiss francs

29th Year – No. 3
March 1990

Monthly Review of the
World Intellectual Property Organization

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AUSTRALIA

Trade Marks Act 1955 (Reprinted as at 31 December 1986 and further amended by Acts Nos. 23 of 1987 and 91 of 1989) (*Replacement sheets*) Text 3-001

CHINA

Implementing Regulations under the Trademark Law (Revision approved by the State Council on January 3, 1988, and Promulgated by the State Administration for Industry and Commerce on January 13, 1988) (*This text replaces the one previously published under the same code number*) Text 3-002

(Continued overleaf)

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ISSN 0019-8625

FRANCE

- Law No. 87-890 of November 4, 1987, on the Protection of Topographies of Semiconductor Products and on the Organization of the National Institute of Industrial Property (*Extract*) (*This text replaces the one previously published under the same code number*) Text 1-002
- Decree on the Protection of Topographies of Semiconductor Products (No. 89-816 of November 2, 1989) Text 1-003

NEPAL

- Patents, Designs and Trademarks Act, 2022 (1965), as Amended by the Patents, Designs and Trademarks (First Amendment) Act, 2044 (1987) Text 1-001

PERU

- Supreme Decree No. 048-84-ITI/IND (of October 31, 1984) Text 2-001

PORTUGAL

- Law of June 30, 1989, on the Legal Protection of Topographies of Semiconductor Products (No. 16/1989) Text 1-002

Notifications Concerning Treaties

Madrid Agreement (Marks)

Madrid Protocol (1989)

Signatory States

During the period during which it was open for signature (that is, until December 31, 1989), the following States had signed the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on June 27, 1989 ("Madrid Protocol (1989)"):

- Belgium, Democratic People's Republic of Korea, Denmark, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Italy, Liechtenstein, Luxembourg, Mongolia, Morocco, Portugal, Soviet Union, Spain, Switzerland, United Kingdom, Yugoslavia, on June 28, 1989;
- Greece, on December 13, 1989; Monaco and Sweden, on December 21, 1989; Finland, Netherlands and Senegal, on December 27, 1989; Ireland, on December 28, 1989; Austria, on December 29, 1989; Romania, on December 30, 1989.

(Total: 28 States)

Any of the above listed States may become a party to the Madrid Protocol (1989) by depositing an instrument of ratification, acceptance or approval. Any State which has not signed it and is a party to the Paris Convention for the Protection of Industrial Property and any intergovernmental organization fulfilling the conditions stated in Article 14(1)(b) of the Madrid Protocol (1989) may become a party to it by depositing an instrument of accession.

Instruments of ratification, acceptance, approval or accession must be deposited with the Director General of WIPO.

Madrid (Marks) Notification No. 43, of February 9, 1990.

Budapest Treaty

Change in Fees under Rule 12.2 of the Regulations under the Budapest Treaty

DSM-DEUTSCHE SAMMLUNG VON MIKRO-
ORGANISMEN UND ZELLKULTUREN GmbH
(DSM)

(Federal Republic of Germany)

The following notification addressed to the Director General of WIPO by the European Patent Office under Rule 12.2(a) of the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on February 13, 1990, and is published by the International Bureau of WIPO pursuant to Rule 12.2(b) of the said Regulations:

The fees payable to DSM-Deutsche Sammlung von Mikroorganismen und Zellkulturen GmbH (DSM) as published in the April 1988 issue of *Industrial Property* are changed as follows:

	DM
1. (a) Storage according to the Budapest Treaty (Rule 12.1(a)(i))	1,100
(b) Conversion of a deposit made outside the Budapest Treaty into a deposit according to the Budapest Treaty ¹	1,100
(c) Prolongation of the duration of the storage over the one provided by Rule 9 of the Budapest Treaty, per year	36
2. Issuance of a viability statement (Rule 12.1(a)(iii))	
(a) where a viability test is also requested	100
(b) on the basis of the last validity test	40
3. Furnishing of a sample (Rule 12.1(a)(iv))	100

¹ See WIPO document BP/A/II, page 4, paragraph 29.

4. Communication of information under Rule 7.6 40
5. Attestation referred to in Rule 8.2 40

As a general rule, the fees under 1, 2, 4 and 5, above, are subject to VAT, currently 7%. Where samples are furnished, VAT is payable only by requesting parties in the Federal Republic of Germany.

[End of text of the notification of the European Patent Office]

The fees set forth in the said notification of the European Patent Office will apply as from, the thirtieth day following the date (March 31, 1990) of publication of the said fees in the present issue of *Industrial Property*, that is, as from April 30, 1990 (see Rule 12.2(c) of the Regulations under the Budapest Treaty), and will replace the fees published in the April 1988 issue of *Industrial Property*.

