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# WORLD INTELLECTUAL PROPERTY ORGANIZATION

## RATIFICATIONS AND ACCESSIONS

### UNION OF SOVIET SOCIALIST REPUBLICS (USSR)

#### Ratification of the WIPO Convention

*Notification of the Director of BIRPI to the Governments of the countries invited to the Stockholm Conference*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs of . . . and, in accordance with the provisions of the above Convention, has the honor to notify him that the Government of the Union of Soviet Socialist Republics deposited on December 4, 1968, its instrument of ratification dated September 19, 1968, of the Convention Establishing the World Intellectual Property Organization (WIPO), with the following declaration:

“The Union of Soviet Socialist Republics declares that the Convention Establishing the World Intellectual Property Organization regulates questions concerning the interests of all countries; for that reason, participation in it should be open to all States, in accordance with the principle of their sovereignty and equality.”

*(Translation)*

The Union of Soviet Socialist Republics has fulfilled the condition set forth in Article 14(2) of the Convention by concurrently ratifying the Stockholm Act of the Paris Convention in its entirety.

A separate notification will be made of the entry into force of the Convention Establishing the World Intellectual Property Organization when the required number of ratifications or accessions is reached.

Geneva, December 18, 1968.

WIPO Notification No. 6.

## INTERNATIONAL UNIONS

### The Industrial Property Unions in 1968<sup>1</sup>

#### Introduction

The year 1968 was an eventful year in the history of the Industrial Property Unions.

Among the most important developments of the year can be counted the progress made by the BIRPI Plan for a Patent Cooperation Treaty (PCT). A new draft of the Treaty,

<sup>1</sup> Unless otherwise indicated, all page numbers in parentheses in the present report refer to the pages of *Industrial Property*, 1968.

and the first full draft Regulations of the Treaty, were established during the year and discussed at several consultative meetings with government representatives and with representatives of intergovernmental and non-governmental organizations. These consultations culminated in a Committee of Experts which met in December 1968 at Geneva (see p. 13, below).

Another important development of 1968 was the adoption by the Executive Committee of the Paris Union, in its September 1968 session, of a new structure, within the framework of the Paris Union, for ICIREPAT, which will henceforth be known as the Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (see p. 17, below).

At the expiration of the time limit for signing the Stockholm Act (1967) of the Paris Convention for the Protection of Industrial Property, 46 countries had signed it. At December 31, 1968, three countries had ratified the Stockholm Act (see p. 3, below). As regards the signatory States of the Stockholm Acts of the Special Agreements and of the Convention Establishing the World Intellectual Property Organization, and ratifications and accessions thereto, see pp. 4, 5, and 6, below.

On October 8, 1968, the Locarno Agreement Establishing an International Classification for Industrial Designs was signed at the Diplomatic Conference of Locarno (p. 320). The text of the Agreement was signed by 22 countries (see p. 4, below).

#### The Union for the Protection of Industrial Property (Paris Union)

##### *State of the Union*

The membership of the Union as at December 31, 1968, was 79<sup>2</sup> States.

*Accessions to the Lisbon Act.* During 1968, Italy acceded to the Lisbon Act of the Paris Convention, with effect from December 29, 1968.

*Acts in Force at the end of 1968.* Of the 79<sup>2</sup> member States of the Paris Union as at December 31, 1968, 52<sup>3</sup> are bound by the 1958 Lisbon Act, 24 by the 1934 London Act, and three by the 1925 Hague Act (see list of member States on p. 7, below).

##### *Stockholm Act*<sup>4</sup>

*Signatures.* The time limit for signing the Stockholm Act (1967) of the Paris Convention for the Protection of Industrial Property expired on January 13, 1968. There are 46 signatory countries: Algeria \*, Austria, Belgium, Bulgaria \*, Cameroon, Central African Republic, Cuba, Denmark, Finland, France, Gabon, Germany (Federal Republic), Greece, Holy See, Hungary, Iceland, Indonesia \*, Iran, Ireland, Israel,

<sup>2</sup> Or 80, if Eastern Germany or the German Democratic Republic is also considered a party. States disagree on this question. See *Industrial Property*, 1964, p. 254; 1967, p. 75.

