

Industrial Property

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INTERNATIONAL UNIONS

Paris Union

Adhesion to the Hague, London and Lisbon Acts

PEOPLE'S REPUBLIC OF BULGARIA

According to a communication received from the Federal Political Department, the following note was addressed by the Embassies of the Swiss Confederation in the countries of the Paris Union to the Ministries of Foreign Affairs of those countries:

(Translation)

“In compliance with the instructions of the Federal Political Department, dated February 28, 1966, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Embassy of the People's Republic of Bulgaria in Berne has, in a note dated December 10, 1965, a copy of which is enclosed¹⁾, informed the Political Department of the adhesion of its country to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at The Hague on November 6, 1925, at London on June 2, 1934, and at Lisbon on October 31, 1958.

“In conformity with Article 16 (3) of the said Convention, this adhesion will take effect on March 28, 1966.”

* * *

The effect of this adhesion is that the Washington Act of 1911 of the Convention is no longer applicable in relations between any of the Member States of the Paris Union.

Madrid Union

Communication from Czechoslovakia

We have been informed by the Swiss Federal Political Department that on December 13, 1965, it received the following communication from the Embassy of the Czechoslovak Socialist Republic:

(Translation)

“The Embassy of the Czechoslovak Socialist Republic presents its compliments to the Federal Political Department and, with respect to the contractual relations between the Czechoslovak Socialist Republic and the States which have ratified or adhered to the various texts of the Madrid Agreement concerning the International Registration of Trademarks of April 14, 1891, has the honour to communicate the following:

“The Czechoslovak Socialist Republic has, by ratifying the text of the Madrid Agreement for the International Registration of Trademarks of 1891, as concluded at Nice on June

15, 1957, implicitly adopted the preceding text of this Agreement concluded at London on June 2, 1934, and considers itself bound by this text in regard to those States which are bound by the London text and which have not yet adhered to the Nice text of this Agreement.”

Asian Seminar on Industrial Property

(Colombo, Ceylon, February 7 to 10, 1966)

Report

1. The Asian Seminar on Industrial Property met in Colombo, Ceylon, from February 7 to 10, 1966. It was organized by the United International Bureaux for the Protection of Intellectual Property (BIRPI) with the assistance of the Government of Ceylon.

2. All Asian States Members of the United Nations or any of the United Nations Specialized Agencies were invited. Those participating were represented by the following: Ceylon: Messrs. W. M. Sellayah, J. F. Ponnambalam, K. M. U. Jayaratne, S. L. de Silva; India: Messrs. K. V. Venkatachalam, A. Jogarao; Indonesia: Mr. Jailani Naro, Miss S. H. Waerjati, Mr. Munawir Sjadzali; Iran: Mr. Mehdi Naraghi; Israel: Mr. Shaul Ramati; Malaysia: Mr. Noor Naim Dadameah; Philippines: Mr. A. L. Marquez; Singapore: Mr. R. Chee Tiang Teck; Thailand: Mr. Prayoon Talerngsri; Turkey: Messrs. N. Turbas and R. D. Ture; the Union of Soviet Socialist Republics: Mr. I. Y. Morozov.

3. All non-Asian States, Members of the International (Paris) Union for the Protection of Industrial Property, were invited as Observers. The following were represented: Czechoslovakia, by Messrs. A. Cerny and M. Vavrusa; France, by Mr. M. Brunier; the Federal Republic of Germany, by Mr. H. Mast; Italy, by Mr. V. Pontecorvo; the United Kingdom of Great Britain and Northern Ireland, by Mr. J. F. Saunders, M. B. E.; the United States of America, by Messrs. G. D. O'Brien and H. Winter.

4. Two intergovernmental organizations were invited to be represented by Observers. The United Nations participated and was represented by Mr. M. Gabay. The International Patent Institute did not send a representative.

5. Among the non-governmental organizations invited the International Chamber of Commerce and the International Association for the Protection of Industrial Property sent Observers to the meeting. The former was represented by Mr. N. B. Vakil, and the latter by Mr. L. S. Davar.

6. BIRPI was represented by its Director, Professor G. H. C. Bodenhausen. He was assisted by Dr. Arpad Bogsch, Deputy Director, and Mr. Ross Woodley, Counsellor.

7. The Seminar was opened by Dr. M. V. P. Peiris, Minister of Commerce and Trade of Ceylon, and Professor G. H. C. Bodenhausen, Director of BIRPI.

8. Mr. W. M. Sellayah, Registrar of Companies, Trademarks and Designs, Ceylon, was unanimously elected as Chairman of the Seminar.

¹⁾ Omitted. (Ed.)

9. Also elected by unanimous vote, as Vice-Chairmen, were Mr. K. V. Venkatachalam, Joint Secretary to the Government of India, Ministry of Industry, and Mr. A. L. Marquez, Chief of the Hearing Officers Division at the Philippines Patent Office.

10. The discussions were based on a series of documents prepared by BIRPI (PJ/44/3 to 7), the BIRPI Model Law for Developing Countries on Inventions (BIRPI Publication No. 801 of 1965), and a Note by the Secretary-General of the United Nations (PJ/44/8).

11. The agenda (PJ/44/2) having been unanimously adopted, discussion related to four main topics: patents, trademarks, other forms of industrial property, and international protection.

12. *Patents.* The topic of patents for inventions aroused particular interest since several Asian countries are in the process of adopting new laws on the subject. The Bill presently being studied by a Joint Committee of the Indian Parliament was frequently referred to during the discussions.

13. There was general agreement that developing countries do need adequate patent legislation to stimulate their industrialization by encouraging local inventive talent and industrial investments, whether by domestic or foreign capital. An adequate patent law is indispensable for creating a climate favorable for investment in the creation of new industries, or modernizing and expanding those in existence. At the same time, however, safeguards have to be written into any patent legislation for the domestic working of patents held by foreigners, against excessive license fees, and for the prevention of possible abuses of the rights flowing from patents. The real problem is to find a balance between these various requirements. It was recognized by several speakers that the BIRPI Model Law fairly closely approached the ideal of such a balance, although some speakers mentioned other measures as well, including, in particular, the possibility of revocation for non-working, the grant of, and the fixing of fees for, compulsory licenses by the Executive rather than by the Judiciary, the exclusion from patentability of food and chemical — particularly medicinal — products, and the free use of patented inventions for governmental or semi-governmental purposes.

14. It was repeated, as already stated in the Model Law, that the intention of the drafters of that Model Law had not been to prescribe or recommend a uniform law but merely to provide for a basis which every country was naturally free to modify as best fits its own national economy and social policy.

15. There was general consensus that if there is taking under a compulsory license both the taking and the fixing of compensation should be under judicial control at some stage, but that some accelerated or summary proceedings might be desirable so that the effectiveness of compulsory licenses should not be delayed.

16. As to provisions for revocation, exclusion from patentability of certain products, and use for governmental or quasi-governmental purposes, the Director of BIRPI said that in-

roduction of too many exceptions or restrictions would carry with it the probability that the country would not be able to maintain or establish local manufacture. Relying on importation free from patent rights might result in some instances in lower prices (and possibly also lower quality since there is no one who is interested in maintaining high quality) but it also carries with it a perpetual need for foreign currency to pay for the imported products. He was of the opinion that the provisions of the Model Law on compulsory licenses and on Government control of the contractual licenses implying payments abroad, with such modifications as each country's policy in these matters calls for, should enable vital national interests to be safeguarded without impairing the requirement of promoting industrialization.

17. The Representative of the United Nations referred, among other questions, to their study, at the request of the United Nations Committee on the Application of Science and Technology to Development, of measures for reducing the cost to developing countries of securing access to foreign patented and non-patented industrial know-how. One possible solution may lie in the establishment of international machinery financially to assist developing countries in obtaining patented and non-patented know-how, thus diminishing the cost, for developing countries, of the technological know-how essential for their industrialization. Guarantee, tax, and other measures already adopted or to be adopted by industrialized countries for the same purpose, were also referred to.

18. *Trademarks.* The Director of BIRPI having indicated that BIRPI was presently working on a draft Model Trademark Law, the major part of the discussion on the topic of trademarks consisted of suggestions made by the participants from developing countries concerning the possible contents of such a draft.

19. It has been suggested that the Model Law should deal not only with trademarks but also with service marks and with collective or identification marks.

20. Several participants underlined the importance of inserting provisions in the Model Law on the obligation of the licensor of a trademark to exercise effective control over the quality of the goods and services offered under the trademark by the licensee. Lack of effective control could easily lead to the deception of the public.

21. The view was expressed that the possibility of assigning a trademark without at the same time transferring the business enterprise of the assignor to the assignee would probably be particularly beneficial to developing countries as it would permit the owners of foreign trademarks to have the goodwill attached to their trademarks benefit domestic enterprises.

22. It was also suggested that any official commentary accompanying the draft Model Law should describe, and illustrate through examples, the notions of distinctiveness, and loss of distinctiveness, of a trademark.

23. The question of defensive marks, both in connection with "invented" marks and surnames used as marks, should also be considered.

24. The Model Law should also contain provisions on the so-called well-known marks; also, on the possible effect on license contracts of the expiration of a patent used in a product marketed under a trademark where the licensor of the mark was also the owner of the expired patent.

25. Attention was drawn to the need to make the licensing of trademarks simple and swift, governed by contractual agreements between licensor and licensee. The Director of BIRPI said that he agreed with the need for simple licensing procedures; however, where royalties would imply payments abroad, the possibility of a certain degree of governmental control over the licensing would seem to be advisable for developing countries.

26. There was general agreement among participants that BIRPI's plan for establishing a Model Trademark Law was most welcome. The Director of BIRPI said that the procedure would be the same as in the case of the preparation of the Model Law on Inventions, that is: *first*, BIRPI would prepare a draft and would communicate it to all Member States of the Paris Union for written comments; *then*, BIRPI would convene a Committee of Experts consisting only of representatives of developing countries, whether Members of the Paris Union or not, to examine the draft and modify it; *finally*, BIRPI would publish the modified draft together with a commentary.

27. *Other Forms of Industrial Property.* Under this heading, there was a brief exchange of views on the protection of indications of source, appellations of origin, and trade names, and on protection against unfair competition.

28. The matter of protection of industrial designs was also discussed. The question arose as to what mutual impact, if any, applications for the registration of the same picture as a design and as a trademark should have on each other. The Director of BIRPI expressed the view that such applications were not incompatible and that each of them should be judged on its own merit. If the grantee of one kind of registration indicates in his advertisements that he has been granted the other kind, or the other kind as well, such act may be declared by law as a misdemeanor and, under certain circumstances, may be liable for prosecution as an act of unfair competition.

29. It was suggested by one of the participants that developing countries should study other forms of industrial property protection as well, namely, inventors' certificates as an optional alternative for patents, and rationalization proposals as a form of protecting small inventions.

30. *International Protection.* The provisions of the Paris Convention for the Protection of Industrial Property on patents and trademarks were presented to the meeting by the Secretariat.

31. One of the participants asked whether the provision of the Paris Convention concerning compulsory licenses and forfeiture could not be made more flexible and liberal. The Director of BIRPI expressed the view that such an amendment to the Paris Convention would certainly fail to obtain unanimity and said that he, personally, thought that any na-

tional law overstepping the limits established in the Paris Convention in this respect would so much weaken the patent system that it would have an adverse effect on the industrialization of any developing country.

32. The Representative of the United Nations said that Resolution 1713/XVI of the General Assembly of his Organization raised the question of the desirability of an international conference on patents. The Secretary-General of the United Nations does not plan to hold such a conference partly because the consulted governments did not indicate the wish for one, partly because any conference should deal not with patents in particular but with the transfer of patented and unpatented technological know-how in general. On this basis, the United Nations Report found no ground for holding a conference to review the existing international patent structure.

33. The Secretariat also presented to the Seminar the four special Agreements concluded and in force under the Paris Convention, namely, the Agreement for the Prevention of False or Misleading Indications of Source on Goods, the Agreement concerning the International Registration of Trademarks, the Agreement concerning the International Deposit of Industrial Designs, and the Nice Agreement concerning the International Classification of Goods and Services for the purposes of trademark registration. Only Member States of the Paris Union may accede to these Agreements. They are not obliged to accede to any, and may accede to one, several, or all of them, at any time they so desire.