Budapest Notification No. 60 (this Notification is the subject of Budapest Notification No. 87, of March 1, 1990).

Studies

Current Developments in China's Trademark Operations

REN ZHONGLIN*

Rapid development has been observed in the field of trademark operations in China as a result of the vigorous growth of the socialist commodity economy since our implementation of a policy of openness and reform. By the end of June 1989, the number of registered trademarks in force in China reached 232,100, an increase of 614% compared with the figure for the end of 1979, which was 32,500. In other words, the trademark registrations during the 10 years that we have been pursuing a policy of openness and reform were more than six times the total achieved during the period of 30 years from the founding of the People's Republic of China in 1949 to the end of 1979. The rapid increase in the number of trademarks reflects the fact that the commodity economy in our country is flourishing, science and technology are progressing and new products are being launched in large numbers. Our operations in the registration and management of trademarks are being conducted in a sound, scientific and consistent way.

In order to cope with the objective demands of economic development in our country, we have mainly taken the following steps in our trademark operations in recent years.

I. Adoption of the International Classification of Goods and Services for the Purposes of the Registration of Marks

The national classification of goods that we once used for our trademark registrations was so detailed that goods were classified in 78 classes, basically according to their production processes and raw materials. It was worked out soon after the founding of the People's Republic of China, and therefore reflected the comparative backwardness of our country's economy at that time. As time went on, we found that the national classification of goods could hardly keep pace with the current developments in China's economic situation, and that a

great disparity existed between our own classification and those prevailing in most other countries of the world. It was imperative that we reform our old national classification of goods for trademark registration so as to promote the development of our socialist commodity economy, facilitate the international registration of marks and develop international commercial relations. We therefore carried out extensive investigations, solicited opinions from the departments and regions concerned and paid study visits to the World Intellectual Property Organization (WIPO), Switzerland, the Federal Republic of Germany and the United Kingdom after which we decided to adopt for the registration of trademarks the International Classification of Goods and Services for the Purposes of the Registration of Marks, in which goods are classified in 34 classes, basically according to their use and sale.

It was a complex, delicate and difficult job to transfer a total of more than 210,000 registered trademarks from the 78 classes of our national classification of goods into the 34 classes of goods of the International Classification. Drawing on the experience of some other countries, we decided to do it by means of "an overall transfer to be accomplished in two steps." "Overall transfer" meant that all the existing registered trademarks would be transferred to the International Classification at the same time and that trademarks would not be examined under the "double track system," in other words according to both the national and International Classifications. "To be accomplished in two steps" meant that we would first transfer the entries on all the former trademark examination searching cards to those created for the International Classification, and then complete the transfer formalities in the Trademark Register and on the Trademark Registration Certificate when each of the then existing registered trademarks was reviewed. Within eight months, from May 1988 to January 1989, in addition to their routine work, some 200 staff members were mobilized to review all the searching cards, according to the International Classification, for the total of 210,000 trademarks that had been registered by the end of 1988. In November 1988, we began

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using the International Classification in the processing of applications for the registration of trademarks. By that time, we had effectively accomplished the transfer of the national classification of goods to the International Classification.

II. Reinforcement of the Protection of the Exclusive Rights in Registered Trademarks and Adoption of Strong Measures Against Acts of Counterfeiting

The central function of the Trademark Law of our country is the protection of the exclusive rights in registered trademarks. In the Trademark Law and the Implementing Regulations under it,¹ detailed explanations are given of the acts that infringe the exclusive rights in trademarks, official means of repressing infringement and procedures to be observed in the event of infringement. The aggrieved party may either institute legal proceedings directly with the people's court, or lodge a complaint with the administrative authorities for industry and commerce at county level at the infringer's place of either domicile or business or those of the place in which the infringing act occurred. The administrative authorities for industry and commerce at all levels are not only in charge of both registered and unregistered trademarks, but also responsible for both the use and printing of the trademarks, which helps in the prevention or control of trademark infringement and the repression of acts of counterfeiting.