<sup>3</sup> Or 53, if East Germany or the German Democratic Republic is also considered a party. States disagree on this question.

<sup>4</sup> The Stockholm Act is not yet in force.

\* These countries signed the Stockholm Act subject to the reservation provided for in Article 28(2).

Italy, Ivory Coast, Japan, Kenya, Liechtenstein, Luxembourg, Madagascar, Monaco, Morocco, Netherlands, Niger, Norway, Philippines, Poland\*, Portugal, Rumania\*, Senegal, South Africa, Spain, Sweden, Switzerland, Tunisia, Union of Soviet Socialist Republics\*, United Kingdom, United States of America, Yugoslavia.

**Ratification.** Ireland, Senegal, and the Union of Soviet Socialist Republics have ratified the Stockholm Act. Their instruments of ratification were deposited on March 27, 1968, September 19, 1968, and December 4, 1968, respectively.

**Accession.** On June 20, 1968, the Director of BIRPI received a declaration of accession in the name of the German Democratic Republic; this was notified to the Governments of all countries of the Union by the Director, who, in the same document, pointed out that this notification did not mean that he had adopted any position on the question whether the German Democratic Republic is or is not a party to the Convention, the countries of the Union being in disagreement on this question.

**Declaration under Article 30(2).** The Republic of Cuba deposited, on January 15, 1968, a declaration according to which that country intends to avail itself of the provisions of Article 30(2) of the Stockholm Act of the Paris Convention.

**Official texts.** The Director of BIRPI has consulted the Governments of the countries concerned with regard to the official text of the Stockholm Act in English, German, Italian, Portuguese, Russian and Spanish.

The English and German texts were published during 1968.

#### BIRPI Meetings

**Executive Committee of the Conference of Representatives of the Paris Union.** The fourth ordinary session of this Committee was held at Geneva from September 24 to 27, 1968.

The Committee examined and approved a report on the activities of BIRPI since the 1967 session of the Committee as far as the Paris Union was concerned.

The Committee adopted the Organizational Rules of the new ICIREPAT ("Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices").

The Committee examined the Director's proposals concerning the program and budget of BIRPI for 1969 as far as the Paris Union is concerned and expressed a favorable opinion on these proposals.

The Committee approved the draft of a new agreement providing for closer cooperation between BIRPI and the International Patent Institute<sup>5</sup> (p. 293 *et seq.*).

**Interunion Coordination Committee.** The sixth ordinary session of this Committee was held at Geneva from September 24 to 27, 1968.

The Committee examined, and noted its approval of, the Director's report on the activities of BIRPI since the last session of the Committee in 1967. Financial reports for the year 1967 were also approved by the Committee.

<sup>5</sup> The agreement was signed on November 7, 1968.

The Committee examined the Director's proposals concerning the program and budget of BIRPI for 1969, and expressed a favorable view of these proposals.

#### ICIREPAT

The Executive Committee of the Paris Union, at its September 1968 session, adopted the Organizational Rules of the new ICIREPAT ("Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices"), which took effect on January 1, 1969 (p. 293 *et seq.*).

The Enlarged Transitional Steering Committee of ICIREPAT held four sessions during 1968, all at the Headquarters of BIRPI, Geneva (pp. 171, 251, and 296). A note on the fourth session appears on p. 17, below.

BIRPI representatives attended the Technical Meetings, held in Tokyo in October 1968, and several meetings of the Standing Committees of ICIREPAT.

Expenses of BIRPI connected with ICIREPAT will be covered by voluntary contributions from the participating countries. Certain countries have already pledged such contributions for the years 1968 and/or 1969. Any member country of the Paris Union may become a "participating country" of ICIREPAT, provided that it pledges: (i) to perform ICIREPAT work in its own national industrial property Office, and (ii) to contribute to the work to be carried out in connection with ICIREPAT by BIRPI (p. 294).

