

Industrial Property

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INTERNATIONAL UNIONS

Madrid Union

Invocation of Article 3^{bis}

UNITED ARAB REPUBLIC

According to a communication received from the Swiss Federal Political Department, the following note has been 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 September 1, 1966, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Embassy of the United Arab Republic in Berne has, with reference to the adhesion of that State to the Madrid Agreement concerning the International Registration of Trademarks of April 14, 1891, as last revised at Nice on June 15, 1957, informed the Political Department that its Government invokes the benefits of Article 3^{bis} of this Agreement.”

Nice Union

Adhesion to the Nice Agreement

for the International Classification of Goods and Services to which Trademarks are Applied

MOROCCO

According to a communication received from the Swiss Federal Political Department, the following note has been 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 September 1, 1966, the Swiss Embassy, has the honour to inform the Ministry of Foreign Affairs that in a note dated July 25, 1966, the Embassy of the Kingdom of Morocco in Berne deposited with the Swiss Government a declaration of adhesion by Morocco to the Nice Agreement for the International Classification of Goods and Services to which Trademarks are Applied of June 15, 1957.

“In conformity with Article 16 of the Paris Convention for the Protection of Industrial Property, to which Article 6 (3) of the Nice Agreement refers, this adhesion will take effect on October 1, 1966.”

* * *

This adhesion will bring the Membership of the Nice Union to 20 countries.

LEGISLATION

AFRICAN AND MALAGASY INDUSTRIAL PROPERTY OFFICE (OAMPI)

I

Regulations Concerning Industrial Designs *)

The Governing Body of the African and Malagasy Industrial Property Office,

Considering the *Accord* relating to the creation of the above-mentioned Office, signed at Libreville on September 13, 1962, and in particular Article 13 which stipulates that the Governing Body “shall draw up the regulations necessary for the application of the present *Accord* and its Annexes”;

Considering Article 24 which empowers the Office to determine the date of coming into force of the Annexes;

Considering Annex III of the *Accord* relating to Industrial Designs;

Considering Annex IV of the said *Accord* relating to miscellaneous provisions;

Adopts the following Regulations:

Article 1

The application of Annex III concerning Industrial Designs is governed by the following provisions:

TITLE I

The Application for Deposit

Article 2

(1) The application provided for in Article 5 of Annex III referred to above concerning the deposit of industrial designs shall be drawn up on the form prescribed by the Office.

(2) The application shall be filed in four copies.

Article 3

(1) The application for deposit shall contain:

- (a) the name, given names, and domicile, of the depositor, or, in the case of a legal entity, its name and its headquarters;
- (b) when applicable, the name and address of the agent having the power to make the deposit, and the date of the power of attorney referred to in Article 5, below;
- (c) the number and the nature of the deposited designs, and the serial number attributed to them;
- (d) the serial numbers of the designs to which explanatory statements are attached in conformity with Article 8, below;
- (e) the designs for which the publicity provided for in Article 9 of Annex III referred to above has been requested, with or without maintenance in force of the deposit for a term of 20 years;

*) BIRPI translation.

- (f) the amount transferred to the Office for the fee for deposit, for the fee for each design, and, where applicable, for the fee for publicity, and the maintenance fee up to 20 years, the method of transfer, as well as the date and the number of the document certifying payment;
- (g) the list of the items deposited in support of the application.

(2) The application shall be accompanied by the following:

- (a) the sealed envelope or package referred to in Article 5 of the said Annex;
- (b) when applicable, the power of attorney of the agent;
- (c) when applicable, the document attesting payment of the required fees.

(3) The application for deposit shall be dated and signed by the applicant, or, if there is an agent, by the latter. The signature shall be preceded by a note indicating whether it is that of the depositor or his agent, and, in the case of a legal entity, by a note indicating the functions of the person affixing the signature.

Article 4

(1) Any application filed by a woman who is married, widowed, or divorced, shall indicate the maiden name and the given names of such woman after the name of the husband, in the following form: Mrs. X..., born Y...

(2) Where the deposit is effected by several persons jointly, the indications provided for in Article 3, paragraph (1) (a), shall be furnished in respect of each of them.

If no agent has been appointed, all official communications shall, unless otherwise stated, be sent to the person indicated in the first place.

Article 5

The power of attorney of the agent referred to in Articles 3, 13, 27, and 33, of the present Regulations shall indicate the name, given names, and domicile, of the applicant, or, in the case of a legal entity, its name and headquarters, as well as the name of the agent.

The power of attorney shall be dated and signed by the depositor. In the case of a legal entity, it shall indicate the functions of the person affixing the signature.

TITLE II

Sealed Envelope - Pictures or Specimens of Designs

Article 6

(1) The deposit of a three-dimensional design (*modèle*) may be effected either in the form of a graphic or photographic picture or in the form of a specimen.

The same three-dimensional design may not be deposited in both forms. If it is still, however, deposited in both forms, it shall be presumed that the depositor gives priority to the deposit made in the form of a specimen.

(2) The sealed envelopes or packages containing, in duplicate, the pictures or specimens of the designs accepted for deposit may not exceed 30 centimeters in any dimension and may not weigh more than 2 kilograms.

Article 7

(1) The two-dimensional designs (*dessins*) as well as the graphic pictures of three-dimensional designs referred to in Article 5 of Annex III referred to above shall, as far as possible, be drawn in ink, with neat black lines on bristol board, or other white paper which is strong and smooth, permitting photographic reproduction.

(2) The designs and the graphic or photographic pictures may not measure less than 8 centimeters on any side, and may not be larger than 21×27 centimeters. They shall be presented either on a flat sheet, or in the form of a roll; they shall not be folded.

(3) The deposit shall not contain more than two copies of a single sheet of paper for each design or picture of a three-dimensional design. If the applicant presents more than two, he shall be requested to indicate the picture to be kept as a deposit.

(4) The depositor shall place, on the verso of the design or the picture of the design, in the right upper corner, his signature and, in the case of a multiple deposit, the serial number.

The serial numbers shall be consecutive, without repetition or interruption.

When a three-dimensional design is deposited in the form of a specimen, the indications referred to above shall appear on a label attached to the object.

Article 8

An explanatory statement, in duplicate, may be attached to the design, picture, or specimen deposited in a sealed envelope or package; the text of such statement shall be written on one side only of a piece of paper measuring 21×27 centimeters.

This optional statement shall indicate what is new in the design, and may not contain any description or any indication as to the use and functioning of the design.

In the case of a multiple deposit, each explanation shall refer to only one design, whose serial number it shall indicate.

TITLE III

The Deposit

Article 9

(1) When the design is deposited, according to Article 3 of the above-mentioned *Accord*, with the Registrar (*greffe*) of the Civil Tribunal, the Registrar shall verify:

- (a) whether the application is written on the required form;
- (b) whether it contains the name and domicile of the depositor and the number and nature of the deposited objects;
- (c) whether it is accompanied by a sealed envelope or package containing the deposited design or designs and showing itself the name and address of the depositor.

The Registrar shall draw up the minute of the deposit only if the above-mentioned requirements have been complied with.

(2) The minute of the deposit shall be noted on each copy of the application, in the manner indicated in Article 6 of Annex III, above.

The Registrar shall indicate the day and hour of the deposit, as well as the serial number of the minute, and shall affix his signature and his seal.

He shall inscribe these indications on the sealed envelope or package.

(3) One of the copies of the application for deposit shall be given, as a certificate, to the depositor, or, if he has an agent, to the latter; another copy shall be filed in the archives of the Registrar's Office, the two remaining copies shall within five days from the date of the minute be transmitted to the Office by registered mail at the expense of the depositor together with the sealed envelope or package, and, when applicable, the power of attorney of the agent, as well as the document certifying the payment of the required fees.

Article 10

(1) When the design is deposited directly with the Office, as indicated in Article 3 of the above-mentioned *Accord*, the Office shall proceed to the verifications provided for in paragraph (1) of Article 9, above.

It shall draw up a minute concerning the deposit, only if the prescriptions indicated in the said paragraph have been complied with.

(2) The minute concerning the deposit shall be inscribed, in the manner provided for in Article 3 of Annex III referred to above, on each of the copies of the application. The Office shall indicate the day and hour of the deposit, and shall affix its signature and seal.

The above indications shall be inscribed on the sealed envelope or package.

(3) One copy shall be handed over or sent to the depositor, or, when applicable, to his agent, as a certificate of deposit.

Article 11

The fees provided for in Article 14 of Annex III referred to above and, where appropriate, the fees for publicity or for maintenance shall be transferred by the applicant to the Office no later than at the time of the deposit according to the procedure provided for in the Regulations concerning fees.