In the past, however, the penalties imposed for acts of counterfeiting were not severe enough. The former Implementing Regulations under the Trademark Law provided that, where the exclusive right to use a registered trademark was seriously infringed, a fine of 5,000 yuan was imposed on the infringer. Such a penalty was clearly too light, and that was one of the main reasons why counterfeit goods were constantly found on our market. The new Implementing Regulations under the Trademark Law of the People's Republic of China, as revised by the State Administration for Industry and Commerce and approved by the State Council, were promulgated on January 13, 1988. In the new Regulations, the provisions for the punishment of infringing acts were substantially revised. They provide for the imposition of a fine not exceeding 20% of the value of the illegal business or twice the illegal profit in the case of infringement, thus striking a heavy blow against the lawbreakers. If the case is serious enough to constitute a crime, any person directly responsible for it is prosecuted, according to the law, by the judicial organs.

III. Accession to the Madrid Agreement Concerning the International Registration of Marks in Order to Develop International Cooperation in the Field of Trademarks

In the past 10 years we have done a great deal towards developing international cooperation in the field of trademarks in accordance with the policy of openness and reform. On July 4, 1989, following our accession to the WIPO Convention in 1980 and then to the Paris Convention for the Protection of Industrial Property in 1985, our Government deposited with Dr. Bogsch, Director General of WIPO, the instrument of accession to the Madrid Agreement Concerning the International Registration of Marks. The accession entered into force on October 4, 1989, whereupon China became a member country of the Madrid Union.

The Madrid Agreement is one of the substantive treaties based on the Paris Convention. Although there are only 29 member countries of the Madrid Union, the Madrid Agreement has opened up a simple, speedy, economical and effective route for the international registration of marks in member countries, and affords great advantages to applicants for trademark registration in all those countries. Our accession to the Madrid Agreement will undoubtedly help develop friendly cooperation in the field of trademarks between China and other countries and promote international economic and commercial relations. We have already established an International Registration Division within the Trademark Office, which deals with the international registration of trademarks under the Madrid Agreement. A document entitled "Practical Measures for the International Registration of Trademarks under the Madrid Agreement" has been prepared, and official copies of it were dispatched in September 1989 to the administrative authorities for industry and commerce at all levels and also to large enterprises to ensure wide publicity. The document clearly describes the procedures and requirements for the international registration of trademarks, and has elicited a strong response from the enterprises. As a result, quite a number of enterprises come to the Trademark Office to make inquiries on matters concerning international registration prior to filing their applications. The proprietors of some of China's well-known trademarks, such as "Tongrentang" (used on Chinese traditional medicine), "Zhangguang 101" and "Stone" have already filed applications for international registration with the Trademark Office. These trademarks went on record as China's first batch of applications for the international registration of marks under the Madrid Agreement.

In order to publicize the Madrid Agreement to an even greater extent, a symposium was held, in December 1989, on the application of the Madrid

¹ See *Industrial Property Laws and Treaties, CHINA – Texts 3-001 and 3-002.*

Agreement, attended by personalities from such circles as enterprises and the press, at which a souvenir to commemorate the first batch of applications for the international registration of marks was awarded to each of the enterprises in question, in honor of the satisfactory start to our use of the Madrid system for the international registration of marks.

IV. Gradual Achievement of Modernized Management for Trademarks

In recent years there has been a great increase in the number of trademarks, with applications for registration totalling about 50,000 annually, and it is to be expected that the number of trademark applications will increase further in the years to come. However, trademark operations are still performed manually in our present registration and management system, and any development of our work could not be accommodated. We are therefore faced with the important task of gradually modernizing the management of trademarks.

Two years ago, the State Administration for Industry and Commerce (SAIC) decided that the registration and management of trademarks should be computerized as soon as possible, whereupon we immediately embarked on the project. Our Computer Center is being built, and the main structure will

soon be completed; the computing equipment has been ordered, and most of it delivered; an Information Center has been established within SAIC, where a contingent of professional staff has been either provided or trained; while the searching system for the words or characters and devices of trademarks is being worked out according to the International Classification of Goods, a software development program is proposed. We plan to set up a computer network first in 10 major cities like Beijing, Shanghai, Tianjin and Guangzhou, and then complete the network throughout the country. The introduction of a computerized system for trademark management will transform our trademark operations and make it possible to provide better services as a contribution to the implementation of our policy of openness and reform.

Dr. Bogsch, Director General of WIPO, was enormously helpful to us in our accession to the Madrid Agreement Concerning the International Registration of Marks, our adoption of the International Classification of Goods and Services for the Purposes of the Registration of Marks and our introduction of modernized management for trademarks. We are pleased to note that cooperation between WIPO and China is getting closer and closer in the field of trademarks, and I am confident that such friendly relations and cooperation will be further enhanced by the continuing development of trademark operations in China.

News Items

ROMANIA

*Director, State Office for
Inventions and Trademarks*

We have been informed that Mrs. Mioara Radulescu has been appointed Director of the State Office for Inventions and Trademarks.