34. As far as the Paris Union is concerned, any State may adhere to it.

35. There was a suggestion that the specialized bodies of the United Nations and BIRPI should consider appropriate measures for promoting the dissemination of technical information by means of an organized exchange of patent documentation between developed and developing countries.

36. In connection with technical assistance, the Representative of Israel said that his country was ready to cooperate and consult with other countries in connection with drafting industrial property laws, organizing industrial property offices, and providing for training facilities. He asked BIRPI to examine the possibilities of establishing regional centers for resolving administrative problems. He informed the meeting that his country had suggested to the International Patent Institute that the Institute's services be put at the disposal of developing countries at a reduced rate.

37. The Representative of the United Nations informed the meeting about the technical assistance possibilities offered by his Organization in the field of industrial property.

38. One of the Representatives of BIRPI recalled the technical assistance already furnished by his Organization: 5 to 8 traineeships per year for Government officers of developing countries in the Industrial Property Offices of developed countries; 3 BIRPI regional seminars within the last three years (in addition to the present Asian, one African, and one Latin American); preparation of the Model Law for Developing Countries on Inventions. BIRPI technical assistance, he said, would of course also continue in the future.

39. In his closing speech, Dr. A. Bogsch, Deputy Director of BIRPI, pointed out that the Seminar was significant as an important "first" for Asian countries and BIRPI: it was the first BIRPI meeting in which full participation was limited to Asian countries, which took place in Asia, and which was chaired by an Asian. It probably also was the first international multilateral meeting on industrial property ever held in Asia.

40. He, the Chairman, and many of the participants, in their closing speeches, declared that the meeting had been most useful, particularly as a guide for BIRPI in planning its program for developing countries, and for these countries in planning their legislative reforms. All this should effectively contribute towards the industrialization of the Asian countries and their efforts to achieve prosperity for their peoples.

41. Thanks were expressed to the Government of Ceylon for their generous hospitality, to the Chairman of the Seminar for presiding the meeting with courtesy and efficiency, and to the Director of BIRPI for organizing the meeting and replying to the questions asked by the participants.

42. This report was unanimously adopted by the Seminar on February 10, 1966.

List of Participants

I. Countries of Asia

Ceylon

- Mr. W. M. Sellayah, Registrar of Companies, Trademarks and Designs, Colombo.
- Mr. J. F. Ponnambalam, Deputy Registrar of Companies, Colombo.
- Mr. K. M. U. Jayaratne, Assistant Secretary, Ministry of Commerce and Trade, Colombo.
- Dr. S. L. de Silva, Registrar of Patents, Office of the Registrar of Companies, Colombo.

India

- Mr. K. V. Venkatachalam, Joint Secretary to the Government of India, Ministry of Industry, New Delhi.
- Dr. A. Jogarao, Controller General, Patents, Designs and Trademarks, Bombay.

Indonesia

- Mr. Jailani Naro, Senior Officer, Department of Justice, Djakarta.
- Miss S. H. Waerjati, Vice-Director, Directorate of Patents, Department of Justice, Djakarta.
- Mr. Munawir Sjadzali, First Secretary, Indonesian Embassy, Colombo.

Iran

- Mr. Mehdi Naraghi, Director, Office d'enregistrement des sociétés et de la propriété industrielle, Teheran.

Israel

- Mr. Shaul Ramati, Chargé d'affaires, Legation of Israel, Colombo.

Malaysia

- Mr. Noor Naim Dadameah, Registrar of Trademarks and Patents, Kuala Lumpur.

Philippines

- Mr. Amando L. Marquez, Chief, Hearing Officers Division, Philippines Patent Office, Quezon City.

Singapore

- Mr. Robert Chee Tiang Teck, Legal Officer to the Economic Development Board.

Thailand

- Mr. Prayoon Talerngsri, Chief, Patent Examination Division, Department of Commercial Registration, Ministry of Economic Affairs, Bangkok.

Turkey

- Mr. Necat Turkbaz, Vice-President, Department of Industry, Ministry of Industry, Ankara.
- Mr. R. Dogan Ture, Director of Industrial Property, Ankara.

Union of Soviet Socialist Republics

- Mr. Ivan Morozov, Deputy Chief, External Relations Department, State Committee for Inventions and Discoveries, Council of Ministers of the USSR, Moscow.

II. Observers

A. Non-Asian Countries

Czechoslovakia

- Mr. A. Cerny, First Secretary (Commercial), Czechoslovak Embassy, Colombo.
- Mr. Miroslav Vavrusa, Czechoslovak Embassy, Colombo.

France

- Mr. M. Brunier, Administrateur civil, Institut national de la propriété industrielle, Paris.

Federal Republic of Germany

- Dr. H. Mast, Oberregierungsrat, Federal Ministry of Justice, Bonn.

Italy

- Dr. V. Pontecorvo, Counsellor, Italian Embassy, Colombo.

United Kingdom of Great Britain and Northern Ireland

- Mr. J. F. Saunders, M. B. E., Commercial Counsellor, British High Commission, Colombo.

United States of America

- Mr. G. D. O'Brien, Assistant Commissioner of Patents, Patent Office, Department of Commerce, Washington, D. C.
- Mr. H. Winter, Assistant Chief, Business Practices Division, Department of State, Washington, D. C.

B. International Governmental Organization

United Nations

- Mr. Mayer Gabay, Fiscal and Financial Branch, Department of Economic and Social Affairs, New York, U. S. A.

C. International Non-Governmental Organizations

International Association for the Protection of Industrial Property (IAPIP)

- Mr. L. S. Davar, Patent Attorney, Calcutta, India.

International Chamber of Commerce

- Mr. N. B. Vakil, Attorney-at-Law, Senior Partner, Little & Co., Bombay, India.

III. BIRPI

- Professor G. H. C. Bodenhausen, Director.
- Dr. A. Bogsch, Deputy Director.
- Mr. R. Woodley, Counsellor, Head of the Industrial Property Division.

International Committee of Novelty-Examining Patent Offices

Advisory Group

(Geneva, December 9 and 10, 1965)

Note *)

This Advisory Group, convened by the Director of BIRPI, continued the work of a similar Advisory Group (see *Industrial Property*, 1965, p. 74) established pursuant to the request of the International Committee of Novelty Examining Patent Offices (see *Industrial Property*, 1964, p. 208), in the field of a project for the establishment of a "World Patent Index".

The second meeting of the Advisory Group was held at the Headquarters of BIRPI at Geneva on December 9 and 10, 1965.

Austria, Canada, France, the Federal Republic of Germany, Hungary, Japan, the Netherlands, Poland, Sweden, Switzerland, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America were invited and with the exception of Canada, Japan, and the Soviet Union, were represented.

The International Patent Institute and the Committee for International Cooperation in Information Retrieval among Patent Offices (ICIREPAT) were invited as observers and were represented in the meetings.

The list of participants appears at the end of this Note.

The meeting considered a report by BIRPI concerning the feasibility of a Service, tentatively called "World Patent Index," described below.

The Advisory Group agreed with BIRPI that any further planning should be preceded by a survey of the extent to which the planned Service might be expected to be used by National Industrial Property Offices and other prospective users. The Service will be established only if the survey will show that there is sufficient interest in it to make it self-supporting in the long run.

The Advisory Group recommended that the survey should be carried out through the intermediary of the National Industrial Property Offices by BIRPI and the International Patent Institute.

It has examined in detail a draft description of the proposed Service and a draft questionnaire to be used for the purposes of the survey, both prepared by BIRPI.

These drafts, subject to some modifications, and the procedure for carrying out the survey, were agreed to by the participants, including the representatives of BIRPI and the International Patent Institute.

The following passages are excerpts from the description of the proposed Service as used in the course of the survey to be completed in the Spring of 1966:

The Essence of the Proposed Service

BIRPI and the International Patent Institute are currently studying the question of establishing an international service

which would make it possible in respect of the *millions* of patents granted and patent applications published *anywhere in the world*:

- to identify all those which are based on the same priority, claimed under the Paris Convention;
- to indicate, in each case, when there is a reported change in the legal status (grant, cancellation, expiration, etc.);
- to identify all those which show the same applicant, patentee, or inventor;
- to list all those which relate to a given branch of technology;
- to furnish other information described below.

Some Statistics

Taking the expected average for the next ten years, it is estimated that, during the period 1967-1976:

- approximately 650,000 patent applications will be filed each year in some 80 National Patent Offices of the world;
- approximately 320,000 patents will be issued each year in the world;
- these patents will relate to some 100,000 different inventions.

In other words, within a span of ten years, the information system would have to deal with approximately 3.2 million patents relating to one million different inventions.

Each of these inventions may be classified in one or more of the 40,000-odd sub-groups of the international classification system currently perfected.

Any one of the inventions may show one or more inventors. It is estimated that the one million inventions will show 1.5 million inventors.

Data of this volume can only be stored and retrieved economically by means of an electronic data processing system (computer).

What Information Would be "Fed Into" the System?

In respect to a patent, the following data would be fed into the system:

- the name of the country granting it;
- its number (the "patent number");
- its date;
- the date and the serial number of the application;
- the classification of the patent according to the international and/or national classification;
- the name(s) of the patentee(s);
- the name(s) of the inventor(s);
- the country, date, and, where available, the serial number, of the application on which the priority claim is based ("first application").

Not all countries publish data concerning a patent application, but most of them do. *In respect of applications* filed in such countries, the system would register every phase concerning which data are published. These may comprise:

- notice that the application has been filed;
- notice that the application has been laid open for public inspection;

*) This Note was prepared by BIRPI on the basis of the official documents of the meeting.

- notice that interested parties may file opposition to the grant;
- notice that the application has been withdrawn;
- notice that the application has been refused.

In connection with each of these phases, the system would register the designation of the country, the relevant dates and serial numbers, the data concerning priority claims, the names of the inventors and applicants, and the classification symbols.

After the grant of the patent, the system would register the following events to the extent that they are published by the competent Patent Offices:

- changes in the classification of the patent;
- payment of renewal fees;
- lapse for non-payment of renewal fees;
- renunciation;
- cancellation.

What Information Could be "Printed Out" by the System?

The system would be so designed that it could:

- list all patents and published patent applications which correspond to each other, that is, relate at least in part to the same invention¹⁾ (the questioner would have to indicate a patent number or the serial number of an application); any list would contain the dates, serial numbers, classification symbols, and inventors' names, as indicated above;
- indicate any change (growth or diminution) in the said lists;
- indicate any change in the status of a given published application (e. g., that it has been withdrawn, refused, or granted), or of a patent (e. g., that it has expired, lapsed, or has been cancelled);
- list all the patents and published applications showing a given name as patentee or as applicant;
- list all the patents and published applications containing the name of a given inventor²⁾;
- list all the patents and published applications showing a given sub-group of the international classification³⁾.

What Kind of Services Would be Furnished by the World Patent Index?

The services provided would be of three main kinds: "Individual Reports," "Current Awareness Service," and "Weekly Reports."

A. Individual Reports

A customer interested in the complete situation at the moment he asks for the information could obtain any of the following services:

- (1) *A list of all the published applications and patents relating to the same invention.*

¹⁾ Of course, if for some reason no priority was claimed in a later patent application, it could not be included in the list.

²⁾ Some countries do not publish the names of inventors. As long as they continue this practice, their patents could not be included in the "list of inventors."

³⁾ This service would function to the extent that the international classification is used by the country involved, or if some other country assigns international classification numbers to foreign patents not yet using the international classification.

- (2) *A list of all the published patent applications filed by a given applicant and all the patents granted to a given patentee.*
- (3) *A list of all the published applications and patents showing, as inventor or co-inventor, the name of a given person.*
- (4) *A list of all the published applications and patents classified in a given sub-group of the international classification.*

The lists would normally be furnished by the Service one or two days after the day the request has been received. They could be cabled, telexed, or mailed, to the customers.

The lists would contain all the data retrievable from the system: dates, serial numbers, national and international classification symbols, names of applicants, patentees, and inventors.