TITLE IV

Registration of the Deposit

Article 12

(1) The Office shall proceed to the examination provided for in Article 7 of Annex III referred to above.

(2) If the deposit is found to be in order, or has been put in order by the applicant, in conformity with paragraph (3) of the said Article, it (the deposit) shall be registered as of the date on which it was made.

A registration number, and the signature and seal of the Office, shall be affixed on each of the copies of the application, as well as on the sealed envelope or package.

(3) One of the copies of the application shall be handed over or sent to the applicant, or, when applicable, to his agent, as a certificate of registration.

Another copy shall be inserted in the Special Register of Designs (*Registre spécial des dessins ou modèles*).

TITLE V

Publicity of the Deposit

Article 13

(1) The publicity provided for in Article 9 of Annex III referred to above must be requested either in the application for deposit, or later, within a period of 5 years from the registration of the deposit.

The request shall be drawn up according to the model appearing in the Annex of the present Regulations.

(2) In the latter case, the request, in duplicate, shall be signed by the registered proprietor of the deposit, or his successor at law, or, when applicable, by the agent, and shall be handed over to the Office or sent to it by registered mail with an acknowledgment of receipt, in duplicate.

The request for publicity shall indicate:

- (a) the name, given names, and domicile, of the registered proprietor of the deposit, or his successor at law, or, in the case of a legal entity, its name and its headquarters;
- (b) where applicable, the name and address of the agent having a power of attorney to file such request;
- (c) the place and date of the deposit and the registration number of the same;
- (d) the number, and the serial numbers, of the designs for which publicity is requested with or without maintenance of the deposit for 20 years;
- (e) the amount transferred to the Office for the publicity fee and, when applicable, the maintenance fee; the mode of transfer, and the date and number of the document certifying payment.

(3) (a) When the request is filed by a successor at law it must be supported by evidence showing the title of such successor at law.

(b) When applicable, it shall be accompanied by the document certifying payment of the required fees.

Article 14

The request for publicity shall be registered by the Office.

The request shall be indicated on the application for deposit inserted in the Special Register of Designs.

Article 15

(1) Sealed envelopes and packages shall be opened [only] by the Office.

(2) If, after opening, it is found that the deposit is null and void, according to Article 3 of Annex III referred to above, because the design has been filed in one copy only or in two dissimilar copies, this fact shall be indicated on the request and the application for deposit.

The person who has signed the request shall be advised accordingly by registered mail.

The procedure provided for in this paragraph shall be followed also in the case where the deposit contains more than 100 designs. The person who presented the request shall be invited to designate those designs which shall not be considered as having been validly deposited.

Article 16

When it is found that the procedure prescribed by Article 5 of Annex III referred to above has been duly observed, in particular that the two copies of the designs for which publicity has been requested are identical, the copy to be communicated to the Tribunal, according to Article 27 of the said Annex, shall be photographically reproduced.

Thereafter, this operation shall be indicated on the said copy and the same shall be placed again in the envelope containing the second copy possibly destined for communication to the public.

Article 17

(1) The copies which are made public at the Office, according to the provisions of Article 10 of Annex III referred to above, shall contain the following indications: the place and date of the deposit, the name, given names, and domicile, of the depositor, the registration number of the deposit at the Office, and the date from which the prints have been laid open for public inspection.

When applicable, the prints shall be accompanied by the explanatory text provided for in Article 8, above.

(2) The communication, at the Office, of the prints made public, or of the second copy of the design kept in the archives, shall take place under the supervision of an official of the Office.

Article 18

Requests based on Article 10, paragraph (3), of Annex III referred to above for the issuance of a certificate containing a photographic print of a design and indicating the publicity of the deposit (certificate of identity) shall be accompanied by evidence of the title of the person requesting such certificate.

Photographic prints indicating the registration number of the deposit of the published design may be furnished to third parties by the Office.

Article 19

The publication provided for in Article 12 of Annex III referred to above shall be effected in the *Official Bulletin* (*Bulletin officiel*) of the Office.

TITLE VI

Maintenance of the Deposit

Article 20

(1) A request for maintaining the deposit for 20 years, as provided in Article 8 of Annex III referred to above, may be presented either in the application for deposit containing a request for publicity, or at any time before the expiration of the 5 years' period counted from the registration of the deposit, or within 6 months of such expiration date.

The request shall be drawn up according to the model appearing in the Annex to this Regulation.

(2) In the last two cases, the request shall be signed by the depositor or his successor at law, or, when applicable, by the agent, and shall be handed over to the Office or sent to

it by registered mail with acknowledgment of receipt, in duplicate. It shall contain the following indications:

- (a) the name, given names, and domicile, of the proprietor of the deposit or his successor at law, or, in the case of a legal entity, its name and headquarters;
- (b) when applicable, the name and address of the agent having a power of attorney to present such request;
- (c) the date of the deposit and the registration number at the Office;
- (d) in the case of a multiple deposit, the number, the nature, and the serial numbers of the designs whose maintenance is requested;
- (e) the amount transferred to the Office for the maintenance fee, the method of transfer, and the date and number of the document certifying payment.

(3) (a) If the request is signed by a successor at law, it must be accompanied by evidence showing the rights of such successor at law.

(b) It shall be accompanied, when applicable, by a document certifying the payment of the required fees.

Article 21

The request for maintenance shall be registered by the Office. The request shall be indicated in the application for deposit inserted in the Special Register of Designs.

Article 22

The Office shall proceed to the publication of the design whose maintenance has been requested in conformity with Articles 16, 17, and 18, above.

TITLE VII

Restitution of Deposits and Renunciation

Article 23

Designs the protection of which has expired at the end of the first or the second period shall be restituted to their proprietors at their request and at their expense.

If they are not requested within two years of the expiration of the protection, the designs shall be destroyed.

Article 24

(1) Depositors or their successors at law may at any time renounce their deposits either in their entirety or in part by means of a declaration addressed to the Office.

(2) If the declaration is signed by a successor at law, it shall be accompanied by evidence showing the right of the successor at law. If the renunciation is made by an agent, the declaration must be accompanied by a power of attorney specially authorizing renunciation.

(3) The declaration shall contain the indications provided for in subparagraphs (a), (b), and (c), of Article 20, above, and, in the case of a multiple deposit, the serial numbers of the renounced designs.

(4) The renunciation shall be recorded in the Special Register of Designs and, if the design was the object of the publicity provided for in Annex III referred to above, it shall be publicized in the *Bulletin Officiel* of the Office.

(5) Renunciations shall entail the destruction of the picture or specimen of the deposited design whenever its restitution is not requested in the declaration.

TITLE VIII

Communication of Deposits to the Tribunals

Article 25

(1) Whenever a Tribunal before which a lawsuit is in course wishes to obtain, in conformity with Article 27 of Annex III referred to above, communication of a copy of a design which has already been published, the President of the Tribunal shall address a written requisition to the Director of the Office.

The latter shall send, in a sealed envelope, to the Registrar of the Tribunal the copy reserved for this purpose, accompanied by a certificate indicating the date of the deposit and the date of publication of the design.

(2) Designs thus communicated shall be sent back to the Office as soon as possible.

(3) When the competent Tribunal authorizes the experts to receive communication of the copy of the design at the Office, such experts shall address to the Director a request accompanied by a copy of the decision by which they have been designated.

The Director shall return this copy to the experts and shall inform them at the same time of the date when the required communication shall be effected.

The communication shall take place under the supervision of an official of the Office. After having been examined by the experts, the design shall be placed again in a sealed envelope.

TITLE IX

Special Register of Designs

Article 26

The Special Register of Designs set up under Article 16 of the Annex referred to above shall contain the following indications:

- (a) applications and acts whose registration is provided for in the said Article 16 and in Article 24 of these Regulations;
- (b) the termination of protection of designs in one of the member States on the basis of a judicial decision if such decision has been notified to the Office;
- (c) in general, all notifications concerning the ownership of designs;
- (d) a request for publicity and maintenance of designs, as well as the date on which they were laid open to public inspection;
- (e) changes in the addresses of the depositors, assignees, or licensees, of designs, if such changes have been notified to the Office.

Article 27

Requests for entries and cancellations shall be handed over to the Office or shall be sent to it by registered mail with acknowledgment of receipt. They shall contain the in-

dication of the name, given names, and domicile, of the depositor, or of the agent (if any) who has got a power of attorney to sign the request, and the amount of the fees transferred to the Office, the mode of transfer, and the date and number of the document certifying payment.

These indications shall be accompanied by the items provided for in Articles 28 and 29, below, and, when applicable, by a document certifying payment of the required fees.