#### Patent Cooperation Treaty (PCT)

BIRPI continued its studies and consultations with a view to drawing up a second draft of this Treaty, which was to take into account the main suggestions made by the Committee of Experts that met in October 1967.

These consultations took various forms and included, *inter alia*, the following meetings convened by BIRPI in Geneva:

Six meetings with *representatives of the non-governmental organizations interested*: January 18, January 20, April 22 and 23, April 25 and 26, October 22 and 23, and November 5 and 6;

Three meetings with the "Group of Consultants," that is, representatives of the following six States and the International Patent Institute: France, Germany (Federal Republic), Japan, Soviet Union, United Kingdom, United States of America. These meetings were held from January 23 to 25, from April 29 to May 3, and from June 25 to 27, 1968.

A Working Group which met from March 25 to 29, 1968, at the *Palais des Nations*, Geneva, and which studied questions concerning the proposed international search (documents of the PCT/II series (those of the PCT/I series having been examined by the Committee of Experts which met in October 1967)). 21 countries and 15 organizations were represented (p. 86).

An information meeting was held at the Headquarters of BIRPI on July 1, 1968, in which representatives of 11 countries and the International Patent Institute participated.

**Committee of Experts on the BIRPI Plan for a Patent Cooperation Treaty (PCT).** This Committee met at the *Palais*

des Nations, Geneva, from December 2 to 10, 1968. A report on the meeting of the Committee appears on page 13, below.

The ordinary income of the Paris Union not being sufficient to cover all the expenses connected with the PCT program, a number of countries have pledged voluntary contributions towards the cost of the program for the years 1968 and/or 1969.

#### *United Nations*

During 1968, BIRPI continued and extended its cooperation in industrial property matters with the United Nations and its subsidiary bodies, in accordance with the working agreement between BIRPI and the United Nations, established in 1964.

United Nations meetings at which BIRPI was represented included the General Assembly, the Economic and Social Council, the Trade and Development Board and its subsidiary bodies and, in particular, the Second United Nations Conference on Trade and Development (UNCTAD II), the Economic Commission for Europe, the Industrial Development Board of the United Nations Industrial Development Organization (UNIDO), the United Nations Commission on International Trade Law (UNCITRAL), the United Nations Conference on the Law of Treaties, and the International Law Commission.

A fuller note on cooperation with United Nations bodies will appear in one of the next issues of this periodical.

#### *Other Matters*

**Publications.** Among the publications issued in the course of 1968, are the following: (a) the text in German and in Spanish of the Convention Establishing the World Intellectual Property Organization; (b) the English and German texts of the Stockholm Act of the Paris Convention; (c) the English, French and German texts of the Stockholm Acts of the Special Agreements; (d) the English and French texts of the Locarno Agreement Establishing an International Classification for Industrial Designs.

A new quarterly review, *La Propiedad Intelectual*, was introduced by BIRPI in 1968. This review is the first Spanish-language review published by BIRPI and deals with matters of interest to both industrial property and copyright.

**Council of Europe.** During 1968, representatives of BIRPI participated in meetings of the Council of Europe Committee of Experts on Patents and its Working Parties.

**International Patent Classification.** Further to the invitation of the Conference of Representatives of the Paris Union, in its meeting of December 1967, BIRPI has negotiated with the competent organs of the Council of Europe for the purpose of studying the possibilities of giving the European Convention on the International Classification of Patents for Invention a more universal character in order to facilitate its worldwide adoption and, particularly, to enable every country member of the Paris Union to participate, with equal rights, in future improvements of the International Classification.

The results of these negotiations were submitted to and approved by the Executive Committee of the Paris Union at its September 1968 session. These results were approved by the Committee of Experts on Patents of the Council of Europe

at its annual meeting, held in Strasbourg from November 18 to 21, 1968, and await action, early in 1969, by the Council of Ministers of the Council of Europe.

**International Classification for Industrial Designs.** The Locarno Conference for the Purpose of Setting up an International Classification for Industrial Designs was held at Locarno from October 2 to 8, 1968.