The customer could limit the scope of the lists ordered by him by asking that they should cover only specified years and/or specified countries.

The "Individual Reports Service" would be particularly useful:

- to the patent departments of corporations, patent lawyers, and agents, since it would allow them to formulate a better judgement as to whether it is worth while filing an application for a given invention in a given country, and would allow them to make an assessment as to the patent situation in a given country, and
- to scientific researchers and documentalists, since it would enable them to establish, as far as reflected by patent documents, the "state of the art" up to the minute in any given branch of technology.

Depending on the estimated number of orders for individual reports, the fee would probably be between \$10 and \$20 for any of the first three kinds of individual reports described above, and between \$20 and \$40 for the fourth kind (classification).

B. Current Awareness Service

The customer would place a standing order with the Service, renewable from year to year.

- (1) *The customer would indicate the serial number of an application filed, or of a patent granted, in a given country, and ask the Service to notify him of the filing of a patent application or the grant of a patent in any other country for the same invention, as soon as the filing or grant is published.*
- (2) *The customer would indicate the serial number of an application filed, or a patent granted, in a given country, and ask the Service to notify him, as soon as published, of any new event published in respect thereof in any country, such as the fact that the application has been laid open for public inspection or opposition, or that it has been withdrawn, refused, or granted; that the patent has been renewed, has expired, lapsed, been renounced, or cancelled; that the classification has been modified.*
- (3) *The customer would indicate the name of a person or company and ask the Service to notify him (the customer) of all patent applications and patents which show the*

name indicated as being the name of the applicant or patentee, as soon as they are published.

- (4) The customer would indicate the name of a person and ask the Service to notify him (the customer) of all patent applications and patents which show the name of that person, as soon as they are published.
- (5) The customer would indicate a sub-group of the international classification and ask the Service to notify him of all patent applications and patents bearing the same classification, as soon as they are published.

In all the above cases, the Service would normally notify the customer one or two days after it receives the gazette of the National Patent Office publishing the information sought. Since it is expected that the Service would receive the gazettes from one to five days after their publication, it should generally not take more than one week from the publication of the gazette to inform the customer. Of course, information could be sent not only by letter but by cable or telex.

The notification to the customer would not only indicate the event but would also always include all the data fed into the system in connection therewith: relevant dates, serial numbers, classification symbols, names of the applicants, patentees, and inventors.

The "Current Awareness Service" would be particularly useful:

- to the patent departments of corporations, patent lawyers, and agents, who wish to receive prompt information on the status of the applications and patents of their own clients or their competitors;
- to scientific research and documentation departments, as well as to the examiners of National Patent Offices who wish to be promptly informed about any new filing or grant published in any given branch of technology.

Depending on the estimated number of subscriptions, the subscription fee would probably be between \$20 and \$40 per year for any of the first four kinds of services, and between \$40 and \$80 for the fifth kind of service (classification).

C. Weekly Reports

Customers could subscribe to the "weekly reports" of the Service.

Such reports would consist, each week, of a printed volume of approximately 200 pages. (They might be furnished in some form other than printing, for example, microfilm.)

Each issue would cover information received the previous week from the National Patent Offices.

In the left-hand column would be published the numbers of the applications or patents published by the National Patent Offices of each country. These numbers would be grouped by country and follow the same order in which they appear in the national patent gazettes. In the right-hand column, opposite each number, would be printed all the information, available at the date of publication, on applications and patents issued in all the other countries (designation of country, serial numbers, dates, classification, symbols, names of applicants, patentees, and inventors) and relating to the same invention as the one indicated in the left-hand column.

Weekly reports would be particularly useful to National Patent Offices conducting a world-wide novelty search. If the examiner is given a list of all published applications and patents relating to the same invention, he would generally have to keep in his file and read *only one* of them, with resulting savings in his time, in space for storage, and in translation. Furthermore, the process of classification of foreign documents would have to be gone through *only once* and would be consistent. Finally, the earliest disclosure date, detrimental to novelty, could be established with far better chances of accuracy than without such lists.

At the end of each year, an index would be published to the yearly reports.

Depending on the number of subscribers, the price of a subscription for one year (52 weekly issues) would probably be between \$400 and \$800.

List of Participants

I. States

Austria

- Dr. Gottfried Thaler, President, Patent Office, Vienna.
Dr. Thomas Lorenz, Ratssekretär, Patent Office, Vienna.

France

- Mr. François Savignon, Director, National Institute of Industrial Property, Paris.
Mr. Roger Gajac, Legal Counsellor, National Institute of Industrial Property, Paris.

Germany (Fed. Rep.)

- Dr. Kurt Haertel, President, Patent Office, Munich.
Mr. Walter E. Axhausen, Oberregierungsrat, Patent Office, Munich.

Hungary

- Mr. Emil Tasnady, President, National Office of Inventions, Budapest.
Dr. Georges Palos, Legal Counsellor, National Office of Inventions, Budapest.

Netherlands

- Mr. C. J. De Haan, President, Octooraad, The Hague.
Mr. J. Dekker, Octooraad, The Hague.

Poland

- Mr. Ignacy Czerwinski, President, Patent Office, Warsaw.
Mrs. Natalie Lissowska, Counsellor, Patent Office, Warsaw.

Sweden

- Mr. Torsten Gustafson, Deputy Director-General, Patent Office, Stockholm.

Switzerland

- Dr. Joseph Voyame, Director, Federal Office of Intellectual Property, Berne.
Mr. Walter Stamm, Chief of Section, Federal Office of Intellectual Property, Berne.

United Kingdom of Great Britain and Northern Ireland

- Mr. C. Vincent-Smith, T. D., J. P., Superintending Examiner, Patent Office, London.

United States of America

- Mr. Gerald D. O'Brien, Assistant Commissioner of Patents, Patent Office, Washington.
Mr. P. F. Federico, Member, Board of Appeals, Patent Office, Washington.

II. Observers

International Patent Institute

- Mr. Guillaume Finiss, Director-General, International Patent Institute, The Hague.

Mr. P. Van Waasbergen, Vice-Director, International Patent Institute, The Hague.

Mr. G. Putz, Chief of Mechanics Section, International Patent Institute, The Hague.

Committee for International Cooperation in Information Retrieval Among Examining Patent Offices (ICIREPAT)

Mr. Harold Pfeffer, General Secretary, Patent Office, Washington.

III. BIRPI

Professor G. H. C. Bodenhausen, Director.

Dr. Arpad Bogsch, Deputy Director.

CONVENTIONS AND TREATIES

Convention on the Unification of Certain Points of Substantive Law on Patents for Invention

Signature by Luxembourg

We have been informed by the Secretary-General of the Council of Europe that Luxembourg has signed on January 21, 1966, the Convention on the Unification of Certain Points of Substantive Law on Patents for Invention.

This Convention has now been signed by the following eleven countries: Belgium, Denmark, Federal Republic of Germany, France, Ireland, Italy, Luxembourg, Netherlands, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

LEGISLATION

ITALY

Decrees

concerning the Temporary Protection of Industrial Property Rights at Eleven Exhibitions

(Of January 15 and 27, February 8, 1966)¹⁾

Single Article

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

XVIII^a Fiera Campionaria della Sardegna (Cagliari, March 12-27, 1966);

LXVIII^a Fiera internazionale dell'agricoltura e della zootecnica (Verona, March 13-21, 1966);

III^a Fiera internazionale del libro per l'infanzia e la gioventù (Bologna, April 2-6, 1966);

¹⁾ Official communication from the Italian Administration.

XXX^a Mostra mercato internazionale dell'artigianato (Florence, April 23-May 8, 1966);

III^a Fiera del tempo libero (Messina, May 1-10, 1966);

XXX^a Fiera di Bologna — Campionaria con settori internazionali specializzati (Bologna, May 8-22, 1966);

XIX^o Mercato internazionale del tessile per l'abbigliamento — MITAM (Milan, May 17-20, 1966);

XXI^a Fiera del Mediterraneo Campionaria internazionale (Palermo, May 26-June 9, 1966);

XIII^a Mostra internazionale avicola (Varese, June 25-29, 1966);

XXVII^a Fiera di Messina Campionaria internazionale (Messina, August 7-21, 1966);

Settimana della calzatura e del cuoio — XXX^o Salone internazionale (Vigevano, September 3-11, 1966)

shall enjoy the temporary protection provided by Laws No. 1127 of June 29, 1939¹⁾, No. 1411 of August 25, 1940²⁾, No. 929 of June 21, 1942³⁾, and No. 514 of July 1, 1959⁴⁾.

¹⁾ See *Prop. ind.*, 1939, p. 124; 1940, p. 84.

²⁾ *Ibid.*, 1940, p. 196.

³⁾ *Ibid.*, 1942, p. 168.

⁴⁾ *Ibid.*, 1960, p. 23.

UNION OF SOVIET SOCIALIST REPUBLICS

I

Guide¹⁾

to the Patenting of Foreign Inventions in the USSR

published by the Patent Department²⁾ of the All-Union Chamber of Commerce³⁾

(Moscow, 1965)

(Translation)

I. The Principles Governing the Origin and Protection of Rights

Nationals of foreign countries and foreign legal entities, who are the authors of inventions, as well as their successors at law, shall, subject to reciprocity, enjoy the rights provided under Soviet legislation concerning inventions, on equal terms with nationals and organizations of the USSR.

The documents certifying authorship of inventions are certificates of authorship and patents. These documents are issued by the State Committee for Inventions and Discoveries of the USSR.

The author of an invention may, at his discretion, request either mere recognition of his authorship, or recognition of his authorship and also of his exclusive right in the invention. In the first case, a certificate of authorship⁴⁾ shall be issued for the invention; in the second case, a patent⁵⁾.

The right to use an invention for which a certificate of authorship has been issued shall be vested in the State, which shall assume the responsibility for exploiting the invention, having regard to its usefulness.

¹⁾ Справочник.

²⁾ Управление по патентованию изобретения.

³⁾ Всесоюзная торговая палата.

⁴⁾ Авторское свидетельство.

⁵⁾ Патент.

The author of an invention to whom a certificate of authorship has been issued shall, in the event of his invention being adopted for use in the USSR, be entitled to receive remuneration⁶⁾ commensurate with the annual saving resulting from its introduction. In the case of an invention whose introduction does not result in any saving but leads to improved quality of production, conditions of work, safety techniques, etc., the amount of remuneration shall be based on the real value of the proposal.

An invention in respect of which a patent has been issued may not be used without the patent owner's consent.

If an invention has been made by two or more persons, each of these persons shall be entitled to a certificate of authorship or a patent, mentioning the first name, patronymic, and surname, of each of the co-authors.

The right to a certificate of authorship or a patent in respect of an invention, and also to the remuneration in respect of the exploitation of an invention, shall descend by inheritance, according to the general rules of law.

II. The Concept of the Invention

The legislation of the USSR recognizes as an invention any essentially new solution of a technical problem in any branch of the economy, culture, health, or national defense, whereby a positive result is achieved.

No certificates of authorship or patents shall be issued in respect of substances obtained by chemical means; these may be issued only for new methods of producing such substances.

For medical, flavoring and food substances, obtained by non-chemical processes, only certificates of authorship shall be issued; patents may be issued only for methods of producing such substances.

For duly approved new methods of treating diseases, only certificates of authorship may be issued.

For new and improved breeds of farm animals and poultry, species of silkworms feeding either on mulberry or on oak, or varieties of agricultural crops, any of which have been obtained through selection, the Ministry of Agriculture of the USSR shall issue certificates of authorship and certificates of improvement of species (or varieties) to selectors, selection stations, and breeding stations.

III. General Provisions Governing the Registration of Rights in Inventions

In the case of persons living permanently abroad, matters regarding the issue of certificates of authorship or patents shall be handled through the Patent Department of the All-Union Chamber of Commerce.

The Patent Department of the All-Union Chamber of Commerce shall act as authorized agent for the foreign applicant, in accordance with his instructions.