Article 28

(1) Each entry concerning any of the operations referred to in Article 16 of Annex III referred to above shall be effected once an original, duly registered copy of the act has been deposited; and, if the act was signed by the parties only (without legalization), once the attestation showing its authenticity has been deposited; and, when the change has occurred by way of succession, once the required notarial certificate or inventory has been deposited.

(2) Entries concerning the cancellation of mortgages shall be effected once either the original, duly registered, copy of the cancellation of the mortgage, or an official copy of the final court decision, has been filed.

Article 29

Two data sheets (*bordereaux*) established on forms prescribed by the Office, shall accompany each request for an entry or denunciation. They shall contain the following indications:

- (a) the name, given names, and domicile, of the assignor, *de cujus*, or creditor, and of the assignee, licensee, heir, successor, or debtor;
- (b) the serial number and the date of the registration of the deposit of the design;
- (c) in the case of a multiple deposit, the serial number or numbers of each design;
- (d) the nature and extent of the transferred, or licensed, right, and its duration;
- (e) the date and nature of the act effecting the transfer of property, license, or termination of the right, or the date of the death resulting in the change in ownership;
- (f) when applicable, the amount of the debt indicated in the act, and the conditions concerning interests and the due date of payment of the debt.

The indications contained in the data sheets shall be certified by the parties as being in conformity with the contents of the act in question.

This entry or cancellation shall be effected in the Special Register of Designs in accordance with the indications contained in the data sheets.

A copy of the data sheet and a copy of the act shall be kept in the archives of the Office. The registration shall be indicated on the other copy of the data sheet; it shall then be returned to the applicant.

Article 30

On request, the Office shall issue to any person applying for it either a copy of the entries appearing in the Special Register of Designs or a list of the subsisting entries concern-

ing designs which have been given in mortgage, or a certificate showing that no inscription of this kind exists.

The Office shall likewise issue extracts concerning the address of the owner of designs, of assignees, or of licensees.

TITLE X

Miscellaneous and Transitional Provisions

Article 31

The terms provided for in Annex III referred to above, and in the present Decree, shall be counted from the first day of the period to the last.

When the last day of the term is a legal holiday or a day on which the Office is not open, the term shall be extended to the next following working day.

Article 32

If the applicant fails to pay the entirety or a part of the fees concerning the request for publicity, or maintenance for 20 years, as provided in Articles 13 and 20, above, a term of two months counted from the receipt of the notification by the Office shall be granted to him for paying the overdue fees.

If no payment is effected within this term, the request shall be deemed abandoned. Any amounts paid [after the term of two months has expired] shall be reimbursed to the applicant. The notification referred to above shall be made by registered mail with acknowledgment of receipt.

Article 33

(1) The declaration for maintaining in force the rights resulting from the deposit of designs, provided for in Article 32 of Annex III referred to above, shall be handed over to the Office, or sent to it by registered mail with acknowledgment of receipt, in four copies.

(2) The declaration shall be drawn up on the form prescribed by the Office. It shall be signed by the depositor, or his successor at law, or, when applicable, by the agent. It shall contain the following indications:

- (a) the name, given names, and domicile, of the registered proprietor of the deposit, or, in the case of a legal entity, its name and headquarters;
- (b) when applicable, the name and address of the agent having a power of attorney to request the maintenance in force;
- (c) the place, date, and number, of the deposit of the design;
- (d) in the case of a multiple deposit, the number of the designs contained in the deposit, and the serial number of the designs whose deposit is maintained;
- (e) the dates and serial numbers of the requests for prolongation and for publicity concerning the design, and the date at which it has been laid open to public inspection by the Administration which is the custodian of the deposit;
- (f) when applicable, the request provided for in Article 31 of the above-mentioned Annex concerning the prolongation of the deposit until the end of the total term of protection of 20 years;

(g) the amount of the maintenance fee transferred to the Office, the mode of transfer, and the date and number of the document certifying payment.

(3) The declaration shall be accompanied by the following documents:

- a certificate established by the Administration which is the custodian of the deposit, containing a photographic copy of the design, a copy of the explanatory statement, all the indications concerning the deposit and the requests which were formulated in connection with the same and indicating the date on which it was laid open to public inspection;
- when applicable, the power of attorney of the agent;
- when applicable, the document certifying payment of the maintenance fee.

Article 34

The Office shall register the declaration after having satisfied itself that it is in order as far as its form is concerned, and if the required fee has been paid.

It shall return to the applicant a copy of the declaration showing that it has been registered.

Article 35

If the formalities have not been respected, or if the entirety or a part of the fees have not been paid, a period of two months shall be given to the applicant to put his application in order. This period may be prolonged on request, if the request is justified.

If the application is not put in order within the prescribed term, the declaration shall be rejected.

Article 36

(1) When the request for prolongation provided for in Article 31 of Annex III referred to above is not formulated in the declaration of maintenance of the deposit, it shall be handed over to the Office, or shall be sent to it by registered mail with acknowledgment of receipt, within the term of one year prescribed by the said Article.

(2) The request shall be signed by the depositor, or his successor at law, or, when applicable, by the agent. It shall contain the indications referred to in sub-paragraphs (a), (b), (c), (d), and (e), of paragraph (2) of Article 33.

(3) Designs prolonged for 20 years shall be published in the way provided for in the present Regulations.

Article 37

The day of entry into force of these Regulations and of Annex III of the above-mentioned *Accord* shall be fixed by decision of the Governing Body (*Conseil d'administration*) of the Office as represented by its Chairman.

The term of one year provided for in Articles 31 and 32 of the said Annex shall be counted from that date.

II

Regulations

relating to the Organization and Functioning of the High Commission of Appeals provided for in Article 10 of the Accord of Libreville of September 13, 1962 *)

The Governing Body of the African and Malagasy Industrial Property Office,

Considering the *Accord* relating to the creation of the above-mentioned Office, signed at Libreville on September 13, 1962, and, in particular, Article 10 thereof, setting up a High Commission of Appeals and specifying its organization;

Considering Article 13, which stipulates that the Governing Body "shall draw up the regulations necessary for the application of the present *Accord* and its annexes, especially . . . the regulations relating to . . . the Appeal Commission . . .";

Considering Annexes I, II and III of the said *Accord*,

Adopts the following Regulations:

TITLE I

Designation of the Commission

SECTION I

Members

Article 1

The members of the High Commission of Appeals, established by Article 10 of the *Accord* referred to above, are nominated for two years.

Article 2

The representatives of member States from whom the three members of the Commission, as well as the three substitute-members, are chosen by drawing lots, must be judges or qualified lawyers.

Article 3

(1) The list of representatives shall be drawn up every two years by the Secretariat of the Commission, in accordance with nominations made by member States.

(2) The list shall be submitted to the Governing Body of the Office, at its budgetary session.

If the Governing Body considers that a representative whose name appears in the list does not possess the qualifications required by Article 2, the Council may request the State which nominated this representative to reconsider its nomination.

Article 4

(1) The Governing Body shall, by drawing lots, choose successively the President of the Commission and each of the other members, and their three substitutes.

(2) On any occasion when the President is not available, he shall be replaced in his functions by the first available member of the Commission following him in the order of the drawing of lots.

SECTION II

Experts

Article 5

Legal and technical experts can be designated by the President to act as assistants to the reporters referred to in Article 12, and to give advice upon any matters which may be referred to them.

SECTION III

The Secretariat

Article 6

(1) The Secretariat of the Commission shall be performed by a representative of OAMPI, nominated by the Governing Body. He shall be located at the headquarters of the Office.

(2) He shall centralize procedure, issue the notifications required by the present Regulations, and shall take minutes of the sessions of the Commission and be responsible for its archives.

(3) In the exercise of his functions, the Secretary shall be subject only to the authority of the President of the Commission.

TITLE II

Rejection and Appeal

Article 7

Reasons must be given for every decision to reject an application for a patent or certificate of addition, an application for registration of a mark, the deposit of a design or a declaration for the maintenance of acquired rights, taken by virtue of the provisions of Annexes I, II and III of the *Accord* referred to above; such decisions shall be notified to the applicant or his agent by registered post, with a request for acknowledgment of receipt.

Article 8

The notification shall include a notice to the applicant informing him of his right of appeal and of the procedure governing it, and specifying the period available for submitting the appeal, and the amount of the fee payable.

Article 9

Every appeal shall be made in writing within three months of the receipt of the notification. It must include indication of the grounds of appeal and be accompanied by the amount of the fee for appeal. Amplified statements may be submitted within the periods specified in Article 13.

Article 10

Five copies of the appeal must be submitted, on plain paper, by registered post, with a request for acknowledgment of receipt, to the Secretariat of the Commission at OAMPI.

The Secretariat may request additional copies to be supplied.