The Locarno Agreement Establishing an International Classification for Industrial Designs was signed on October 8, 1968 (p. 320) by the following 22 countries: Algeria, Austria, Belgium, Czechoslovakia, Denmark, Finland, Germany (Federal Republic), Holy See, Hungary, Iran, Italy, Kenya, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, Spain, Switzerland, United States of America, Yugoslavia.

The Agreement remains open for signature with the Swiss Government, at Berne, until June 30, 1969.

The countries party to the Locarno Agreement will constitute a Special Union within the meaning of Article 15 of the Lisbon Act of the Paris Convention.

**BIRPI training program.** BIRPI continued, during 1968, its technical assistance program intended for government officials of developing countries who work in the field of industrial property, in cooperation with the competent authorities of the member States of the Paris Union. Fellowships for the training of 11 government officials of developing countries were granted during 1968. Training periods average from two to three months.

**Working agreement.** BIRPI concluded a new working agreement with the International Patent Institute (IIB) (p. 354).

**Contacts with States.** The Director of BIRPI visited several member States and Venezuela during 1968. In Venezuela, he discussed, with the competent ministers, the possibilities of Venezuela's joining certain of the Unions administered by BIRPI.

#### **Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods**

**State of Accessions.** During 1968, Italy acceded to the Lisbon Act of this Agreement with effect from December 29, 1968.

At the end of 1968, the Agreement grouped 29<sup>6</sup> countries, of which 13 are bound by the 1958 Lisbon Act, 13 by the 1934 London Act, and three by the 1925 Hague Act (see list of parties to the Agreement on page 9, below).

#### *Additional Act of Stockholm<sup>7</sup>*

**Signatures.** The time limit for signing the Additional Act of Stockholm (1967) to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods expired on January 13, 1968. There are 18 signatory countries:

<sup>6</sup> Or 30, if East Germany or the German Democratic Republic is also considered a party. States disagree on this question. See *Industrial Property*, 1964, p. 254, and 1967, p. 75.

<sup>7</sup> The Additional Act of Stockholm is not yet in force.

Cuba, France, Germany (Federal Republic), Hungary, Ireland, Israel, Italy, Japan, Liechtenstein, Monaco, Morocco, Poland, Portugal, Spain, Sweden, Switzerland, Tunisia, United Kingdom.

**Ratification.** Ireland has ratified the Additional Act of Stockholm. Its instrument of ratification was deposited on March 27, 1968 (p. 86).

**Accession.** On June 20, 1968, the Director of BIRPI received a declaration of accession in the name of the German Democratic Republic; this was notified to the Governments of all interested countries by the Director, who, in the same document, pointed out that this notification did not mean that he had adopted any position on the question whether the German Democratic Republic is or is not a party to the Paris Convention or the said Agreement, the countries of the Paris Union being in disagreement on this question (p. 242).

#### Madrid Union

##### for the International Registration of Marks

**State of the Union.** At the end of 1968, of the 21<sup>8</sup> member States of the Madrid Union, three (Austria, Morocco, Vietnam) remained bound by the 1934 London Act, whereas 18 had become bound by the 1957 Nice Act. Of these 18 countries, 10 have invoked the benefits of Article 3<sup>bis</sup> (see list of member States on page 10, below).

##### Stockholm Act<sup>9</sup>

**Signatures.** The time limit for signing the Stockholm Act (1967) of the Madrid Agreement expired on January 13, 1968. There are 17 signatory countries: Austria, Belgium, France, Germany (Federal Republic), Hungary, Italy, Liechtenstein, Luxembourg, Monaco, Morocco, Netherlands, Portugal, Rumania, Spain, Switzerland, Tunisia, Yugoslavia.

**Accession.** On June 20, 1968, the Director of BIRPI received a declaration of accession in the name of the German Democratic Republic; this was notified to the Governments of all interested countries by the Director, who, in the same document, pointed out that this notification did not mean that he had adopted any position on the question whether the German Democratic Republic is or is not a party to the Paris Convention, or a member of the Special Union, the countries of the Paris Union being in disagreement on this question (p. 242).