An application for a certificate of authorship or a patent must relate to one invention only; it is not permissible to submit several separate variants of a construction or process in a single application. An applicant wishing to obtain a cer-

tificate of authorship or a patent both for the article invented by him (construction, substance) and for the process used in its manufacture shall be required to file two separate applications, one for the article (construction, substance) and the other for the manufacturing process.

If the application does not comply with the prescribed requirements, the State Committee for Inventions and Discoveries⁷⁾ shall send the applicant a letter inviting him to complete the application with the missing particulars, for which purpose a period of one month shall be granted.

For the purposes of filing an application for a certificate of authorship or a patent, the documents and materials described in Section IV (certificates of authorship) and Section V (patents) shall be provided. The substance of the alleged invention must be indicated in the description and drawings with such precision, clarity and completeness as to show the novelty of the invention and to make it possible to carry out the invention on the basis of the materials contained in the application. At the end of the description the subject of the invention must be defined with reference to all its features (constructional, technological, formulary), distinguishing it from existing forms known to the author. In the drawings all the principal points and the details must be denoted by means of numbers to which reference must be made in the description. The description and the drawings must agree with each other. The description of the alleged invention must be typewritten on sheets of standard format (29.7 × 21 cm.), with margins 2.5 cm. in width. The drawings must be made in ink (Indian or ordinary), on tracing paper or strong white paper measuring not more than 29.7 × 21 cm., in diagrammatic form, without coloring, and to any desired scale, showing only a basic scheme of the invention. Working drawings are not permissible.

The description must state the branch of the national economy in which the invention may be applied. The drawings should, where possible, be accompanied by photographs of the construction (the product).

In accordance with the instructions received, the Patent Department of the All-Union Chamber of Commerce shall file the application for the certificate of authorship or patent with the State Committee for Inventions and Discoveries of the USSR. No such application can be filed if the description, the necessary drawings, or the other documents or materials described below (in Sections IV and V), are missing, or if the substance of the alleged invention cannot be understood.

The date of priority⁸⁾ of the invention shall be established as the day on which the application is received by the State Committee for Inventions and Discoveries of the USSR. If the description and the required drawings fail to give an adequate indication of the substance of the alleged invention, the date of priority shall be established as the day on which the necessary additional material is received.

When an application is accepted for examination, the State Committee for Inventions and Discoveries of the USSR shall issue an attestation of acceptance for examination.

⁷⁾ Государственный комитет по делам изобретений и открытий.

⁸⁾ Дата приоритета (первенство).

⁶⁾ Вознаграждение.

Within one month of the acceptance of the application for examination by the State Committee for Inventions and Discoveries of the USSR, the applicant shall be entitled to supplement and correct the description and drawings submitted, without however changing the substance of the application. Any additional material shall be filed in the same number of copies as the original material (see Sections IV and V); if the additional material changes the substance of the original application, it must be filed as a separate application.

Applications accepted for examination by the State Committee for Inventions and Discoveries of the USSR shall be examined for the purpose of ascertaining the presence of substantial novelty and the usefulness of the alleged invention. In this connection, the usefulness of the invention shall be determined by considering not only the expediency of its immediate utilization, but also the possibility of using it in the future, after the necessary conditions have been created.

The test for novelty shall be based on previously issued certificates of authorship, Soviet, pre-Soviet and foreign patents, previously filed applications, Soviet and foreign literature, reports published by scientific research institutes and project and construction design establishments, material accepted for competitions, theses, and also data concerning the application of inventions.

The applicant shall have access to all the materials upon which were based the decision concerning his application, and the conclusions of the expert examination. He may also require that a copy of the patent materials adverse to his application be sent to him. Applicants for certificates of authorship are supplied with such materials free of charge, but persons applying for patents are supplied with these materials at their own expense (i. e., by reimbursing the costs).

If the applicant does not agree with the grounds stated for refusal to issue a certificate of authorship or a patent, or with the definition of the invention, he may, within one month from the date of receipt of the decision or of a copy of the materials adverse to his application, submit his reasons for objection, through the Patent Department of the All-Union Chamber of Commerce, to the State Committee for Inventions and Discoveries of the USSR. The decision in this matter by the Chairman of the State Committee for Inventions and Discoveries of the USSR, or his Deputy, shall be final.

When the definition of the invention has been finalized and has been accepted by the applicant, the State Committee for Inventions and Discoveries of the USSR shall enter the invention in the State Register of Inventions⁹⁾ of the USSR, publish a notification of the grant of the certificate of authorship or the patent in the *Bulletin of Inventions and Trademarks*¹⁰⁾, publish the description of the invention, and issue the certificate of authorship or the patent.

IV. Certificates of Authorship

A certificate of authorship shall be issued exclusively in the name of the true author of the invention.

The following documents and materials must be supplied to the Patent Department of the All-Union Chamber of Commerce with a view to the filing of an application for a certificate of authorship with the State Committee for Inventions and Discoveries of the USSR:

- (a) a power of attorney, certified by notary public, granted by the applicant to the Patent Department of the All-Union Chamber of Commerce and authorizing the latter to conduct the proceedings with a view to obtaining a certificate of authorship;
- (b) an application for a certificate of authorship. This application must contain a signed declaration of authorship. It must also state: the first name in full and the surname of the author (authors) of the alleged invention (in countries where the patronymic is normally indicated this name should also be given), the nationality, address and place of employment of the author (authors), and the designation of the alleged invention; the application must be made by the true author, his heirs, or the enterprise (organization) acting upon the author's instructions. The declaration of authorship must contain a statement confirming that the person (persons) on whose behalf a certificate of authorship is requested is really the author of the alleged invention;
- (c) a description of the alleged invention;
- (d) any drawings required to clarify the description.

The description and the drawings must conform to the requirements stated in Section III.

Only one copy shall be filed of the application containing the declaration of authorship, as well as of the power of attorney. The description and the drawings shall be filed in quadruplicate (three copies accompanying the application, and one copy for the files of the Patent Department). The application and all copies of the description and drawings must be signed by the author (authors), or the heirs, or by the representative of the author. (If the description is filed in a foreign language, only two copies are required, since a translation of the description, prepared by the Patent Department, shall be submitted at the time of filing the application with the State Committee for Inventions and Discoveries of the USSR.)

At the time of supplying to the Patent Department of the All-Union Chamber of Commerce the instructions and documents with a view to filing an application for the issue of a certificate of authorship, the applicant shall be required to transfer to the account of the All-Union Chamber of Commerce at the Bank for Foreign Trade of the USSR¹¹⁾, in Moscow, an amount corresponding to the following payments:

1. the fees of the Patent Department in respect of the filing of the application: 22 roubles;
2. the cost of the translation of the description and of other documents from the foreign language into Russian, per 100 words: 1 rouble 80 kopecks.

Other charges relating to the issue of a certificate of authorship shall be payable in accordance with the attached scale of fees.

⁹⁾ Государственный реестр изобретений СССР.

¹⁰⁾ Бюллетен изобретений и товарных знаков.

¹¹⁾ Банк для Внешней Торговли СССР.

V. Patents

The following special regulations shall apply with regard to patents:

- (a) an application for a patent may be filed in the name of the author of the invention himself, or in the name of his successor at law, with an indication, however, of the name of the true author in the application; accordingly, the patent shall be issued in the name of the author of the invention or of his successor at law, with an indication (in the patent) of the surname, first name, and patronymic, of the author of the invention;
- (b) State fees shall be payable for the issue of a patent and for the patent issued (for the actual charges, see the scale of fees attached); failure to pay the annual fees for an issued patent within the appointed time shall render the patent invalid;
- (c) no person may use an invention without the consent of the owner of the patent, who may, however, issue a permit (license) for the use of his invention, or assign his patent in full; contracts or other documents concerning the assignment of a patent or the issue of a license shall be invalid unless registered with the State Committee for Inventions and Discoveries of the USSR;
- (d) patents shall be issued for a period of fifteen years from the date of filing the application; the rights of the patent owner shall be protected from the same date; a patent may be contested and annulled at any time during the period of its validity if it is established that it was issued in violation of the law;
- (e) at any time during the period for which the patent is valid, the author of the invention or his successor at law may submit a request for the patent to be exchanged for a certificate of authorship, on condition that he has not assigned the patent to anyone and has not granted a license for it;
- (f) an enterprise (organization) which has used an invention within the confines of the USSR, prior to the filing of an application for a patent and independently of the author of the invention, or has made all necessary preparations for such use, shall retain the right to make further use of the invention free of charge; disputes in this connection shall be settled in court;
- (g) in cases where an invention is of special importance to the State, and no agreement is reached between the ministry, central office, economic council, or executive committee of soviets of workers' deputies, and the owner of the patent, concerning the transfer of his rights, permission to use the invention may be granted to the organ concerned by the Council of Ministers of the USSR, which shall also establish the amount of compensation due to the owner of the patent.

The following documents and materials must be supplied by the applicant to the Patent Department of the All-Union Chamber of Commerce with a view to the filing of an application for a patent with the State Committee for Inventions and Discoveries of the USSR:

- (a) a power of attorney granted by the applicant to the Patent Department of the All-Union Chamber of Com-

merce and authorizing the latter to conduct the proceedings with a view to obtaining a patent in the USSR; the power of attorney must be legalized by a consulate of the USSR abroad, unless this requirement is waived under an international treaty to which the USSR is a party;

- (b) information concerning the author of the invention, as follows: first name in full and surname of the author (authors) of the alleged invention (in countries where the patronymic is normally indicated, this name should also be given), the nationality, address and place of employment of the author (authors);
- (c) a description of the alleged invention together with its designation;
- (d) any drawings required to clarify the description.

The description and the drawings must conform to the requirements stated in Section III ("General Provisions Governing the Registration of Rights in Inventions");

- (e) a declaration of authorship of the invention stating that the person (persons) referred to as the author (authors) of the invention really is the author of the invention; this declaration of authorship must be signed by the author (authors) of the invention;
- (f) if the rights in an invention have been assigned by the author of the invention, a deed of assignment signed both by the author and by his successor at law must be attached to the patent application. The deed of assignment must be legalized by a consulate of the USSR abroad, unless this requirement is waived under an international treaty to which the USSR is a party.

Only one copy shall be provided of the information concerning the author of the invention (paragraph (b) above) and the declaration of authorship (paragraph (e)). The description and the drawings shall be filed in quadruplicate (three copies accompanying the application, and one copy for the files of the Patent Department). All copies of the description and drawings must be signed by the author (authors) or the heirs, or by the representative of the author. If the description is filed in a foreign language, only two copies are required, since a translation of the description, prepared by the Patent Department, shall be submitted at the time of filing the application with the State Committee for Inventions and Discoveries of the USSR.

At the time of supplying to the Patent Department of the All-Union Chamber of Commerce the instructions and documents with a view to filing an application for the issue of a patent, the applicant shall be required to transfer to the account of the All-Union Chamber of Commerce at the Bank for Foreign Trade of the USSR, in Moscow, an amount corresponding to the following payments:

1. the State fee in respect of the filing of the application: 58 roubles 50 kopecks;
2. the fees of the Patent Department in respect of the filing of the application: 45 roubles;
3. the cost of the translation of the description and of other documents from the foreign language into Russian, per 100 words: 1 rouble 80 kopecks.

Other charges relating to the issue of a patent shall be payable in accordance with the attached scale of fees.

VI. Disputes as to Novelty or Authorship of Inventions

State, cooperative and public enterprises, organizations, and institutions, as well as private persons, may, within one year of the date of publication of the issue of a certificate of authorship (or in cases where there is no publication, within one year of the date of entry of the invention in the State Register of Inventions of the USSR), contest the validity of the issue of the certificate of authorship by proving that the invention is not new or that another person is the true author thereof.

A patent may be contested at any time during the period of its validity.

Disputes concerning the novelty of an invention for which a certificate of authorship or a patent has been issued shall be finally decided by the State Committee for Inventions and Discoveries of the USSR.

If it is established that the subject of an invention for which a certificate of authorship or a patent has been issued is already known, either in whole or in part, the State Committee for Inventions and Discoveries of the USSR shall either annul the erroneously issued certificate of authorship or patent or issue in its place another certificate or patent in which the definition of the invention is amended.