Article 11

(1) The appeal will be passed, within eight days of its receipt, to the President of the Commission and to the Director of OAMPI.

*) BIRPI translation.

(2) Within a period of one month calculated from the date upon which it received the appeal, the Office may allow the appeal, if it considers it to be well-founded. It shall notify its decision to the Secretariat of the Commission and to the appellant.

Article 12

If, within the period specified in Article 11, the Office has not allowed the appeal, the President will nominate a member of the Commission to report upon it and, if necessary, will designate one or more experts to assist him.

Article 13

(1) The reporter shall fix the periods for the submission of amplified statements and replies, as well as for supporting documents. These periods may not exceed three months in length.

(2) The Secretariat shall give notice of these periods to the appellant and to the Director of the Office, by registered letter, with a request for acknowledgment of receipt.

TITLE III

Functioning of the High Commission on Appeals

Article 14

If, at the expiration of the periods allowed, an enquiry is necessary, the reporter shall determine its terms and conditions. He may hear the appellant or his representative, as well as the Director or his representative.

Article 15

(1) The High Commission of Appeals shall, if occasion requires, hold one session each year.

(2) The President shall fix the date and place of the session as well as the list of appeals to be dealt with.

(3) The date and place of the session shall be notified, at least two months in advance, to the Director of the Office and to each of the appellants.

The list of appeals shall be similarly notified to the Director.

Article 16

(1) In order to constitute a valid session, the Commission must consist of three members.

(2) The Director or his representative shall be present at the sessions.

Article 17

The sessions of the Commission shall not be in public.

Article 18

The appellant or his representative shall be entitled to state the grounds of appeal orally, if he so requests at least one month before the opening of the session.

He shall be required to attend at the date and time fixed for the examination of his appeal, in respect of which he will have received notice from the Secretariat of the Commission.

Article 19

Following any statement by the reporter and, if necessary, by the experts designated, the appellant, or his representative, shall state his case.

The Director of the Office or his representative shall offer his observations and shall furnish such information and documents as shall be required of him by the Commission.

Article 20

The Commission may order that the examination of the appeal, or the decision, be deferred to a subsequent session.

Article 21

(1) The decision shall be taken on a majority vote, each member being entitled to a single vote.

(2) In its decision, the Commission shall not be bound by the arguments put forward by the appellant and by the Office.

(3) The decision shall be given in writing. It shall give reasons and shall be signed by the President.

(4) It shall, within a period of fifteen days, be notified by the Secretariat to the appellant, as well as to the Director of the Office.

Article 22

Decisions of the Commission are not subject to appeal.

Article 23

When a decision of rejection is annulled, the Office shall proceed to the registration of the deposit or the granting of the necessary title, as well as to the publication specified in the Annexes to the *Accord* and in its executory Regulations.

Article 24

The members of the Commission, as well as substitute-members, nominated experts designated and Office representatives are bound to secrecy as regards all appeals submitted to the Commission.

Article 25

The costs of the functioning of the Commission and its Secretariat will be borne by OAMPI.

BULGARIA

Act

on Discoveries, Inventions, and Rationalization Proposals

(No. 10, of February 3, 1961)¹)

I. General Provisions

1. — The wide-scale development of activity in respect of invention and rationalization by the working people in the People's Republic of Bulgaria shall be encouraged and directed by means of a plan with the object of extending and applying technical progress, complex mechanization and auto-

¹) Published in *Izvestiia na Prezidiuma na Narodnoto subranie*, No. 10, February 3, 1961. — BIRPI translation.

mation to all branches of the national economy, in order to achieve a continual increase in productivity and to ensure that the State economic plan is not only fulfilled but exceeded, by harmonizing the objectives and interests of discoverers, inventors and "rationalizers" with those of the socialist society as a whole.

2. — The Council of Ministers shall assume the general direction of activity in the field of invention and rationalization through the Committee for Technical Progress and the Institute for Rationalization attached to it.

Directors of administrations, executive committees of people's departmental councils and heads of management shall prepare plans outlining activity concerned with invention and rationalization, and shall arrange for the preparation and testing and the most effective application of inventions and rationalization proposals.

In enterprises, these functions shall be entrusted to the director and the chief engineer, and, in agricultural and workers' cooperatives, to their presidents.

3. — "Rationalization" Funds, Technical and Economic Councils, Invention and Rationalization Offices, technical services and, if necessary, experimental centres and workshops, etc., shall be set up in administrations, people's departmental councils, managements, cooperative unions and individual enterprises.

The sources of these "rationalization" funds and the purposes for which they may be used shall be determined by regulations implementing this Act.

The Committee for Technical Progress and the Institute for Rationalization may make recommendations, issue orders, and exercise control in respect of matters concerning inventions and rationalization proposals.

4. — Measures for the development and encouragement of inventions and rationalization proposals and for their effective application shall be prepared and put into effect with the extensive and direct participation of the scientific, technical, and trade unions organizations.

The scientific research institutes attached to the Bulgarian Academy of Science, administration and higher education establishments shall collaborate with the Committee for Technical Progress and the Institute for Rationalization in the preparation of measures concerning the general direction of activity in respect of invention and rationalization and in the examination of discoveries and inventions to determine whether they are new and useful developments.

II. Rights in Discoveries, Inventions and Rationalization Proposals

5. — An author in the meaning of this Act is the maker of a discovery, the creator of an invention or the maker of a rationalization proposal.

The right of the author shall come into existence on the completion of the discovery, the invention or the rationalization proposal and shall rest exclusively in the discoverer, the inventor or the "rationalizer." This rule shall also apply when the discovery or the invention is made by a worker or

an employee in the performance of his duties in a scientific research institute, an enterprise or an organization.

6. — On the author's application his work shall be examined, described, recorded in the appropriate register and duly published, and he shall be supplied with an official document, viz. a diploma of authorship for a discovery, a certificate of invention or a patent for an invention or an attestation of authorship for a rationalization proposal.

The author may exercise his right to receive remuneration and other material rights and benefits as from the issue of the appropriate document.

The remuneration for a discovery shall be determined according to its scientific value and its social importance; the remuneration for an invention or a rationalization proposal shall be determined according to its category and its economic effect, in accordance with the order and schedules laid down in the regulations.

If the author should die before obtaining any document under the first paragraph above, the right to request the issue of a document in his name and the right to receive remuneration shall devolve upon his heirs.

In the case of a particularly important discovery or invention, the author may request that the discovery or invention bear his name.

7. — "Discovery" means the establishment of previously unknown laws, phenomena and properties of the material work demonstrated objectively.

No diploma of authorship shall be issued in respect of discoveries effected in the social sciences, geography, archeology, geology or palaeontology.

The grant of a diploma of authorship for a discovery shall not preclude its use by others for the purpose of further scientific research, the making of new or additional discoveries, the creation of inventions or the formulation of rationalization proposals, without prejudice to the author's rights in the initial discovery.

8. — "Invention" means an original solution of a technical problem in any field of the national economy, culture, public health or national defence constituting an advance over existing methods; it must be essentially new and capable, in specified conditions, of producing a positive effect immediately or in the future.

The material, publications and data on the basis of which it is determined whether or not an invention deposited satisfies the requirement of novelty shall be governed by the regulations.

9. — "Rationalization proposal" means an original solution to a technical problem constituting a local innovation which improves existing machinery, equipment, instruments, apparatus and the like, output, technological processes, methods of production, control and research, and industrial safety or permits more effective use of plants, equipment, power or materials.

Attestations of authorship shall not be granted for rationalization proposals made by employees of scientific institutes, planning and design organizations, experimental services, la-

laboratories etc., in the performance of their contractual obligations under the terms of Article 32, paragraph IV of the State Enterprises Act.

Attestations of authorship shall not be granted for proposals for economic or technical organization which produce a useful economic effect but are not of a creative nature.

Proposals for technical organisation shall be remunerated in accordance with the procedure laid down by the Council of Ministers.

10. — The author of an invention may apply for recognition of his authorship by the grant of an inventor's certificate or, in addition, to recognition of his exclusive right to the invention by the grant of a patent.

A patent shall be valid for a period of fifteen years from the day on which the application for its grant is filed.

When an inventor's certificate is granted, the right to exploit the invention shall rest in the State, and the inventor shall be entitled to suitable remuneration and benefits.

In order to safeguard the rights, in foreign countries, of the State and of inventors, inventor's certificates shall have the same validity as patents.

11. — When a patent is granted for an invention, only the inventor or his heirs may assign the right to exploit it to another person by means of a suitable contract. The contract shall define the extent and the duration of the exploitation of the patent and establish the amount of the remuneration.

Contracts assigning rights for the exploitation of inventions shall be registered with the Institute for Rationalization. Unregistered contracts shall be null and void.