**Committee of Directors of National Industrial Property Offices.** This Committee held an extraordinary session at Geneva, in June 1968. It decided to increase the amount of the basic fee collected in respect of international registrations or renewals thereof. This increase took effect on November 1, 1968 (p. 271).

**Statistics.** The total number of registrations in 1968 was 11,024, to which 1,713 renewals, effected in accordance with the provisions of the Nice Act, should be added; the total number of registrations and renewals in 1968 was therefore 12,737, as against 10,287 in 1967.

<sup>8</sup> Or 22, if East Germany or the German Democratic Republic is also considered a party. States disagree on this question. See *Industrial Property*, 1964, p. 254, and 1967, p. 75.

<sup>9</sup> The Stockholm Act is not yet in force.

#### The Hague Union for the International Deposit of Industrial Designs

**State of the Union.** At the end of 1968, all the 14<sup>10</sup> countries members of the Union were bound by the 1934 London Act, while Belgium, France, Germany (Federal Republic), Liechtenstein, Monaco, Netherlands, and Switzerland were also bound by the Additional Act of Monaco (see list of member States on p. 11, below).

Three States have so far ratified the 1960 Hague Act: France, Liechtenstein, and Switzerland. Failing the required number of ratifications, this Act is not yet in force.

**Complementary Act of Stockholm<sup>11</sup>.** The time limit for signing the Complementary Act of Stockholm (1967) to the Hague Agreement Concerning the International Deposit of Industrial Designs expired on January 13, 1968. There are 11 signatory countries: Belgium, France, Germany (Federal Republic), Holy See, Liechtenstein, Monaco, Morocco, Netherlands, Spain, Switzerland, Tunisia.

**Statistics.** During the year 1968, the number of international deposits was 2,360 as against 2,244 in 1967. Open deposits numbered 1,345 and sealed deposits 1,015. A total of 36,978 objects were deposited of which 1,310 were simple deposits and 35,668 were multiple deposits.

Of the 36,978 objects deposited, 19,307 were two-dimensional (*dessins*) and 17,671 three-dimensional (*modèles*).

#### Nice Union for the International Classification of Goods and Services for the Purposes of the Registration of Marks

**State of the Union.** At the end of 1968, the Nice Agreement grouped 24<sup>12</sup> member States (see list of member States on p. 12, below).

##### Stockholm Act<sup>13</sup>

**Signatures.** The time limit for signing the Stockholm Act (1967) of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks expired on January 13, 1968. There are 19 signatory countries: Belgium, Denmark, France, Germany (Federal Republic), Hungary, Ireland, Israel, Italy, Monaco, Morocco, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom, Yugoslavia.

**Ratification.** Ireland has ratified the Stockholm Act. Its instrument of ratification was deposited on March 27, 1968.

**Accession.** On June 20, 1968, the Director of BIRPI received a declaration of accession in the name of the German Democratic Republic; this was notified to the Governments of all interested countries by the Director, who, in the same document, pointed out that this notification did not mean that he had adopted any position on the question whether the German Democratic Republic is or is not a party to the Paris

<sup>10</sup> Or 15, if East Germany or the German Democratic Republic is also considered a party. States disagree on this question. See *Industrial Property*, 1956, p. 21.

<sup>11</sup> The Complementary Act of Stockholm is not yet in force.

<sup>12</sup> Or 25, if East Germany or the German Democratic Republic is also considered a party. States disagree on this question. See *Industrial Property*, 1964, p. 254, and 1967, p. 75.

<sup>13</sup> The Stockholm Act is not yet in force.

Convention, or a member of the Special Union, the countries of the Paris Union being in disagreement on this question.

*Application by a non-member country.* Beginning with the *Official Gazette* dated March 5, 1968, the United States Patent Office started to indicate the appropriate international class for all trademarks and service marks published for opposition, even though the United States of America is not a member of the Nice Union.

**Lisbon Union  
for the Protection of Appellations of Origin and their  
International Registration**

*State of the Union.* During 1968, Italy ratified the Lisbon Agreement with effect from December 29, 1968.