Disputes concerning authorship (co-authorship) of inventions shall be decided by the courts, according to the established procedure. If the action in a dispute over authorship (co-authorship) is filed before a certificate of authorship or a patent is issued, the State Committee for Inventions and Discoveries of the USSR shall take all steps necessary with a view to the issue of a certificate or a patent but does not actually issue it until the dispute has been settled by the court.

VII. Supplementary Inventions

An invention shall be considered supplementary if it is a development of another (basic) invention for which a certificate of authorship or a patent has previously been issued, and if it cannot be utilized without the use of the basic invention.

In cases where a certificate of authorship has been issued for the basic invention, a dependent certificate of authorship shall be issued for an invention supplementing it, provided that not more than fifteen years have elapsed since the date on which the basic certificate of authorship was entered in the State Register of Inventions of the USSR. After a period of fifteen years, the supplementary invention shall be considered independent and an independent certificate of authorship shall be issued for it.

An application in respect of a supplementary invention, filed by the author of the basic invention within six months of the date on which the *Bulletin of Inventions and Trademarks* containing the notification of the basic invention was approved for printing, shall enjoy priority over any application filed by another person within the same period for the same invention.

If a patent has been issued for the basic invention, then either a dependent patent or a dependent certificate of authorship shall be issued for the supplementary invention, according to the choice of the applicant. Use of the supplementary invention shall be permissible only by agreement with the owner of the patent for the basic invention, except in cases where the invention is of special importance to the State (see Section V, "Patents," paragraph (g)).

A dependent patent shall be issued for the period of validity of the basic patent.

If, for reasons not affecting the supplementary invention, the validity of the basic certificate of authorship (or basic patent) has lapsed, the dependent certificate of authorship (or dependent patent) shall become independent. In such cases, the dependent patent shall remain valid only for the period of time for which the basic patent was issued.

Scale of Fees of the Patent Department of the All-Union Chamber of Commerce

No.	Description of Item	Roubles	
		Patents	Certificates of authorship
1	2	3	4
1	Filing of application in USSR	45	22
2	Filing of additional clarifications	from 9	7
3	Filing of objection to decision concerning issue	from 15	from 11
4	Filing of objection to decision concerning rejection	from 22	from 13
5	Filing of declaration of consent to proposed wording	9	4
6	Filing of protest or objection to protest	22	6
7	Registration of assignment of rights or of alteration in designation of applicant	22	—
8	Filing of additional documents (per document)	4	4
9	Registration of extension	6	2
10	Inquiries, minimum	6 + actual cost	6 + actual cost
11	Exchange of patent for certificate of authorship	12	—
12	Cancellation of application	5	3
13	Registration of payment of annual fees:		
	from the 1 st to the 3 rd year	9	—
	from the 4 th to the 6 th year	11	—
	from the 7 th to the 15 th year	13	—
14	Supply of photocopies or printed documents, per page	1 + actual cost	1 + actual cost
15	Typing of copies, per page	1 + actual cost	1 + actual cost
16	Translation (of descriptions, instructions, clarifications, decisions, etc.), per 100 words:		
	(a) from English, German or French into Russian	1.80	1.80
	(b) from Russian into English, German or French	3.60	3.60
17	Registration and final drafting of descriptions, objections, etc., depending on complexity, per page	from 4	from 4
18	Registration of exploitation of invention in event of its sale	16	—
19	Postal charges	actual cost	actual cost

State Fees

Patents		(Roubles)
1. Filing of application		58.50
2. Filing of objection		29.25
3. Assignment of rights		58.50
4. Annual fee for protection of patents:		

Year	Roubles	Year	Roubles
1	49.50	9	272.25
2	49.50	10	321.75
3	49.50	11	371.25
4	74.25	12	420.75
5	99.—	13	470.25
6	123.75	14	519.75
7	173.25	15	569.25
8	222.75		

Note: Forms for the application, power of attorney, declaration of authorship, or deed of assignment, mentioned in the text, are obtainable from the Patent Department of the All-Union Chamber of Commerce.

II

Statute ¹⁾

of the All-Union Export and Import Enterprise
“Licencintorg” ²⁾

General

1. — The All-Union enterprise “Licencintorg” has been set up with the object of carrying out operations relating to the sale of patents protecting Soviet inventions and licenses for their exploitation abroad, to the purchase of patents and licenses for the exploitation of foreign inventions, and to the sale and purchase of technical documentation.

2. — The All-Union enterprise “Licencintorg” is an independent economic organization enjoying the rights of a legal entity and operating on a commercial basis.

3. — The operations and obligations of the All-Union enterprise “Licencintorg” are guaranteed by those of its assets which may be the subject of legal action in accordance with the laws in force in the USSR.

The All-Union enterprise “Licencintorg” is not responsible for complaints addressed to the State, its organs, or other organizations.

The State is not responsible for the operations and obligations of the All-Union enterprise “Licencintorg.”

4. — The All-Union enterprise “Licencintorg” is established in Moscow.

5. — The All-Union enterprise “Licencintorg” possesses a circular seal bearing a reproduction of its trade name.

Functions

6. — The All-Union enterprise “Licencintorg”:

- (a) engages in the sale of patents for Soviet inventions and licenses authorizing their exploitation abroad, and the sale of technical documentation;

- (b) engages in the purchase of patents for foreign inventions and licenses authorizing their exploitation, and the purchase of technical documentation;
- (c) engages in the commercial exchange of patents, licenses and technical documentation with foreign contractors;
- (d) engages in the sale and purchase of machines, equipment, materials, and products, the delivery of which in the form of prototypes and models is provided for in the terms of license agreements;
- (e) ensures the control with regard to the observance by Soviet organizations and foreign contractors of the rights and obligations under the license agreements concluded;
- (f) estimates the value of licenses, patents and technical documentation sold, purchased, or exchanged, on the basis of the initial information supplied by the owners of Soviet inventions and by other competent bodies;
- (g) takes part in the examination as to the correctness and appropriateness of the use by the economic councils, scientific research institutes, enterprises, and other organizations, of patents, licenses and technical documentation purchased abroad;
- (h) takes part jointly with the State Committee for Inventions and Discoveries of the Council of Ministers of the USSR, the ministries and central offices of the Union and of the Republics, the Academy of Sciences of the USSR, the economic councils and other organizations and institutions, in the search for Soviet inventions which could be licensed abroad, studies supply and demand with regard to inventions abroad, and finds foreign contractors interested in the purchase or the sale of patents, licenses, and technical documentation;
- (i) systematically studies foreign legislation in the field of patents for inventions and the trade in licenses, as well as the conclusion of agreements relating to patents and licenses, as currently practised abroad;
- (j) organizes publicity campaigns for inventions and for Soviet scientific technical achievements with the aim of selling licenses; such campaigns include, *inter alia*, participation in commercial and industrial fairs, publishing of special catalogues, illustrations, and cinematographic films, use of television, collaboration with specialized publicity agents, and the study of foreign publicity, as practised abroad;
- (k) develops and applies measures likely to increase the profitability of its activities.

Rights of the enterprise

7. — With a view to carrying out, in compliance with the law in force, those functions mentioned in Article 6 of this Statute, the All-Union enterprise “Licencintorg” has the right to:

- (a) conclude transactions of any kind and other legal acts including credit operations, the establishment of banker's drafts, banking operations, etc., with organizations, enterprises, companies, associations, and private persons, both in the USSR and abroad, and sue or defend in the courts or in arbitration;
- (b) establish, erect, acquire, transfer, rent or hire the services of enterprises capable of helping its activities, and any

¹⁾ Устав.

²⁾ Всесоюзное экспортно-импортное объединение «Лицензинторг».

kind of movable property or real estate, both in the USSR and abroad;

- (c) establish in the USSR and abroad subsidiary companies, offices, representatives, or agencies, etc., and participate in enterprises, companies, associations, and organizations of any kind, consistent with the aims of the enterprise.

Means

8. — The registered capital of the All-Union enterprise "Licencintorg" is 1,000,000 (one million) roubles.

Direction

9. — The All-Union enterprise "Licencintorg" is directed by its President. The President and his deputies are appointed according to the established order. The distribution of work between the President and his deputies is determined by the President of the enterprise.

10. — The President directs all the activities and manages the assets of the enterprise, passes and concludes transactions of all kinds and other legal acts on behalf of the enterprise, may enter into direct relationship with all organizations, enterprises, or persons, in connection with any business concerning the enterprise.

11. — All transactions relating to foreign trade concluded in Moscow by the All-Union enterprise "Licencintorg" must be signed by two persons, one of whom must be the President of the enterprise or his deputy and the other the person empowered to sign documents relating to transactions connected with foreign trade by procuracy signed by the President of the enterprise.

Banker's drafts and other bills relating to foreign trade, issued by the enterprise in Moscow, must bear the signature of the President or his deputy and the chief accountant of the enterprise.

All transactions relating to foreign trade concluded by the All-Union enterprise "Licencintorg" and all acts performed with a view to the acquisition, transfer, renting or hiring of any assets abroad, as well as banker's drafts and other bills outside Moscow (both abroad and in the USSR), must be signed by two persons, one of whom shall be the President of the enterprise or his deputy and the other a person acting by procuracy signed by the President; or by two persons empowered by procuracy signed by the President to affix the first and second signatures.

Accountancy and sharing of profits

12. — The fiscal year of the All-Union enterprise "Licencintorg" runs from the 1st January to the 31st December of each calendar year.

13. — The accounts and the balance-sheet of the All-Union enterprise "Licencintorg" are established and approved in conformity with the laws and regulations in force in the USSR.

14. — The sharing of the net profit of the All-Union enterprise "Licencintorg" is conducted in conformity with the legislation in force in the USSR.

Liquidation

15. — Possible liquidation of the All-Union enterprise "Licencintorg" shall be determined by the legislation in force in the USSR.

UNITED NATIONS

Cooperation between the United Nations and BIRPI on Patents in 1965

Action taken in various United Nations bodies up to the end of 1964 in regard to patents has been outlined in recent issues¹⁾ of *Industrial Property*. We now take this opportunity of bringing this information up to date.

By virtue of the Working Agreement established in 1963 between the United Nations Secretariat and BIRPI (see *Industrial Property*, 1964, p. 207) BIRPI was represented at a number of meetings of United Nations bodies in the course of 1965. These included in particular the Trade and Development Board and its main Committees, the Economic and Social Council, the Advisory Committee on the Application of Science and Technology to Development, the General Assembly, and the Asian Conference on Industrialization.

1. Trade and Development Board, First Session, New York, April 1965

The purpose of this meeting was to establish the structure of the Board, appoint its Officers, and organize its future program. BIRPI was represented in order to make its first contact with a body with which it was obviously to be closely associated. No specific subjects concerning patents were considered.

2. Trade and Development Board, Second Session, Geneva, August 1965

The agenda for this Session included one item of interest to BIRPI, namely, "Designation of intergovernmental bodies for the purpose of Rule 78 of the Rules of Procedure," Rule 78 being the rule which establishes those bodies which shall have a permanent relationship with the Board.

In the result, BIRPI was appointed under Rule 78, without opposition, as one of the thirteen intergovernmental organizations, other than the Specialized Agencies, to participate in the future work of the Board.

3. Committees of the Trade and Development Board, Geneva, 1965

BIRPI has followed the work of these three Committees, namely, those on Manufactures, Commodities, and Invisibles and Financing, each of which met in Geneva during 1965. Little has yet arisen in any of them which would directly

¹⁾ See *Industrial Property*, 1962, p. 38; 1963, p. 267; 1944, pp. 56, 141, 207, 211.

concern industrial property. It is probable, however, that in due course the Invisibles Committee will consider the terms on which patented technology is transferred because of its relevance in the balance of payments of developing countries.

4. Economic and Social Council, Thirty-ninth Session, Geneva, July 1965

BIRPI was represented at this Session where one of the items related to "Financing of Economic Development." This item was supported by a paper by the Secretary-General of the United Nations entitled "The Role of Enterprise-to-Enterprise Arrangements in Supplying Financial, Managerial and Technological Needs of Industrial Enterprises in Developing Countries"²⁾. The paper suggested ways, other than the traditional ones, by which private owners of technical know-how might transfer such know-how to developing countries on terms advantageous to the interests of both parties.