Enterprises, institutes, organizations and persons who, before the filing of the patent application, have independently of the inventor applied the invention or made the necessary preparations for its use, shall retain the right to its subsequent use.

Inventors who hold patents shall not enjoy the benefits provided for by the regulations for holders of inventors' certificates.

The holder of a patent shall pay the fees specified by the regulations. If the established fees are not paid the Institute for Rationalization may terminate the patent.

When the invention is of particular importance to the national economy and no agreement is reached with the patentee on the assignment of his rights for exploitation by a State organization, the President of the Committee for Technical Progress may substitute an inventor's certificate for the patent. The same procedure shall be applied if the patentee fails to apply his invention within a period of three years from the grant of the patent.

12. — Inventors' certificates and patents shall not be granted in respect of substances obtained by chemical process. Certificates and patents may be granted only for new processes for the production of such substances.

Inventors' certificates may only be granted in respect of medicines, foods and condiments not obtained by chemical process. Patents may be granted in respect of new processes for the production of such substances.

Inventors' certificates only, and not patents, shall also be granted in the following cases:

- (a) when an invention has been made in connection with the inventor's work in or on the order of an enterprise or other State, or cooperative or public organization, including scientific research institutes, design offices, etc.;
- (b) when the inventor has received financial assistance or material aid from a State, cooperative or public organization in making his invention;
- (c) when the invention constitutes a new process for the prevention, diagnosis or treatment of disease which has been tested in practice and duly approved;
- (d) when the invention consists of the creation of a new kind or variety of agricultural plant or a new breed of animal.

13. — If a discovery, an invention or a rationalization proposal is made jointly, each of the co-authors shall be entitled to receive a diploma, an inventor's certificate, a patent, or an attestation of rationalization, which shall bear the names of all the co-authors.

Persons who furnish technical or other assistance to the discoverer, the inventor or the "rationalizer" shall not be deemed co-authors.

Remuneration for joint discoveries, inventions and rationalization proposals shall be shared equally among the co-authors unless otherwise agreed.

14. — An invention shall be deemed as additional if it constitutes an improvement of another invention for which an inventor's certificate or a patent has been granted, and if it cannot be used independently of the principal invention.

An accessory inventor's certificate shall be granted for an additional invention if a period of fifteen years has not elapsed since the grant of the principal inventor's certificate. If a period of fifteen years has elapsed, the additional invention shall be considered as independent.

If a patent has been granted for the principal invention, at the choice of the applicant an accessory inventor's certificate or an accessory patent, with the same period of validity as the principal patent, shall be granted for the additional invention.

An application in respect of an additional invention submitted by the author of the principal invention within six months from the date of grant of the inventor's certificate for the principal invention, shall have priority over other applications in respect of the same additional invention.

If the principal invention has not been recognized but is accepted for use in conjunction with the additional invention, the inventor's certificate and remuneration shall be granted to both inventors.

If a patent is granted for a principal invention, the creation of an additional invention shall only be admissible with the consent of the holder of the principal patent.

If, for reasons unconnected with the additional invention, the principal inventor's certificate or the principal patent is terminated, the accessory inventor's certificate or patent shall become a principal inventor's certificate or patent the

accessory patent remaining in force until the expiry of the period of validity established for the principal patent.

15. — Inventors and "rationalizers" shall have the right to participate in the preparation and application of their inventions or rationalization proposals (the preparation of technical documentation, the making and testing of pilot models etc.). Enterprises and organizations which undertake to apply an invention or a rationalization proposal shall inform the authors in advance.

Inventors and "rationalizers" shall be required to collaborate actively in the application and further development of their inventions or rationalization proposals, to place all the necessary documentary material at the disposal of enterprises and organizations, and to provide advice and information regarding their works.

16. — State enterprises, cooperative and other public organizations and individuals may request the revocation of an inventor's certificate, a patent or an attestation of rationalization if they show that the invention or the rationalization proposal does not satisfy the statutory requirements, or that the true author or co-author is another person. Such a request may be submitted within a period of one year from the date of publication of the inventor's certificate or the patent or in the case of inventors' certificates or rationalization proposals publication of which is not required, from the date of their entry in the register.

Disputes concerning the novelty of an invention or the category of a proposal, shall be settled by the Institute for Rationalization by the procedure laid down in the regulations.

If it is found that an invention for which an inventor's certificate or a patent has been granted was already known in part, the Institute for Rationalization shall replace the document issued by a new document in which the scope of the invention is duly limited.

Revocation of inventors' certificates or patents and modifications of the scope of inventions shall be entered in the register of the Institute for Rationalization and published in the order of publication of the inventors' certificates and patents.

17. — Disputes concerning authorship or co-authorship shall be settled by the judicial authority. The competent court shall be the Sofia Municipal Court.

If proceedings are instituted before an inventor's certificate or patent has been granted, the Institute for Rationalization shall proceed with its examination of the invention, but shall deliver an inventor's certificate or a patent after the decision of the court has become final.

The revocation of an inventor's certificate or a patent by reason of the fact that it was issued to a person other than the true author, shall be registered and published in the manner laid down in Article 16, paragraph IV.

18. — A person who submits for registration or registers in his own name, another person's invention or rationalization proposal shall incur criminal liability for plagiarism, pursuant to Article 202, paragraph II of the Penal Code.

When an inventor's certificate, a patent, or an attestation of rationalization is revoked, the true author shall receive a

new document which shall have priority as from the date on which application was made for the document that has been revoked.

If it is found that the person purporting to be the author or co-author did not in fact participate in the creation of an invention or rationalization proposal, and has in bad faith received the author's remuneration, the court shall order him to return the sum received.

19. — Discoveries, inventions or rationalization proposals which concern the defence of the country are declared to be State secrets.

Other discoveries, inventions or rationalization proposals which State interests require to be kept secret may also be declared State secrets. Such discoveries, inventions and rationalization proposals shall not be published.

Any person who divulges or makes known information concerning such discoveries, inventions or rationalization proposals shall be punishable under the provisions of the Penal Code.

Regulations for the application of this Act shall designate the bodies responsible for directing the testing and application of discoveries, inventions and rationalization proposals, and deciding questions relating to the recognition of authorship and the grant of diplomas of authorship, inventors' certificates and attestations of rationalization. These bodies shall fix the scale of authors' remuneration and shall settle disputes concerning authorship or co-authorship, whereby their decision shall be final.

20. — Foreign authors of discoveries, inventions or rationalization proposals shall enjoy the rights provided for in this Act and the regulations for its application, subject to reciprocity.

Bulgarian nationals shall be authorized to register and exploit their inventions abroad only with the authorization of the Chairman of the Committee for Technical Progress.

The assignment of Bulgarian inventions to foreign enterprises and persons may be effected with the authorization of the Chairman of the Committee for Technical Progress.

III. Applications in Respect of Discoveries, Inventions and Rationalization Proposals

21. — Applications for recognition of authorship in respect of a discovery or an invention, and for the grant of a diploma of authorship, an inventor's certificate or a patent, shall be submitted to the Institute for Rationalization. Applications shall be accompanied by the author's proposed specification of the discovery or invention together with relevant descriptions, drawings, substantiating material and other data required for the solution of the problem and for establishing the date of priority.

Applications shall be recorded in a special register and thereafter examined and appraised by experts and findings arrived at, etc., in the manner laid down in the regulations.

The Institute for Rationalization shall decide on applications within four months from the registration of the application. If a document of authorship is refused, or if an inventor's certificate is substituted for a patent, the applicant may

appeal to the Institute for Rationalization, whose decision shall be final.

22. — Applications for recognition of authorship in respect of a rationalization proposal and the grant of an ordinary type attestation of authorship, shall be submitted to the enterprise, management or administration concerned.

The director of the enterprise, management, or administration shall rule on these applications. The question whether the rationalization proposal arose out of the performance of official duties shall be decided in consultation with the competent trade union organization.

An author of a rationalization proposal may appeal against a refusal to grant an attestation to the director of the enterprise or to a higher organization. Where the appeal is submitted to the director of the enterprise, the dispute shall be settled in consultation with the trade union committee. There shall be no appeal against a refusal by a people's departmental council or the industrial administration to which the enterprise is subordinate. Appeals may be submitted to the Institute for Rationalization only in respect of decisions concerning the category or novelty of a proposal.

If during an examination a rationalization proposal is found to possess the attributes of an invention, the director of the enterprise, management or administration shall submit it to the Institute for Rationalization and shall inform the author accordingly.

23. — In respect of discoveries, the priority date shall be established on the basis of the documents submitted by the author to the Institute for Rationalization, and in accordance with the results of the examination carried out by the Institute.