At the end of 1968, the Lisbon Agreement grouped nine member States (see list of member States on p. 12, below).

*Stockholm Act*<sup>14</sup>. The time limit for signing the Stockholm Act (1967) of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration expired on January 13, 1968. There are five signatory countries: Cuba, France, Hungary, Israel, Portugal.

*Council.* The Council established by the Lisbon Agreement held its third session on September 26 and 27, 1968, at Geneva (p. 318).

*Statistics.* During the year 1968, 59 registrations under the Agreement were effected by BIRPI: 58 came from France, 1 from Hungary.

*Publication.* A new periodical, "*Les Appellations d'Origine*," was introduced by BIRPI in 1968. The first three issues of this periodical were published during the year. The periodical contains the appellations of origin registered internationally with BIRPI.

**World Intellectual Property Organization (WIPO)**

*Convention Establishing the Organization*

*Signatures.* The time limit for signing the Convention Establishing the World Intellectual Property Organization (WIPO), adopted on July 14, 1967, at Stockholm, expired on January 13, 1968. There are 51 signatory countries: Algeria, Austria, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Congo (Kinshasa), Denmark, Ecuador, Finland, France, Gabon, Germany (Federal Republic), Greece, Holy See, Hungary, Iceland, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Liechtenstein, Luxembourg, Madagascar, Mexico, Monaco, Morocco, Netherlands, Niger, Norway, Peru, Philippines, Poland, Portugal, Rumania, Senegal, South Africa, Spain, Sweden, Switzerland, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia.

*Ratifications and accessions.* On January 12, 1968, Ireland signed, without reservation as to ratification, the WIPO Convention and, as it deposited, on March 27, 1968, its instru-

ment of ratification of the Stockholm Act of the Paris Convention, Ireland has fulfilled the conditions laid down in Article 14(2) of the WIPO Convention. The Union of Soviet Socialist Republics has ratified the WIPO Convention; its instrument of ratification was deposited on December 4, 1968. Senegal deposited, on September 19, 1968, its instrument of ratification dated August 24, 1968. Senegal has fulfilled the conditions set forth in Article 14(2) of the Convention by concurrently ratifying the Stockholm Act of the Paris Convention in its entirety and the Stockholm Act of the Berne Convention in its entirety.

On June 20, 1968, the Director received a declaration of accession in the name of the German Democratic Republic; this was notified to all the States members of the Unions defined in Article 2(vii) of the Convention. In the same communication it was pointed out that this notification did not mean that the Director had adopted any position on the question whether the German Democratic Republic fulfills the conditions provided by Article 5(1) of the Convention, namely, that it is a member of one of the said Unions, the States members of those Unions being in disagreement on this question.

*Declaration under Article 21(2) (a).* The Republic of Cuba filed a declaration on January 15, 1968, according to which that country intends to avail itself of the provisions of Article 21(2) (a) of the WIPO Convention.

**Table of Contracting States**

The following table shows the situation of the Acts in force at the end of 1968 (see also "Member States of the Unions for the Protection of Industrial Property," as listed below).

Instrument	Number of Contracting States				
	Total	Bound by the Act of			
		Lisbon 1958	Nice 1957	London 1934	The Hague 1925
Paris Convention for the Protection of Industrial Property . . . . .	79 *	52	NA	24	3
Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods . . .	29 *	13	NA	13	3
Madrid Agreement for the International Registration of Marks . . . .	21 *	NA	18	3	0
The Hague Agreement Concerning the International Deposit of Industrial Designs . . . .	14 *	NA	NA	14 **	0
Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks . . .	24 *	NA	24	NA	NA
Lisbon Agreement for the Protection of Appellations of Origin and their International Registration . . . . .	9	9	NA	NA	NA

\* Or one more, if East Germany or the German Democratic Republic is also considered a party. States disagree on this question.

\*\* Additional Act of Monaco (1961): 7.

NA: Not applicable.

<sup>14</sup> The Stockholm Act is not yet in force.