5. Advisory Committee on the Application of Science and Technology to Development, Fourth Session, Geneva, November 1965

This Committee has on its program of future work "Arrangements between enterprises (public and private) for the transfer of patented and unpatented technology," and it also had before it the Secretary-General's paper on enterprise-to-enterprise arrangements (see above). The BIRPI representative at this meeting was invited to work with the Group considering arrangements for the transfer of operative industrial technology to developing countries.

The Record³⁾ of this Session of the Committee included a Recommendation containing the following passage:

"(ii) *The Secretary-General should be requested:*

- (a) *to initiate the selected industry or country case studies on the actual experience in the transfer of technology to developing countries, especially through enterprise-to-enterprise arrangements, as outlined in his recent report, and to submit a progress report thereon to the Committee at its fifth session;*
- (b) *to examine, in consultation with the United International Bureaux for the Protection of Intellectual Property (BIRPI) and other international and national bodies concerned, both public and private, existing and possible measures for reducing the cost to developing countries of securing access to foreign patented and non-patented industrial know-how, and to submit to the Committee appropriate proposals for action including the possible use of international and bilateral aid funds, contributions by technology-supplying private and public organizations, and appropriate measures by national Governments."*

6. Twentieth Session of the General Assembly of the United Nations, New York, December 1965

This Session of the General Assembly had on its agenda "The Role of Patents in the Transfer of Technology to Developing Countries: Report of the Secretary-General." The Re-

port⁴⁾ was first submitted in the course of 1964 to the U. N. Conference on Trade and Development, to the Committee on Industrial Development, and to ECOSOC, each of which expressed its appreciation. It should have come before the Nineteenth Session of the General Assembly in 1964 but was eventually considered by the Twentieth. BIRPI's representative participated in what was a very full discussion of the Report in the Second Committee of the General Assembly. On recommendation of that Committee, the General Assembly unanimously adopted the following Resolution 2091 (XX) on December 20, 1965:

2091 (XX). Transfer of technology to developing countries

The General Assembly,

Recalling its resolution 1713 (XVI) of December 19, 1961, on the role of patents in the transfer of technology to the developing countries,

Having considered the recommendations contained in annex A.IV.26 of the Final Act of the United Nations Conference on Trade and Development,

Noting with appreciation the reports of the Secretary-General on the role of patents in the transfer of technology to developing countries and on enterprise-to-enterprise arrangements for the supply of financial, managerial and technological needs of developing countries,

Noting the request made by the Economic and Social Council in resolution 1013 (XXXVII) of July 27, 1964, for appropriate action in the light of the recommendations of the United Nations Conference on Trade and Development,

Reaffirming that access to patented and unpatented technological and managerial know-how is essential to the economic development and industrialization of developing countries,

Considering that the existing international agreements and practices may not deal adequately with the problems arising in connexion with the transfer of technological know-how,

Considering further that such transfer should be encouraged by appropriate measures on the part of developed and developing countries,

1. Endorses the recommendations contained in annex A. IV.26 of the Final Act of the United Nations Conference on Trade and Development and in Economic and Social Council resolution 1013 (XXXVII);

2. Welcomes the initiative taken by the Advisory Committee on the Application of Science and Technology to Development in including in its work programme the subject entitled "Arrangements between enterprises (public and private) for the transfer of patented and unpatented technology";

3. Requests the Secretary-General, keeping in mind the work of the Advisory Committee on the Application of Science and Technology to Development, the Committee for Industrial Development, the Committee on Invisibles and Financing related to Trade of the Trade and Development Board, and in consultation with interested regional and international organizations, to continue his studies of:

²⁾ E/4038.

³⁾ E/AC.52/R.3/Rev.1.

⁴⁾ United Nations Publication No. 65.11.B.1.

- (a) *The adequacy of existing national and international practices for the transfer of patented and unpatented technology to developing countries and the possible development of improved practices, including model clauses;*
- (b) *National and international action and institutional arrangements, including the systematic collection and dissemination of scientific and technological data and materials, so as to promote the expeditious and effective transfer of technology, especially from private and public industrial enterprises in the developed countries, to industrial enterprises in the developing countries;*
- (c) *The problems encountered, especially by developing countries, in obtaining technical know-how;*
- (d) *Other measures for specific technical and financial assistance to developing countries in their efforts to secure an increased inflow of technological and managerial know-how and to adapt it to their individual needs;*

4. Requests that the competent international bodies, including United Nations bodies and the Bureau of the International Union for the Protection of Industrial Property, give particular attention to requests from Governments of developing countries for technical assistance in the field of industrial property legislation and administration;

5. Further requests the Secretary-General to take the necessary steps in order to ensure effective co-ordination and co-operation in the work to be undertaken by the United Nations bodies and other international organizations referred to above for the purpose of implementing the tasks outlined in paragraphs 3 and 4 of the present resolution;

6. Also requests the Secretary-General to submit to the Economic and Social Council at its forty-second session and to other competent United Nations bodies at their 1967 sessions a progress report on the activities assigned to him under paragraphs 3 and 4 above.

The General Assembly also decided to establish an Organization for Industrial Development which will, no doubt, absorb the present Committee for Industrial Development with greater authority and powers. The program of the future Organization, concentrating as it will on industrialization of developing countries, is likely to be of particular interest in the field of industrial property.

7. Asian Conference on Industrialization, Manila, December 1965

This Conference took place under the sponsorship of the Economic Commission for Asia and the Far East (ECAFE) and was the first of a series of similar conferences to be organized by the Regional Commissions of the United Nations which will lead to a World Symposium on Industrialization in 1967.

The agenda included an item on "The Advancement of Technological Level" which incorporated questions concerning the transfer of technology. This item was supported by a working paper on patents⁵⁾, prepared by an Expert Working

Group, and a draft recommendation on patents⁶⁾ prepared by Senior Officials of ECAFE countries.

Both the working paper and the draft recommendation were subjected to criticism by the Delegates of several countries. The working paper appeared to be based on the experience of one country, India, with the inclusion of certain parts of the Secretary-General's Report on the Role of Patents (see above) and Delegates did not feel that it gave a balanced view of the patent system. It states categorically, for instance, that no developing country of the ECAFE region would stand to gain any advantages from membership of the Paris Union.

Similarly certain aspects of the draft recommendation were thought inadvisable for developing countries as, for example, the clause advising them to provide for revocation of patent rights where they had been abused.

In the result, the working paper, so far as it concerned patents, was not recommended as a basis for further study and the draft recommendation was substantially revised.

In its Report, the Conference endorsed the view that the system of granting patents: (a) encourages research and invention, (b) permits new inventions to be brought into commercial use in the larger national interests, and (c) encourages investment. The Conference also noted the work being done in the advancement of technological level by international bodies, including United Nations bodies and BIRPI, and in particular the Asian Seminar on Industrial Property organized by BIRPI in Colombo in February 1966.

The Conference recommended the countries of the region (*inter alia*): (a) to review the existing patent laws with a view to removing such *lacunae* as may exist, and, (b) to introduce legislative measures to ensure as far as possible that a foreign patentee works his invention in the patent granting country instead of merely blocking the free use of his invention to the detriment of the national interest.

The Conference also recommended that the developed countries should encourage their patent owners to make available patent licenses and know-how to applicants from developing countries on liberal terms.

The Conference further supported the Recommendation on Transfer of Technology adopted by the Conference on Trade and Development including that which requests competent international bodies, including United Nations bodies and the Bureau of the International Union for the Protection of Industrial Property, to explore possibilities for adaptation of legislation concerning the transfer of industrial technology to developing countries.

* * *

The course of events in United Nations meetings encourages the view that a patent system, under a proper control and an appropriate legislation, is now generally accepted to be an encouragement to the industrialization of developing countries. The tendency now seems to be to concentrate on the best means of getting the technical knowledge, which is a prerequisite to industrialization, into the hands of the developing countries at a price they can afford to pay. (R. W.)

⁵⁾ I.NR/Ind.Conf./5.6.

⁶⁾ E/CN.11/I.NR/Ind.Conf./L.15.

GENERAL STUDIES

The International Patent Policy of the United States Government

By Harvey J. WINTER, Washington *)

The three principal topics to be dealt with herein are (i) international patent arrangements of the United States of America, (ii) patent problems of developed or industrialized countries, and, (iii) patent problems of developing countries.

Historical Background

As known, the United States recently celebrated the 175th Anniversary of the enactment of its first patent law. When this law was enacted in 1790, the economy of the United States was predominantly agrarian. Naturally, in 1790, and for some decades to come, attention was focussed almost entirely on the domestic patent field.

In the latter half of the nineteenth century as foreign commerce increased, American firms and those of other industrialized countries recognized that it was necessary to obtain patent protection not only in their own country but also abroad in order to protect foreign markets. The diversity of national patent laws and the discriminatory character of many of these laws at that time were painfully apparent to the patent owner seeking protection outside his own country. Essentially the cause of this situation was that, prior to the creation of the Paris Union in 1883, there was no sound basis for the international protection of industrial property rights.

Stephen Ladas in his monumental work on "The International Protection of Industrial Property" points out that although there were no less than 69 bilateral arrangements negotiated during the second half of the nineteenth century which had specific provisions in them on the protection of industrial property, these arrangements were generally unsatisfactory. It became apparent that the answer to this problem was a multilateral convention which would establish some general principles for the protection of industrial property in each member State. After preliminary meetings in 1878 and 1880, the International Conference of 1883 negotiated the Convention of Paris for the Protection of Industrial Property. The Convention came into effect in 1884 and the United States has been a party to it since 1887.

International Patent Arrangements

The basic principles of the Paris Convention and the fact that there have been five revisions of it since 1883 are common knowledge and require no repetition here.

*) Extract from a speech given on January 25, 1966, in Washington by Mr. Harvey J. Winter, Assistant Head, International Business Practices Division, U. S. Department of State to the International Patent and Trademark Association (the U. S. Group of the International Association for the Protection of Industrial Property).

Today the Paris Convention has 73*) Member States including developing and developed countries in every area of the world. It is truly a world-wide convention. Among the States that have recently adhered to the Convention, it is significant to note the adherence of the Soviet Union effective as of July 1, 1965. The United States views this adherence as an important action with respect to our trade and industrial property relations with the U. S. S. R.

The United States regards the Paris Convention as the keystone of the structure of its foreign industrial property relations. Not only is the Convention significant from the point of view of guaranteeing certain rights and establishing minimum standards of protection in the Member States but meetings of Convention countries are becoming more important as a forum for discussing patent problems of mutual interest to member countries and even for non-member developing nations. These meetings are sponsored by the United International Bureaux for the Protection of Intellectual Property, known as BIRPI, in its increasingly active and effective role as the secretariat for the Paris Convention.

Mention should be made at this point of the Diplomatic Conference to be held in Stockholm in 1967 which will deal with two specific aspects of the Paris Convention. In the first place, the Stockholm Conference will consider the structural reorganization of BIRPI in connection with its administration of the Paris Convention, the Berne Copyright Convention, and other industrial and intellectual property agreements. The United States supports in principle the proposal for a new administrative structure for BIRPI. This support is based on the belief that the modernization of BIRPI, or its successor organization, tentatively called the "International Intellectual Property Organization," will provide an administrative framework which will strengthen international cooperation and assist in the attainment of the principal objectives of the conventions under its administration. Secondly, the Conference will consider a possible limited revision of the Paris Convention with respect to inventors' certificates which exist alongside patents in the Soviet Union and certain Eastern European countries. A meeting of a Committee of Experts was held in Geneva in March 1965. This Committee, which included the United States, agreed that the Stockholm Conference should consider a possible amendment of Article 4 of the Paris Convention in order that applications for inventors' certificates in a country granting such certificates shall be treated in the same manner as applications for patents for the purpose of the right of priority in another Convention country. The matter is now being studied in connection with the United States Government's preparation for the Stockholm Conference.