In respect of inventions, the priority date shall be established on the basis of the order of registration of applications, accompanied by the necessary documents, in the register of the Institute for Rationalization. Applications sent to the Institute by post or through a State enterprise or institute, shall be considered as prior to those filed and registered directly at the Institute, if the date of the postmark is prior to that of the filing at the Institute itself.

Priority in respect of rationalization proposals submitted in the same enterprise or organization shall be established in chronological order.

IV. Final and Transitional Provisions

24. — Remuneration paid for discoveries, inventions for which inventor's certificates have been granted and proposals for rationalization and technical organization shall be exempt from taxation.

25. — Regulations approved by the Council of Ministers shall be made for the application of this Act.

26. — This Act shall supersede the Decree concerning Inventions, Technical Improvements and Rationalization Proposals of 1954.

The Chairman of the Committee for Technical Progress shall be responsible for the execution of this Act.

ITALY

Decrees

concerning the Temporary Protection of Industrial Property Rights at Five Exhibitions

(Of July 15 and 21, and August 28, 1966) ¹⁾

Single Article

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

I° Salone della chimica — Mostra internazionale di apparecchi e applicazioni chimiche — et XX° Salone mondiale della chimica cosmetica (Rome, September 21-28, 1966)

II° Rassegna internazionale della chimica (Milan, October 8-16, 1966);

III° Mostra internazionale della saldatura e delle costruzioni saldate (Genova, October 15-23, 1966);

III° Mostra internazionale delle attrezzature alberghiere e turistiche (Genova, November 12-22, 1966);

IX° Mostra-convegno internazionale dell'automazione e strumentazione (Milan, November 19-25, 1966);

shall enjoy the temporary protection provided by Laws No. 1127 of June 29, 1939 ²⁾, No. 1411 of August 25, 1940 ³⁾, No. 929 of June 21, 1942 ⁴⁾, and No. 514 of July 1, 1959 ⁵⁾.

¹⁾ Official communication from the Italian Administration.

²⁾ See *Prop. ind.*, 1939, p. 124; 1940, p. 84.

³⁾ *Ibid.*, 1940, p. 196.

⁴⁾ *Ibid.*, 1942, p. 168.

⁵⁾ *Ibid.*, 1960, p. 23.

GENERAL STUDIES

A World Patent System *)

I have come to Washington many times on patent matters, but this is the first time I have received a medal for doing so. I am most grateful for this distinguished award, and I am indeed honored by this association of my name with that of Charles F. Kettering.

It was my privilege to know Charles Kettering personally. I respected him as a distinguished scientist, inventor, industrialist, practical philanthropist and humanitarian. Above all, I admired him as a great American.

Boss Kettering personified the distinctive qualities of our country and its people — a spirit of enterprise and invention founded on the conviction that anything of value can be improved and that research must seek and find answers to problems impeding the flow of progress. He often said that the

*) Address by David Sarnoff, Chairman, Radio Corporation of America at the "Kettering Award Dinner," Patent, Trademark and Copyright Research Institute, Washington, D. C., June 16, 1966.

price of progress was trouble, but he insisted that it was not too high a price to pay.

His philosophy as well as his pioneering inventions have become part of our American heritage. One thought of his sums up the basic principle of his own life, which we share as a nation. "My interest is in the future," he said, "because I am going to spend the rest of my life there."

Although he always looked to the future, Charles Kettering was aware that the spirit of American invention and enterprise had deep roots in the past. The rights of inventors were established in Article One of the Constitution, and the Congress, in 1790, gave legal substance to those rights.

Since then, more than 3 million American patents have resulted from the government's encouragement to "science and the useful arts." Taken as a group, they have contributed profoundly to America's technological, economic, military, and political leadership, and have reshaped the course of history.

The patent procedures which made possible this early flow of inventiveness were attuned to the requirements of individual artisans and inventors who worked independently on their own inventions. With their limited resources, they sought to create for a market that extended no farther than the boundaries of their region or nation, and the device or product they created could nearly always be clearly defined as their own.

Today, the character and scope of the inventive process has changed profoundly. The application of new ideas to practical uses has created new industries and stimulated the growth of old ones, giving new impetus to a growing economy.

The search for new ideas commands the resources of government, education and private enterprise. Under the stimulus of new concepts, vast and complex facilities have been constructed and industries have grown up almost overnight. The development of new products, processes, and systems has engaged hundreds of thousands of our finest minds, and the fruits of their interlocking efforts are evident wherever civilization extends.

Against this background of extraordinary technological growth, it is ironic that the very instrument designed to advance this progress has not kept pace with the progress it has stimulated. In this age of mass invention which has produced deep space probes, supersonic flight, and satellite communications, the patent structure of most nations is no longer capable of meeting the requirements imposed by technological change and economic growth.

The United States, for example, is the world leader in quantity and variety of invention, but an average of three years is still required for passage from patent application to patent issue. In some instances, both here and abroad, this time period is even longer. These delays have in some cases retarded the progress of an idea from the mind to the market place.

When we can transmit an idea around the world in less than one-seventh of a second, why must years elapse before that idea can be validated within or outside the country of origin? Why must an inventor still make separate applications in every country where he wishes to protect his idea? Why

should some countries make no provision at all for patent filings, or impose severely restrictive conditions upon the inventor?

The answers lie in the fragmented array of national patent systems, most of them working in isolation from the others. This condition inhibits the swift and equitable worldwide distribution of patent benefits — through new technology, new industry and expanded markets. The consequences are unfortunate enough in the industrialized nations, but they are even more damaging to the underdeveloped members of the world community.

As technology becomes more complex, the problem of sharing it with others becomes more difficult to solve. Today, material wealth is largely concentrated in a group of nations with only one-third of the world's population. The remaining two-thirds accounts for less than one-tenth of the world's industrial production, generates less than one-quarter of the world's energy, and produces little more than one-third of the world's food.

In the face of growing abundance induced by technology, the supreme paradox of our times is the fact that the gap between the have and have-not nations continues to widen. This imbalance obviously carries the seeds of new disorders and further violence in an uneasy world. In 87 per cent of the nations classified by the World Bank as very poor — those with a per capita income of less than \$100 a year — there has been an average of two major outbreaks of violence per country during the last decade.

To help overcome this disturbing situation, I believe there must be a more equitable distribution of technical know-how and stronger encouragement of inventiveness in the nations that have been left behind in the wake of modern technology. True, the problem cannot be solved overnight, and it certainly will not be solved without the full cooperation of the underdeveloped nations themselves. But through an appropriate international patent structure, we can make an intellectual as well as a capital investment in these countries.

The input of know-how and ideas can be as great a stimulant to their progress as money and machinery. As Oliver Wendell Holmes said, "A man's mind stretched by a new idea can never go back to its original dimensions."

One of today's principal challenges is to design an international patent structure that can accommodate the revolutionary changes in technology and spread its benefits more evenly around the world. Through the tremendous advances that have been made in one aspect of this technology — in communications — the physical means are available to accomplish this purpose. It is now technically feasible to establish a universal patent system, utilizing the latest communications devices and concepts, to bring swiftness, order, and reasonable uniformity to the entire patent structure.

The concept of a global patent system has been proposed both here and abroad, but a combination of political and technical problems has until now prevented its achievement. Today, however, the mounting pressure of economic necessities may overcome the political obstacles. And a global patent system could now be accommodated technically in a world-

wide communications service just as readily as global television, global weather reporting, and global computer services.

Hovering in synchronous orbit above the equator is the first stage of a worldwide system of high capacity communications satellites. Soon a complete system of such satellites and their ground terminals will link all points on earth with thousands of channels for simultaneous voice, data and message transmission.

A new generation of electronic data processing systems is emerging, capable of storing up to 100 million bits of information and retrieving them in fractional millionths of a second. These systems are beginning to provide central computing and reference services for subscribers scattered over large areas.

Other new electronic devices are being joined to computers to transmit, store and retrieve information by sight or sound, and by the display of words, diagrams, or pictures. It will become commonplace, for example, to speak directly over any distance to a computer and to receive the answer within seconds in either sound or sight, on a display screen or in electronically printed form.

These various systems can be combined to perform all of the technical functions for a world patent center that could receive and process applications from inventors everywhere. This center would be the focus of the world patent system, linked to all countries by high-capacity satellite communications and built around a large data processing and information storage system.

Incoming data on inventions, appropriately coded in the country of origin, would be compared with key data on prior patents in the same field, retrieved from the computer memory. The novelty and patentability of the idea could be determined within an infinitely shorter time than is now the case — and it could be determined on a worldwide rather than simply on a national basis. In addition, the means of instant access to all data could speed immensely the comparison and adjudication of conflicting claims.