# Member States of the Unions for the Protection of Industrial Property as on January 1, 1969

## International Union for the Protection of Industrial Property (Paris Union)

founded by the Paris Convention (1883), revised at Brussels (1900), Washington (1911), The Hague (1925), London (1934), Lisbon (1958), and at Stockholm (1967) \*)

Member States **)	Date on which adhesion to the Union took effect	Latest Act by which the State is bound and date on which the ratification of or accession to such Act became effective
Algeria . . . . .	March 1, 1966 . . . . .	Lisbon: March 1, 1966
Argentina . . . . .	February 10, 1967 . . . . .	Lisbon: February 10, 1967
Australia <sup>1) 2)</sup> . . . . .	October 10, 1925 . . . . .	London: June 2, 1958
Austria . . . . .	January 1, 1909 . . . . .	London: August 19, 1947
Belgium . . . . .	July 7, 1884 . . . . .	Lisbon: August 21, 1965
Brazil . . . . .	July 7, 1884 . . . . .	The Hague: October 26, 1929
Bulgaria . . . . .	June 13, 1921 . . . . .	Lisbon: March 28, 1966
Cameroon <sup>1)</sup> . . . . .	May 10, 1964 . . . . .	Lisbon: May 10, 1964
Canada <sup>1)</sup> . . . . .	June 12, 1925 . . . . .	London: July 30, 1951
Central African Republic <sup>1)</sup> . . . . .	November 19, 1963 . . . . .	Lisbon: November 19, 1963
Ceylon <sup>1)</sup> . . . . .	December 29, 1952 . . . . .	London: December 29, 1952
Chad <sup>1)</sup> . . . . .	November 19, 1963 . . . . .	Lisbon: November 19, 1963
Congo (Brazzaville) <sup>1)</sup> . . . . .	September 2, 1963 . . . . .	Lisbon: September 2, 1963
Cuba <sup>††)</sup> . . . . .	November 17, 1904 . . . . .	Lisbon: February 17, 1963
Cyprus . . . . .	January 17, 1966 . . . . .	Lisbon: January 17, 1966
Czechoslovakia . . . . .	October 5, 1919 . . . . .	Lisbon: January 4, 1962
Dahomey <sup>1)</sup> . . . . .	January 10, 1967 . . . . .	Lisbon: January 10, 1967
Denmark <sup>3)</sup> . . . . .	October 1, 1894 . . . . .	London: August 1, 1938
Dominican Republic . . . . .	July 11, 1890 . . . . .	The Hague: April 6, 1951
Finland . . . . .	September 20, 1921 . . . . .	London: May 30, 1953
France <sup>4)</sup> . . . . .	July 7, 1884 . . . . .	Lisbon: January 4, 1962
Gabon <sup>1)</sup> . . . . .	February 29, 1964 . . . . .	Lisbon: February 29, 1964
Germany (Federal Republic) . . . . .	May 1, 1903 . . . . .	Lisbon: January 4, 1962
Greece . . . . .	October 2, 1924 . . . . .	London: November 27, 1953
Haiti . . . . .	July 1, 1958 . . . . .	Lisbon: January 4, 1962
Holy See . . . . .	September 29, 1960 . . . . .	London: September 29, 1960
Hungary . . . . .	January 1, 1909 . . . . .	Lisbon: March 23, 1967
Iceland . . . . .	May 5, 1962 . . . . .	London: May 5, 1962
Indonesia <sup>1)</sup> . . . . .	December 24, 1950 . . . . .	London: December 24, 1950
Iran . . . . .	December 16, 1959 . . . . .	Lisbon: January 4, 1962
Ireland <sup>†)</sup> . . . . .	December 4, 1925 . . . . .	Lisbon: June 9, 1967
Israel <sup>1)</sup> . . . . .	March 24, 1950 . . . . .	Lisbon: July 18, 1966
Italy . . . . .	July 7, 1884 . . . . .	Lisbon: December 29, 1968
Ivory Coast <sup>1)</sup> . . . . .	October 23, 1963 . . . . .	Lisbon: October 23, 1963
Japan . . . . .	July 15, 1899 . . . . .	Lisbon: August 21, 1965
Kenya . . . . .	June 14, 1965 . . . . .	Lisbon: June 14, 1965
Laos <sup>1)</sup> . . . . .	November 19, 1963 . . . . .	Lisbon: November 19, 1963
Lebanon . . . . .	September 1, 1924 . . . . .	London: September 30, 1947
Liechtenstein . . . . .	July 14, 1933 . . . . .	London: January 28, 1951
Luxembourg . . . . .	June 30, 1922 . . . . .	London: December 30, 1945
Madagascar <sup>1)</sup> . . . . .	December 21, 1963 . . . . .	Lisbon: December 21, 1963
Malawi <sup>5)</sup> . . . . .	July 6, 1964 . . . . .	Lisbon: July 6, 1964
Malta . . . . .	October 20, 1967 . . . . .	Lisbon: October 20, 1967
Mauritania <sup>1)</sup> . . . . .	April 11, 1965 . . . . .	Lisbon: April 11, 1965
Mexico . . . . .	September 7, 1903 . . . . .	Lisbon: May 10, 1964
Monaco . . . . .	April 29, 1956 . . . . .	Lisbon: January 4, 1962