No discussion of multilateral arrangements with respect to patents would be complete without mention of the Buenos Aires Convention on Inventions, Patents, Designs and Industrial Models of 1910 to which 13 Latin American countries and the United States are parties. This Convention essentially adopted the principles of the Paris Convention on national treatment and the right of priority. Since the Convention is

*) 74 Member States as on March 1, 1966. (Ed.)

the only basis for U. S. relations in the patent field with 10 of 13 Latin American Member States which are not parties also to the Paris Convention, the United States regard it too as an important and integral part of our international patent relations.

Current Situation

As indicated, the Paris and Buenos Aires Conventions are important as vehicles for limited harmonization in the patent field. But these conventions were not designed nor intended to deal with many of the current patent problems. Action must be taken to deal with the so-called "patent crisis" of today if the patent system itself is to continue to perform its basic function in stimulating technological innovation and economic growth.

There are a number of factors which have contributed to this crisis. In the first place, there has been an unprecedented expansion of international trade during the past two decades. Secondly, there has been at the same time a rapid acceleration of technological progress. Thirdly, a large number of newly independent nations have emerged since the Second World War which want and need the technology that is essential to their economic growth.

These factors have all contributed to making a "patent crisis." The United States Government is convinced that this crisis cannot be resolved by national action alone. It can be dealt with far more effectively — and in the long run more economically — through international cooperative solutions. The U. S. Government is not alone in this conclusion. Many other nations are equally convinced that international cooperation is absolutely essential if we are to be able to solve not only the problems of today but the even more difficult ones of the years to come. Without such cooperation, indeed, we will face a weakening and possibly even a withering away of the patent system itself.

Everyone is aware that there has been a very substantial increase in the total number of patent applications filed worldwide and that this increase can be attributed in large part to multiple filings of the same invention in a number of countries. Everyone is also aware that patent applications filed on the same invention in more than one examining country must be separately filed, prosecuted, and examined in each country. Roughly half of the estimated 650,000 applications filed world-wide in 1965 were duplicates or substantial duplicates of other applications filed elsewhere.

This duplication of effort required in prosecuting and examining applications for the same invention in more than one country is the first of two basic problems confronting developed countries in the international patent field.

The applicant who must undertake the task of obtaining protection on his invention throughout today's international marketing areas is not only faced with the burden of prosecuting the same application in several countries but also with the additional burden of prosecuting each application under different patent laws and different procedures. United States applicants struggle with this problem on nearly 90,000 applications filed each year in foreign countries. And the same problem assumes equally major proportions for British, French, German, Swiss, and other foreign applicants who file

widely outside their own country. The complex maze of divergent patent laws and procedures through which the applicant seeking foreign protection for his invention must find his way is, then, the second basic problem that developed countries must attempt to resolve.

International Cooperation - A Solution

Steps have been taken in recent years both nationally and regionally to solve these problems. Several countries have already made or are presently considering changes in their patent laws. In addition, many countries, including the United States, have initiated changes in their procedures and practice aimed at increasing examining efficiency, and have increased personnel in an effort to control backlogs.

But none of these steps alone will provide a long-term solution to the problems of the patent offices or to the problems of the applicants. Thus, the Member States of the Council of Europe and the Scandinavian countries have for some time recognized the need for seeking solutions to certain international patent problems among themselves and in cooperation with other developed countries, including the United States. As indicated earlier, the U. S. Government strongly favors international cooperation as the only practical and realistic means of dealing with such problems. Further, the Government wholeheartedly agrees with the remarks made in a recent speech by a well-known patent attorney from private industry. He emphasized that the responsibility for seeking improvements in the patent system through international cooperation "does not rest solely with the Patent Offices or the Governments, but must be shared by inventors, attorneys, industry and all who use or profit from the system."

Areas for International Cooperation

The long range goal of the United States in the international patent field is the development of an international system under which a single patent would be effective in many countries. This is not a utopian goal. It is sufficient to point to the Nordic patent system which is scheduled to come into effect this year and the carefully drafted European Patent Convention which is under consideration.

As initial steps directed toward the solution of the fundamental patent problems of developed countries, the United States, primarily through the Patent Office of the Department of Commerce and in coordination with the Department of State, is developing programs along three lines:

- (1) cooperation between patent offices in the field of documentation;
- (2) the exchange of search results and other information concerning corresponding patent applications;
- (3) the harmonization of laws and procedures with other countries.

In the field of documentation, the United States Patent Office participates most actively in the International Committee on Information Retrieval Among Examining Patent Offices, known as ICIREPAT. ICIREPAT programs are directed toward the development and maintenance of mechanical search systems for shared use by the member countries. Most

examining countries participate in ICIREPAT activities and a number of systems have already been adopted for shared use.

Further, the U. S. Patent Office is well along with its study of the feasibility of the United States adopting the International Patent Classification established by the European Convention on the International Classification of Patents for Inventions. The adoption of the International Patent Classification would greatly facilitate international cooperation in the field of mechanized searching and, perhaps more importantly, it would be a stepping stone in the path toward our long-range goal in the international patent field.

If we are to make progress toward the resolution of some of the immediate problems in the international patent field and also toward our long-range goal, then the requirement of effective documentation must be met. Some national patent offices today have comprehensive search files. However, since the cost of maintaining an up-to-date worldwide search file is substantial, it is likely that only a rather limited number of patent offices will be willing to pay the cost of maintaining such a file. Fortunately there is a central search office which expects to be able to handle the searching requirements of those patent offices which do not have a world-wide search file, namely the International Patent Institute at The Hague. This will enable patent offices with limited search files to participate in cooperative programs of exchanging patent information among various patent offices. Looking toward the future, the Institute is actively studying how a thorough search of world-wide literature can best be carried out, taking into account all factors, including that of languages.

Also in the field of documentation, the U. S. Patent Office is cooperating with the secretariat for the Paris Convention, BIRPI, in studying the feasibility and desirability of establishing a World Patent Index which would correlate corresponding patents and applications for patents in different countries. The index would be of primary value to industry, but might also be of assistance in the proper maintenance of patent office search files.

In the area of exchanges of search results and other information between examining patent offices, the U. S. Patent Office and the German Patent Office have been exchanging search results on a trial basis on 1000 corresponding applications filed in each country. The exchange has been completed and the results are currently being utilized and evaluated in both Patent Offices.

The United States is presently considering arrangements for similar exchanges with a limited number of interested countries. Should such exchanges prove successful these bilateral arrangements might be broadened to cover multilateral exchanges among a number of countries and thus further eliminate duplication of effort among examining patent offices.

These exploratory exchanges of search results are, of course, only the first step of several that could be taken toward the development of a truly international patent system. However, the important thing is that this first step is being taken. Further steps which could evolve into an international system were spelled out in U. S. Patent Commissioner Brenner's speech on the International Day program of the 175th Anniversary of the U. S. Patent System. But, as the Com-

missioner noted, it would be possible to omit some of these steps and thus "leap frog" into a type of international system such as the proposed Nordic Patent System, which provides for mutual recognition of patents granted by the national patent offices.

The possibilities for progressing toward an international patent system with a central office, or regional offices for groups of countries, will be greatly enhanced if there is a substantial degree of harmonization of the laws and procedures of the developed countries.

It is recognized that harmonization will be a difficult task since the patent laws in most countries are deep-rooted. On the other hand, a number of countries today, including the United States, are taking a long and hard look at their patent laws not only in terms of their domestic interests but also with an eye on the laws and proposed laws of other countries from the viewpoint of harmonization. There is a practical and realistic basis for the interest of the United States in harmonization. The United States does not want to be isolated from the mainstream of international patent developments.

One instrument of international patent harmonization is already in existence, that is, the Council of Europe's Convention on the Unification of Certain Points of Substantive Law on Patents for Invention. Although no government has ratified this convention to date, it is believed to be a significant milestone on the road to harmonization. If and when the Convention does come into force, the Council of Europe can thereafter invite any Member State of the Paris Convention to accede to it. Further, a country may, of course, harmonize its patent law with the principles set forth in the Council of Europe Convention without acceding to it. Thus, the Nordic Patent System is in accord with this Convention. The Convention also might become the starting point for an effort to negotiate a new international patent agreement.

The United States Patent Office is presently making a number of important studies of its patent law and procedures in relation to harmonization with foreign laws and procedures, including a comparative analysis of the U. S. patent law and the Council of Europe Convention. Joint studies on harmonization are planned with foreign patent offices. Such studies also might very usefully be carried out on a multilateral basis through the secretariat for the Paris Convention, BIRPI.

Particular mention also should be made of the very important work and studies being undertaken in the United States by the President's Commission on the Patent System created by Executive Order 11215 of April 10, 1965. The preamble to the Executive Order stresses, among other things, the necessity for the United States Government taking "a leading role in international cooperation for the protection of industrial property." The work of this Commission will be of great assistance to the Government not only as regards domestic goals but also U. S. foreign policy objectives in the international patent field.

Patent Problems of Developing Countries

Although the developing countries are confronted to some degree with the same problems of the industrialized nations in the international patent field, the more immediate prob-

lems of developing countries are related to their interest in and need for technology. These countries know that technology is an important element in economic development and that much of it is protected by patents owned by firms in the industrialized nations.

Developing countries have been most concerned about the effect that patents may have on the transfer of technology from industrialized nations. In this connection, a number of developing countries introduced a resolution in the General Assembly of the United Nations in 1961 asking the Secretary-General to undertake a study on this subject. In 1964 the Secretary-General issued a comprehensive and useful report on the subject which emphasizes that "the question of patents can be best seen in the broader context of facilitating the transfer of technology, patented and unpatented, to the developing countries, and enhancing the ability of the latter to adopt and use such foreign technology in the implementation of their development programmes."

In June 1964, the United Nations Conference on Trade and Development approved a recommendation on the "transfer of technology" which, among other things, called on industrialized countries to encourage the holders of patented and non-patented technology to facilitate the transfer of such technology to developing countries. As a matter of policy, the U. S. Government recognizes that the transfer of technology to developing countries is essential to the economic growth of these countries. Most American technology is privately owned and in this connection it is important to note that under the Government's bilateral foreign assistance program, encouragement is given not only to the transfer of patented and unpatented technology to developing countries, but, in addition, of goods and capital. This transfer is encouraged through United States guarantee insurance for investments in developing countries, Government grants for surveys of investment needs and opportunities, and Government grants and loans to these countries. Further, the Department of Commerce provides direct assistance to foreign businessmen seeking United States investment participation, technical assistance and licensing arrangements. In addition, provisions in various tax treaties concluded by the United States with developing countries are designed to provide favorable treatment to payments for the use of patents and related technology.

The importance of patents to the economic growth of developing countries, which has been highlighted in the United Nations report and other studies, undoubtedly has been a factor in stimulating a number of countries to undertake or consider a revision of their patent laws. As a matter of general policy, the United States Government has pointed out to these countries that revisions tending to restrict or reduce the value of patent rights could have an adverse effect on the ability of the country to attract foreign investment and facilitate the inflow of technology. And the U. S. Government has continued to emphasize the real importance of foreign investment as a direct cause and stimulus for technological development and economic growth.

At the same time, the Government recognizes that particular countries may revise their patent laws in order to meet

their specific needs. The United States Government has on occasion commended to developing countries for consideration the BIRPI "Model Law for Developing Countries on Inventions." In this connection, we have noted that the "Model Law Committee," composed of representatives of twenty-two developing countries, adopted a recommendation which, among other things, expressed the view that the Model Law "respects the special needs of developing countries and represents a useful model for legislation in these countries."

The Government believes that private interests in the United States also have a role to play in this area. Many members of the patent bar who are associated with companies doing business in developing countries are familiar with the needs and problems of these countries in relation to patents. It is hoped that the bar will be active in devising various ways and means of meeting the needs and resolving the problems of developing countries so that they will not turn to restrictive legislation in the patent field.