Since vast amounts of data accumulate over a short time in this era of growing invention, it has become increasingly difficult to keep track of the progress being made and the patents being issued. Therefore, the patent center also could serve as an international reference source of invention and technology. It could, upon request, provide copies of patents and distribute technical data to interested parties.

In a project of such magnitude, with its many potentialities for service, we cannot expect universal operation to begin overnight. Practical experience suggests that nations will move slowly toward the concept of a single world patent system. But it should be possible to begin applying such a concept on a limited scale among a few major patent countries, sophisticated in the use of technology and conscious of the need. Later, as its advantages became evident, other nations could join the project and its services would correspondingly expand.

Assuming that such an international agreement can be achieved, it is possible within the next several years to foresee an inventor, patent attorney or other interested party sitting in his office and submitting a patent application and the accompanying designs through a desk instrument linked by

satellite to the central or regional computer of the world patent office. Should there be no problems, the inventor would be informed within a matter of days that his patent has been approved and registered in as many countries as requested.

With this transformation in the world patent process, we could expect many advantages to emerge. Among them would be:

- a basic simplification of the total process. By providing quick and complete access to all of the relevant information in a patent search, the resolution of conflicting claims could be expedited. The result should be less costly and less time-consuming, and should produce a greater respect for the patent system;
- the ready availability of know-how to people in all countries, through a swift and orderly system protecting the interests of inventor and user alike;
- a spur to improved education in the underdeveloped nations, in order to take maximum advantage of newly available technology;
- a greater incentive to intellectual investment by the governments and enterprises of the industrialized nations, leading to a climate more conducive to invention and innovation everywhere;
- and, finally, a narrowing of the gap created by today's imbalance in technology between the have and have-not nations.

Certainly, there are numerous precedents for international cooperation in the distribution of ideas and knowledge. It exists, for example, in the orderly use of the radio spectrum for message traffic, and in the written communication of ideas through the mails. Moreover, progress already is being made in the merging of national patent laws for common use by groups of nations, and in developing patent procedures for the non-industrialized countries.

These developments are moving forward on several continents, and through the United Nations. And, of course, two multinational organizations, the International Bureau for the Protection of Industrial Property and the International Patent Institute, have long been active in the field.

Strong and imaginative steps have already been taken by the United States Patent Office to cut in half the time now required to handle patent applications. Last year, a further major advance toward modernizing our patent structure was made with the Executive Order establishing the President's Commission on the Patent System. These activities deserve the full support of all who are concerned with the problem — government and the legal profession, science and invention, trade and industry.

The great challenge of our time is to match the capabilities of technology to the needs of humanity. A world patent system, functioning as I have suggested here, could play an important role in meeting that challenge.

In his mastery of the electron and the atom, modern man already has given us a glimpse of where technology can lead.

He has invented satellites to carry him through space and circle the globe at 24 times the speed of sound.

He has learned to walk in space around the world in approximately ninety minutes.

He has guided a satellite by remote control to a selected spot on the surface of the moon and televised its features back to earth.

With this remarkable record of achievement, and with his continuing acquisition of new knowledge, is it too much to expect that man can also find the ways and means to fulfill the elemental needs of life for everyone on this planet? Surely, there could be no greater contribution to human welfare and world peace.

The African and Malagasy Industrial Property Office *)

By Mr. Denis EKANI, Director General of the African and Malagasy Industrial Property Office, Yaoundé

On September 13, 1962, an Agreement was signed at Libreville by the Governments of twelve African and Malagasy States establishing a common system of industrial property and a single organization for all the signatory States. This is the African and Malagasy Industrial Property Office (OAMPI), the headquarters of which are at Yaoundé (Federal Republic of Cameroon) and which has operated since January 1, 1964.

Thus, a whole group of States which have recently acceded to independence have shown the interest which they feel for the protection of industrial property.

This attitude is justified by many reasons of an historic, legal and economic nature and by the administrative advantages offered by a common Office.

The accession to autonomy in 1958, followed by the independence of the countries concerned, required the adaptation of the former system of protection. True, the provisions of the basic French laws remained applicable in these States, but the field of application of the legislation was, from then on, limited to the territory of each State. Furthermore, the services of the French Office for filing applications and issuing grants and registrations had not been retained and as none of the States had set up a national Office, the administrative procedures which had formerly been centralized, were no longer available.

On the international level, it was questionable if the provisions of the Paris Convention of 1883 for the Protection of Industrial Property continued to apply to the independent States, since these States had not notified their adhesion to this Convention and had not acquired the status of membership of the Paris Union.

This uncertain situation regarding industrial property rights imposed serious disadvantages for the development of the new States. We must remember that the object of such rights is, on the one hand, technical creations or the shape of objects (patents of invention or designs) and, on the other hand, the distinctive signs of products and of enterprises (trademarks, appellations of origin and indications of source, trade names). Contrary to what one might think, industrial

property is not merely a simple legal problem. It is an essential element in economic life, closely linked with the production and circulation of goods of all kinds, in all countries, regardless both of their degree of development and their political and economic structure.

Patents play such an important role in technical progress, in the transfer of technology and in industrialization, as shown by a recent study of the United Nations, that their protection cannot be neglected in the developing countries.

As to trademarks, by distinguishing the products of different enterprises, these enable the consumers to make an indispensable selection and to make a choice between manufacturers. Trademarks act as a guarantee of the quality of the goods. Backed by an ever-increasing publicity, trademarks can open up new markets for national production. Therefore, they constitute a decisive element in both the qualitative and quantitative growth of national production. For these two reasons alone, their protection must be a part of the legal and economic armament of the new States.

The same applies to industrial designs. Protective measures are necessary for the development of industry and especially local arts and crafts.

As the effects of the change of status of the States became apparent in this field, the African and Malagasy Governments became conscious of the role of industrial property and decided to make the necessary adjustments. They neither wished simply to retain the former centralized system, nor did they wish to establish national systems of protection.

The desire to cooperate between the countries concerned, the fact that direct relationships were being set up between them in related fields, the desire to ensure to patent and trademarks owners effective protection of their rights and at the same time respect the national rights of the States, were sufficient reasons in favour of establishing a common organization, compatible with the various economic systems likely to be adopted by the member countries and yet independent of other organisms of a political or economic nature.

Analysis of the Common System Established

The Agreement of Libreville establishes, within the framework of the International Convention to which the signatory States have adhered, a common system of industrial property, as regards patents, trademarks and designs.

This system deserves attention for many reasons. The Agreement adopts uniform legislation applicable in each Member State and sets up a common Office whose task is to centralize the administrative procedures prescribed by the Agreement. On the other hand, the Agreement provides that the national courts will be competent to decide cases involving the validity of grants, actions for infringement and the granting of licenses in cases of abuse of exclusive rights in patents. Thus an equitable balance has been established between the powers of the international organization and the sovereignty of the States.

The uniform legislation is contained in the Annexes to the Agreement whose provisions are applied as national laws in each Member State. It is not a common legislation appli-

*) BIRPI translation.

cable to all the States concerned as a whole territory, but rather similar laws having effect on the territory of each country. The result is that the rights attached to applications filed and to rights granted by the Office extend to all the States, but they are independent national rights. All the provisions of a purely economic nature concerning the exploitation of inventions, which are elements connected with the policy of each State and which are covered by certain industrial property laws, have been excluded from the Agreement in order to comply with the freedom of action of the Member countries.

It is the uniformity of national legislations which has made it possible to centralize the administrative operations through a common office. The OAMPI acts as a national office for each Member State. The agreement of Libreville enables patent and trademark owners to obtain protection of their rights in all these States by means of a single application. Such applications are made either to the Office, if the applicant is domiciled outside the territories of the Member States or in one of the States having chosen this procedure, or, in other cases to the competent national Administration which transmits the application to the Office (OAMPI). All regular applications made in these conditions have the effect of valid national applications in each Member State and give rise to the right of priority provided by the Paris Convention in respect of subsequent applications made in other countries of the International Union. The protection of industrial property rights is thus obtained by a single application which serves as a basis for equivalent national rights.

The OAMPI is also responsible for examining applications, and for granting and publishing industrial property rights. It has authority to grant patents and to register trademarks and industrial designs.

The "*Bulletin officiel*" and the printed copies of patents are open to public inspection in Yaoundé and in the Member States. The Office furthermore issues copies of applications received and official copies of documents in its possession.

Finally, the Office is responsible for keeping the Registers in which are recorded changes or assignments of priority including the granting of rights to exploit within the field of its competence.

The common system as described above is thus limited to the obtaining and maintenance of industrial property rights. Such rights are protected within the framework of the States. Actions for infringement are brought before the civil or criminal courts, and cases involving nullity or cancellation before the civil courts. As court decisions are only effective on the national territory plaintiffs must, where necessary, take action in the several Member States.