Calendar of Meetings

WIPO Meetings

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

1990

May 28 to June 1 (Geneva)

Committee of Experts on the International Protection of Geographical Indications

The Committee will examine a document prepared by the International Bureau of WIPO on the need for a new multilateral treaty on the international protection of geographical indications and its possible content.

Invitations: States members of the Paris Union and, as observers, certain organizations.

June 5 to 8 (Geneva)

Consultative Meeting of Developing Countries on the Harmonization of Certain Provisions in Laws for the Protection of Inventions

This consultative meeting will, on the basis of a working document prepared by the International Bureau of WIPO, study problems of particular relevance to developing countries in connection with the preparation of a treaty supplementing the Paris Convention as far as patents are concerned (patent law treaty).

Invitations: Developing countries members of the Paris Union or WIPO.

June 11 to 22 (Geneva)

Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Eighth Session)

The Committee will continue to examine a draft treaty supplementing the Paris Convention as far as patents are concerned (patent law treaty).

Invitations: States members of the Paris Union and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

June 19 to 22 (Geneva)

Preparatory Meeting for the Diplomatic Conference for the Conclusion of a Treaty Supplementing the Paris Convention as Far as Patents Are Concerned

The Meeting will prepare the organization of the diplomatic conference which will be convened to negotiate and adopt a treaty supplementing the Paris Convention as far as patents are concerned (patent law treaty).

Invitations: States members of the Paris Union.

June 25 to 29 (Geneva)

Committee of Experts on the Harmonization of Laws for the Protection of Marks (Second Session)

The Committee will continue to examine a draft trademark law treaty.

Invitations: States members of the Paris Union, the European Communities and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

July 2 to 6 (Geneva)

PCT Committee for Administrative and Legal Matters (Third Session)

The Committee will examine proposals for amending the Regulations under the Patent Cooperation Treaty (PCT), in particular in connection with the procedure under Chapter II of the PCT.

Invitations: States members of the PCT Union and, as observers, States members of the Paris Union not members of the PCT Union and certain organizations.

July 2 to 13 (Geneva)

Committee of Experts on Model Provisions for Legislation in the Field of Copyright (Third Session)

The Committee will continue to consider proposed standards in the field of literary and artistic works for the purposes of national legislation on the basis of the Berne Convention for the Protection of Literary and Artistic Works.

Invitations: States members of the Berne Union or WIPO and, as observers, certain organizations.

- September 24 to October 2 (Geneva) Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-First Series of Meetings)**
- Some of the Governing Bodies will meet in ordinary session, others in extraordinary session.
Invitations: As members or observers (depending on the body), States members of WIPO or the Unions and, as observers, other States and certain organizations.
- October 15 to 26 (Geneva) Committee of Experts Set Up Under the Nice Agreement (Sixteenth Session)**
- The Committee will complete the fifth revision of the classification established under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.
Invitations: States members of the Nice Union and, as observers, States members of the Paris Union not members of the Nice Union and certain organizations.
- October 22 to 26 (Geneva) Committee of Experts on the Settlement of Intellectual Property Disputes Between States (Second Session)**
- The Committee will examine principles for a possible multilateral treaty.
Invitations: States members of the Paris Union, the Berne Union or WIPO or party to the Nairobi Treaty and, as observers, certain organizations.
- October 29 to November 2 (Geneva) Committee of Experts on a Protocol to the Berne Convention (First Session)**
- The Committee will examine whether the preparation of a protocol to the Berne Convention for the Protection of Literary and Artistic Works should start, and—if so—with what content.
Invitations: States members of the Berne Union and, as observers, States members of WIPO not members of the Berne Union and certain organizations.
- October 29 to November 2 (Geneva) Working Group on a Possible Revision of the Hague Agreement (First Session)**
- This working group will consider possibilities for revising the Hague Agreement Concerning the International Deposit of Industrial Designs, or adding to it a protocol, in order to introduce in the Hague system further flexibility and other measures encouraging States not yet party to the Hague Agreement to adhere to it and making it easier to use by applicants.
Invitations: States members of the Hague Union and, as observers, States members of the Paris Union not members of the Hague Union and certain organizations.
- November 26 to 30 (Geneva) Working Group on the Application of the Madrid Protocol of 1989 (Second Session)**
- The working group will continue to study Regulations for the implementation of the Madrid Protocol of 1989.
Invitations: States members of the Madrid Union, States having signed or acceded to the Protocol, the European Communities and, as observers, other States members of the Paris Union expressing their interest in participating in the Working Group in such capacity and certain non-governmental organizations.
- December 10 to 14 (Geneva) PCT Committee for Administrative and Legal Matters (Fourth Session)**
- The Committee will continue the work started during its third session (July 2 to 6, 1990).
Invitations: States members of the PCT Union and, as observers, States members of the Paris Union not members of the PCT Union and certain organizations.