In conclusion, it is clear that we are in a period of "creative ferment" in the international patent field — to use the descriptive phrase of the recent conference of the National Association of Manufacturers on world patent systems. What the effect of this "creative ferment" will be on the patent system is uncertain. As far as the United States Government is concerned, its policies in the international patent field reflect the belief that the patent system has been and will continue to be an important element in the economic growth not only of the United States but of the world at large. The universality of modern patent laws which are not limited by geography, politics, or economic systems suggest that many other nations share this view. But there are extremely complex problems that we must face up to in the years ahead. And these problems which directly affect the aspirations of both developed and developing countries cannot be solved by governments alone. As indicated earlier, it is believed that responsibility for dealing with these problems also rests with the legal profession and with industry. Their advice and assistance is wanted and needed. If the international community, including governments and private interests in the developing and developed countries, can cooperate in resolving these problems, the patent system will continue to play a very important role in the economic development of all nations.

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BERTIN (André). *Secret en matière d'inventions (Le)*. Paris. Publishers: Ed. du Tambourinaire/Entreprise moderne d'édition, 1965. - 158 p.

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- FEIGEL'SON (V. M.). *Patentnyi formulir*. Moscow, Tsentral'nyi nauchno-issledovatel'skii Institut patentnoi iuformatsii, 1964. - 72 p. Collab. V. N. Bakastov.
- *Sostavlenie eksperntogo zakliuchenii pri proverke obiektoy tekhniki na patentnuu chistotu*. Moscow, Tsentral'nyi nauchno-issledovatel'skii Institut patentnoi informatsii, 1964. - 30 p. Collab. V. N. Bakastov.
- HEMMERLING (Joachim). *Mit den Neuerern zum wissenschaftlich-technischen Höchststand*. Berlin, Staatsverlag der DDR, 1965. - 632 p.
- KOMITET PO DELAM IZOBRETIENII I OTKRITII (PRI SOVETE MINISTROV) SSSR. *Polozhenie o promyshlennikh obraztsakh - Instruktsiia po sostavleniiu zaiavki na promyslennyi obrazets*. Moscow, Tsentral'nyi nauchno-issledovatel'skii Institut patentnoi informatsii, 1965. - 20 p.
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- MARDEN (Ethel C.). "Haystug", *A mechnized system for searching chemical information*. Washington, Government Printing Office, 1965. - 57 p. National Bureau of Standards, Technical Note 264.
- ORNSTEIN (Léonard). *Computer Learning and the Scientific Method: A Proposed Solution to the Information Theoretical Problem of Meaning*. Baltimore, Journal of the Mount Sinai Hospital, 1965. - 58 p. Extr. Joural of the Mount Sinai Hospital, July-August 1965, pp. 437 to 494.
- PHARMACEUTICAL MANUFACTURERS ASSOCIATION. *Story (The) of the United States Patent Office with a special supplement: Patents in unction*. Washington, Pharmaceutical Manufacturers Association, 1965. - 51 p.
- PINNER (H. L.). *World Unfair Competition Law, An Encyclopedia*. Leyden/Brussels, Sijthoff/Larcier, 1965. - 2 Vol. (1008 p.). The Protection of Intellectual and Industrial Property throughout the World. Collab. Louis A. de Pinna.
- RANGEL MEDINA (David). *Tendencias actuales para armonizar las leyes de propiedad industrial de los países latino americanos*. Washington, s. n., 1965. - 11 p. Conferencia mundial de Washington sobre la paz mundial mediante el derecho (September 12-18, 1965).
- RONGA (Giulio). *Classificazione internazionale dei disegni o modelli industriale (La)*. Milan, A. Giuffrè, 1965. - 13 p. Extr. "Diritto di Autore", No. 1, January/March 1965, pp. 1-13.
- SVENSKA SLÖJDFÖRENINGEN. *Upphovsrätligt skydd för Brukskonst. Copyright protection of applied art*. Stockholm, Björkmans, 1965. - 239 p.
- UZCATEGUI URDANETA (Mariano). *Invencción y Patente de Invencción en el Derecho venezolano*. Caracas, Ediciones Casuz, 1965. - 143 p.
- VONARBURG (Josef). *Lehre von der patentbegründenden Wirkung des technischen Effekts und deren Anwendung auf das schweizerische Recht (Die)*. Fribourg, Universitätsverlag, 1965. - 77 p.
- ZIMMERMANN (P. A.). *Putentwesen in der Chemie. Ursprünge, Anfänge, Entwicklung*. Ludwigshafen am Rhein, BASF, 1965. - 155 p. Pref. Hermann Kleber.

Mönsterskydd [Protection of Designs]. Report of the Royal Commission on Desigus and Related Matters, *Statens Offentliga Utredningar* 1965: 61. One volume, 415 pages, P. A. Norstedt & Söner, Stockholm, 1965. (In Swedish)

This report is the report of the "Commission on Designs" appointed in 1958 by the Minister of Justice of Sweden to propose legislation on designs and related matters. Professor Seve Ljungman was appointed President of the Commission.

The work was carried out in collaboration with the appropriate Danish, Finnish and Norwegian authorities. The meetings of the corresponding Scandinavian commissions resulted in practically uniform proposals for new Design legislation to be adopted by each of these four countries. However, for the moment only the Swedish report has been published.

The Commission submitted its proposals on October 12, 1965, for an entirely new law on designs — instead of the present, very antiquated Design and Model Act of 1899 — and for the amendment of the Law on Copyright in literary and artistic works of December 30, 1960, together with explanatory statements.

The proposed law on Designs has been drafted, taking into consideration the recent Scandinavian legislation in the field of copyright and trademarks and above all the Scandinavian draft Patent Law.

The Commission defines designs capable of protection as "prototypes embodying the appearance of a product or of an ornament." It should be noted, that this definition includes protection of designs with a pure technical effect, provided that such effect is connected with the outer appearance of the product. On the other hand, protection of a technical idea in the same way as the German *Gebrauchsmuster*, is rejected by the Commission.

As general conditions for the protection of designs the draft requires a) designing activity (not only of an artistic kind), b) registration of the design and c) that the design appears to be new from an objective point of view, and that it essentially differs from the state of the art known before the application for registration.

As regards the procedure for registration it is proposed that the Patent Office shall remain the registration authority. However, the novelty examination is proposed to be at least provisionally limited to registered designs and applications pending in Sweden as well as to published applications for registration in Denmark, Finland and Norway. This examination should not take more than one or two months. After the examination the application shall be published. Publication shall include a reproduction of the design; notice of opposition to the application may be made to the Pateut Office within two months.

The extent of the protection afforded to designs is defined as follows: Nobody may unlawfully exploit the design for commercial use by manufacturing, importing, offering for sale, assigning or hiring goods which do not essentially differ from the design in question or which incorporate the design. The protection, however, only extends to goods in respect of which the design has been registered and similar goods. It is proposed that the term of protection be 15 years, divided into three periods of five years. Renewal of registration must be made for each period.

Infringements can result in fines or in imprisonment for a maximum period of six months as well as damages.

Concerning the amendment of the Copyright Law the Commission has proposed the maintenance of what is called *double protection*, that is, that the copyright in a work shall subsist even if the work is registered as an industrial design. The Commission also proposes that the copyright term of protection for artistic handicraft and industrial art shall be extended from the present ten years after dissemination to the normal term of protection for literary and artistic works, namely the lifetime of the author plus fifty years.

The draft of the Commission, if adopted, will enable Sweden to adhere to the Lisbon Act of the Paris Convention. The Commission has only dealt with the question of an accession to The Hague Agreement of 1925 in so far as it does not recommend such an accession. L. F.

CALENDAR

Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
May 2 to 5, 1966 Geneva	Committee of Experts Designs Classification	To establish a Draft new Agreement	All Member States of the Paris Union	Unesco; Council of Europe; International Association for the Protection of Indus- trial Property; International Chamber of Commerce; International Literary and Artistic Association; International Feder- ation of Patent Agents; Inter-American Association of Industrial Property
May 6 and 7, 1966 Geneva	<i>Ad hoc</i> Conference of the Directors of National In- dustrial Property Offices of the countries members of the Madrid Union	Adaptation of the Regula- tions of the Madrid Agree- ment, Nice Act (Trade- marks)	All Member States of the Madrid Agreement (Trade- marks)	Same observers as at the meeting in December, 1965
May 16 to 27, 1966 Geneva	Second Committee of Gov- ernmental Experts on Ad- ministration and Structure	To study drafts in view of the Stockholm Conference of 1967	All Member States of the Paris and Berne Unions	United Nations; World Health Organiza- tion; International Labour Organization; Unesco; International Patent Institute; Council of Europe; Organization of American States; European Economic Community; European Free Trade Asso- ciation; Latine American Free Trade Association; International Association for the Protection of Industrial Prop- erty; International Chamber of Com- merce; Inter-American Association of Industrial Property; International Fed- eration of Patent Agents; International Literary and Artistic Association; Inter- national Bureau for Mechanical Repro- duction; International Confederation of Societies of Authors and Composers; International Writers Guild
May 30 to June 6, 1966 Madrid	Hispano-American Meeting on Copyright: Session on Legal Studies, convened by the Institute of Hispanic Culture, under the auspices and in collaboration with BIRPI	The study of legal and ad- ministrative problems for the protection of copyright in Hispano-American coun- tries	Experts invited in their personal capacity from the following countries: Argen- tina, Brazil, Chile, Colom- bia, Ecuador, Mexico, Peru, Spain, Venezuela	Unesco; International Confederation of Societies of Authors and Composers; Inter-American Institute of International Legal Studies
September 26 to 29, 1966 Geneva	Interunion Coordination Committee	Program and Budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Morocco, Nether- lands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, Union of So- viet Socialist Republics, United Kingdom of Great Britain and Northern Ire- land, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union; United Nations
September 26 to 29, 1966 Geneva	Executive Committee of the Conference of Representa- tives of the Paris Union (2nd Session)	Program and Budget (Paris Union)	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Ja- pan, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, Union of Soviet Socialist Repub- lics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union; United Nations
October 30 to November 4, 1966 ¹⁾ Budapest	East/West Industrial Prop- erty Symposium	Discussion of practical questions of industrial property	Open. Registration required (application form enclosed in this issue)	

¹⁾ The date announced in the January issue has been changed to the date indicated above.

Date and Place	Title	Object	Invitations to Participate	Observers Invited
November 7 to 11, 1966 Geneva	Committee of Experts on a Model Law for Trademarks	To draft a Model Law on Trademarks for developing countries	List to be announced later	List to be announced later
December 13 to 16, 1966 Geneva	<i>Ad hoc</i> Conference of the Directors of National Industrial Property Offices and Committee of Directors of the Madrid Union	Adoption of the Transitional Regulations of the Madrid Agreement (Trade-marks)	All Member States of the Madrid Agreement (Trade-marks)	All other Member States of the Paris Union

Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
Paris	March 25, 1966	International Literary and Artistic Association (ALAI)	Executive Committee and Annual General Assembly
Paris	March 28 to April 2, 1966	International Confederation of Societies of Authors and Composers (CISAC)	Legislative Committee, Confederal Council, Federal Bureaux
Tokyo	April 11 to 16, 1966	International Association for the Protection of Industrial Property (IAPIP)	Congress
Stresa	May 3 to 7, 1966	International Federation of Musicians (FIM)	6 th Ordinary Congress
Prague	June 9 to 18, 1966	International Confederation of Societies of Authors and Composers (CISAC)	Congress
The Hague	October 10 to 21, 1966	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	6 th Annual Meeting

VACANCY FOR THE POST OF A DEPUTY DIRECTOR AT BIRPI

Applications are invited for the above post which will become vacant as from January 1, 1967.

The duties of the post consist, in general, of assisting the Director of BIRPI in organizing and implementing the tasks of BIRPI.

Candidates should have wide experience in the field of industrial property law and in the field of copyright law — particularly in their international aspects — or at least in one of these two fields, preferably with some experience in the other. A University degree in law or equivalent professional qualification and an excellent knowledge of one of

the official languages (English and French) as well as at least a good knowledge of the other are required. Knowledge of additional languages is an advantage.

Candidates must be nationals of one of the Member States of the Paris Union or of the Berne Union.

Full information regarding the conditions of appointment and application forms may be obtained from the Head of Personnel, BIRPI, 32, chemin des Colombettes, Geneva, Switzerland. Application forms duly completed should reach BIRPI not later than June 15, 1966.