Finally, the national courts are competent to decide cases relating to the compulsory licensing of patents. The uniform legislation includes, to this effect, provisions providing for the grant of such licenses to third parties in cases of failure to exploit or where exploitation has been discontinued, within the terms prescribed by the International Convention. It is important for developing countries that inventions be exploited by enterprises within the national territory and that patent assignments and licensing of patents for their exploita-

tion be granted on reasonable terms. However, such regulations as may be necessary for the control of licensing contracts with enterprises have been purposely left to the States to decide. Such measures, being of a financial and economic nature, do not come under the heading of industrial property and should be adapted to the policy of each country.

Advantages of the Common System

The Agreement of Libreville has thus established a common system of industrial property which, while respecting the national sovereignty of the States concerned, offers important simplified administrative procedures for the benefit of both the States and applicants. In the absence of such a system, each country would have been obliged to set up a national service and the protection of rights would have required as many separate applications and procedures as there are States. With the existence of the OAMPI, enterprises can, by making one application and paying one fee, obtain exclusive rights of exploitation on territories covering a total surface of approximately 2,800,000 squares miles and a consumer market of 35 million inhabitants.

In order to fully appreciate the scope of this innovation, it should be recalled that all the other countries parties to the International (Paris) Union (74 in all) have national autonomous services and separate legislations. As a result, owners of industrial property rights are faced by obvious difficulties and pitfalls, as they naturally wish to obtain the widest possible territorial protection.

Most countries have adhered to the Paris Convention of 1883 which set up the International Union for the Protection of Industrial Property and established fundamental principles of cooperation within its framework such as the assimilation of foreigners to nationals and the possibility of claiming, subject to certain conditions, the priority of the first application. However, the Convention only provides for an adjustment of national legislations which still retain important differences. Apart from the facilities provided for by the separate Unions of Madrid and The Hague for the international registration of trademarks and the deposit of designs, it is necessary to institute separate procedures to obtain independent rights in each country of the General Union.

As far as the protection of inventions is concerned, all previous attempts made with a view to creating an international patent have failed and the efforts of cooperation on the regional level in Europe have not yet materialized. The OAMPI is therefore at present the first and only international organization whose competence extends not only to trademarks and designs but also to patents.

The States which have taken the initiative in establishing the African and Malagasy Industrial Property Office have at their disposal a valuable instrument which will be called upon to play an ever-increasing role in their economic development; the system ensures honest commercial relationships for the benefit of both national consumers and producers, by promoting agricultural and industrial development and finally by facilitating technical progress and industrial investment.

The economic circles of all countries are following with interest the development of this undertaking.

BOOK REVIEWS

German Law on Patents, Utility Models and Trademarks (in French), by *Gerhard Liedl*. One volume of 122 pages. Published by Carl Heymanns Verlag KG, Cologne, Berlin, Bonn and Munich, 1965. Price: DM 17.80.

The same editor published, some years back, an English translation of the German laws on patents, utility models and trademarks. The present publication contains the French texts of the laws as published in the BIRPI periodical *La Propriété industrielle*. These texts, however, have no official character.

The form in which the texts are published is very clear and allows for rapid consultation of the laws. What is of particular value in this latter publication is the fact that it contains a German-French and French-German index which greatly facilitates the comparison between the legal industrial property terms used in the two languages. A further advantage is that the French-German index not only contains the terms but also a reference to the legislative texts where such terms are used. R. W.

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Der Patentverletzungsprozess [Procedure in cases of patent infringement], by *Carl Schramm* and *Gerhard Henner*. One volume of 344 pages. Published by Carl Heymanns Verlag KG, Cologne, Berlin, Bonn and Munich, 1965. Price: DM 58.—. (In German)

This work deals mainly with procedure according to German law in cases of patent infringement. Nevertheless, the study also covers problems involving principles of patent law which go well beyond questions of mere procedure. It is the result of many years of practical work and

theoretical study. Its purpose is not so much to replace the consultation of text books but rather to make a contribution to certain problems which are the subject of lively discussion in Germany and which might well be re-examined. In a number of cases, the authors offer their personal views thus contributing to a profitable discussion.

What is of particular interest are the references to the European patent law now being drafted. The study also contains information regarding European and American case law on procedures involving patent infringement which facilitates studies of comparative law.

In an annex, there appear, in a fictitious case, a draft complaint with a synoptic table of criteria for inventions which might have an influence on the decision, an example of the way to prepare drawings permitting a comparison of the elements of the different inventions and the text of an answer to the complaint. These documents, which are very clearly presented, will certainly be a useful instrument for practitioners.

R. W.

NEWS ITEMS

ITALY

Temporary change in the Direction of the Central Patent Office

We are informed that, owing to the prolonged indisposition of Professor Marcello Roscioni, Director of the Central Patent Office of the Italian Ministry of Industry, the Direction of the Office will be temporarily assumed by Dr. Enzo Porta, Director-General of the Ministry.

CALENDAR

Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
September 26 to 29, 1966 Geneva	Internion Coordination Committee	Program and Budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union
September 26 to 29, 1966 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (2 nd Session)	Program and Budget (Paris Union)	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union
September 29 and 30, 1966 Geneva	Council established by the Agreement of Lisbon for the Protection of Appellations of Origin and their International Registration	Preparatory work in relation to the entry into force of the Agreement	All Member States of the Agreement of Lisbon	
October 30 to November 4, 1966 Budapest	East/West Industrial Property Symposium	Discussion of practical questions of industrial property		Open. Registration required
November 7 to 11, 1966 Geneva	Committee of Experts on a model law for developing countries on marks, trade names, indications of source, and unfair competition	To draft a Model Law on Trademarks for developing countries	<i>Africa:</i> Algeria, Burundi, Congo (Leopoldville), Ethiopia, Gambia, Ghana, Guinea, Kenya, Liberia, Libya, Malawi, Mali, Morocco, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Tunisia, United Arab Republic, Uganda, Zambia <i>America:</i> Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guiana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, Venezuela <i>Asia:</i> Afghanistan, Burma, Cambodia, Ceylon, China (Taiwan), India, Indonesia, Iraq, Iran, Jordan, Korea, Kuwait, Laos, Lebanon, Malaysia, Maldive Islands, Mongolia, Nepal, Pakistan, Philippines, Saudi Arabia, Singapore, Syrian Arab Republic, Thailand, Viet Nam, Yemeu <i>Others:</i> Cyprus, Malta, Western Samoa	United Nations; Council of Europe; European Economic Community; Latin American Free Trade Association; African and Malagasy Industrial Property Office; International Association for the Protection of Industrial Property; International Chamber of Commerce; Inter-American Association of Industrial Property; International Federation of Patent Agents; International League against Unfair Competition
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

Date and Place	Title	Object	Invitations to Participate	Observers Invited
1967				
January 23 to 30, 1967 New Delhi	East Asian Seminar on Copyright	Discssion of general principles of special interest to East Asian countries in the field of copyright and related rights	All East Asian States Members of the United Nations or of any United Nations Specialized Agency	All other Member States of the Berne Union; United Nations; Unesco; varions interested non-governmental Organizations
Jnne 12 to July 14, 1967 Stockbolm	Intellectnal Property Conference of Stockholm, 1967	(a) General Revision of the Berne Convention (Copyright) (b) Revision of the Paris Convention (Industrial Property) on the question of inventors' certificates (c) Revision of the administrative and final clauses of the Berne and Paris Conventions and of the Special Agreements concluded under the latter (d) Establishment of a new Organization	For (a), (b) and (c): Member States of the various Unions For (d): States Members of the United Nations or any of the UN Specialized Agencies	States: States not members of the Unions [for (a), (b) and (c)] Intergovernmental Organizations: United Nations; International Labour Organization; World Health Organization; United Nations Educational, Scientific and Cnltnral Organization; General Agreement of Tariffs and Trade; International Institute for the Unification of Private Law; International Olive Oil Council; Interuational Patent Institute; International Vine and Wine Office; African and Malagasy Industrial Property Office; Council of Enrope; Latin-American Free Trade Association; Organization of American States Interested Non-Governmental Organizations

Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
The Hague	October 10 to 21, 1966	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	6th Annnal Meeting
Hollywood	October 11 to 17, 1966	International Writers Guild (IWG)	1st Congress
Paris	October 27 and 28, 1966	International Chamber of Commerce (ICC)	Commission on the International Protection of Indnstrial Property
Brussels	November 17 to 19, 1966	International Literary and Artistic Association (ALAI)	Execentive Committee
1967			
Basle	March 29 to April 4, 1967	International Literary and Artistic Association (ALAI)	52nd Congress