1991

- January 28 to 30 (Geneva) Information Meeting(s) on the Revision of the Paris Convention**
- An information meeting of developing countries members of the Paris Union and China and, if it is so desired, information meetings of any other group of countries members of the Paris Union will take place for an exchange of views on the new proposals which will have been prepared by the Director General of WIPO for amending the articles of the Paris Convention for the Protection of Industrial Property which are under consideration for revision.
Invitations: See the preceding paragraph.
- January 31 and February 1 (Geneva) Assembly of the Paris Union (Fifteenth Session)**
- The Assembly will fix the further procedural steps concerning the revision of the Paris Convention and will take cognizance of the aforementioned proposals of the Director General of WIPO. It will also decide the composition of a preparatory meeting which will take place in the first half of 1991.
Invitations: States members of the Paris Union and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

- June 3 to 28 (dates and place to be confirmed)** **Diplomatic Conference for the Conclusion of a Treaty Supplementing the Paris Convention as Far as Patents Are Concerned**
- This diplomatic conference will negotiate and adopt a treaty supplementing the Paris Convention as far as patents are concerned (patent law treaty).
Invitations: To be decided by the preparatory meeting to be held from June 19 to 22, 1990 (see above).
- September 23 to October 2 (Geneva)** **Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Second Series of Meetings)**
- All the Governing Bodies of WIPO and the Unions administered by WIPO meet in ordinary sessions every two years in odd-numbered years. In the sessions in 1991, the Governing Bodies will, *inter alia*, review and evaluate activities undertaken since July 1990, and consider and adopt the draft program and budget for the 1992-93 biennium.
Invitations: States members of WIPO or the Unions and, as observers, other States members of the United Nations and certain organizations.
- November 18 to December 6 (dates and place to be confirmed)** **Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property (Fifth Session)**
- The Diplomatic Conference is to negotiate and adopt a new Act of the Paris Convention.
Invitations: States members of the Paris Union and, without the right to vote, States members of WIPO or the United Nations not members of the Paris Union as well as, as observers, certain organizations.

UPOV Meetings

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

1990

- April 23 to 26 (Geneva)** **First Preparatory Meeting for the Revision of the UPOV Convention**
- Invitations:* Member States of UPOV and, as observers, certain non-member States and intergovernmental organizations.
- April 27 (a.m.) (Geneva)** **Consultative Committee (Forty-First Session)**
- The Committee will examine a number of questions related to the functioning of the Union, in particular the preparations for the revision of the UPOV Convention.
Invitations: Member States of UPOV.
- April 27 (p.m.) (Geneva)** **Council (Ninth Extraordinary Session)**
- The Council will advise Czechoslovakia in respect of the conformity of its laws with the provisions of the 1978 Act of the UPOV Convention.
Invitations: Member States of UPOV.
- June 25 to 29 (Geneva)** **Second Preparatory Meeting for the Revision of the UPOV Convention**
- Invitations:* Member States of UPOV and, as observers, certain non-member States and intergovernmental organizations.
- October 15 and 16 (Geneva)** **Third Preparatory Meeting for the Revision of the UPOV Convention**
- Invitations:* Member States of UPOV and, as observers, certain non-member States and intergovernmental organizations.
- October 17 (Geneva)** **Consultative Committee (Forty-Second Session)**
- The Committee will prepare the twenty-fourth ordinary session of the Council.
Invitations: Member States of UPOV.
- October 18 and 19 (Geneva)** **Council (Twenty-Fourth Ordinary Session)**
- The Council will examine the reports on the activities of UPOV in 1989 and the first part of 1990 and approve documents for the Diplomatic Conference for the Revision of the UPOV Convention.
Invitations: Member States of UPOV and, as observers, certain non-member States and intergovernmental and non-governmental organizations.

1991

March 4 to 19 (dates and place
to be confirmed)

Diplomatic Conference for the Revision of the UPOV Convention

Invitations: Member States of UPOV and, without the right to vote, States members of the United Nations not members of UPOV as well as, as observers, certain organizations.

Other Meetings Concerned with Industrial Property**1990**

May 8 to 11 (Washington, D.C.)

Foundation for a Creative America: Bicentennial Celebration of the Enactment of the United States Patent and Copyright Laws