Member States **)	Date on which adhesion to the Union took effect	Latest Act by which the State is bound and date on which the ratification of or accession to such Act became effective
<b>Morocco</b>	<b>July 30, 1917</b>	<b>Lisbon: May 15, 1967</b>
<i>Netherlands<sup>6)</sup></i>	<i>July 7, 1884</i>	<i>London: August 5, 1948</i>
<b>New Zealand<sup>1)</sup></b>	<b>July 29, 1931</b>	<b>London: July 14, 1946</b>
<b>Niger<sup>1)</sup></b>	<b>July 5, 1964</b>	<b>Lisbon: July 5, 1964</b>
<b>Nigeria</b>	<b>September 2, 1963</b>	<b>Lisbon: September 2, 1963</b>
<b>Norway</b>	<b>July 1, 1885</b>	<b>Lisbon: May 10, 1964</b>
<b>Philippines</b>	<b>September 27, 1965</b>	<b>Lisbon: September 27, 1965</b>
<b>Poland</b>	<b>November 10, 1919</b>	<b>The Hague: November 22, 1931</b>
<i>Portugal<sup>7)</sup></i>	<i>July 7, 1884</i>	<i>London: November 7, 1949</i>
<b>Rhodesia<sup>5)</sup></b>	<b>April 6, 1965</b>	<b>Lisbon: April 6, 1965</b>
<b>Rumania</b>	<b>October 6, 1920</b>	<b>Lisbon: November 19, 1963</b>
<i>San Marino</i>	<i>March 4, 1960</i>	<i>London: March 4, 1960</i>
<i>Senegal<sup>1) †)</sup></i>	<i>December 21, 1963</i>	<i>Lisbon: December 21, 1963</i>
<b>South Africa</b>	<b>December 1, 1947</b>	<b>Lisbon: April 17, 1965</b>
<i>Spain</i>	<i>July 7, 1884</i>	<i>London: March 2, 1956</i>
<i>Sweden</i>	<i>July 1, 1885</i>	<i>London: July 1, 1953</i>
<b>Switzerland</b>	<b>July 7, 1884</b>	<b>Lisbon: February 17, 1963</b>
<i>Syrian Arab Republic</i>	<i>September 1, 1924</i>	<i>London: September 30, 1947</i>
<b>Tanzania<sup>1)</sup></b>	<b>June 16, 1963</b>	<b>Lisbon: June 16, 1963</b>
<b>Togo<sup>1)</sup></b>	<b>September 10, 1967</b>	<b>Lisbon: September 10, 1967</b>
<b>Trinidad and Tobago<sup>1)</sup></b>	<b>August 1, 1964</b>	<b>Lisbon: August 1, 1964</b>
<i>Tunisia</i>	<i>July 7, 1884</i>	<i>London: October 4, 1942</i>
<i>Turkey</i>	<i>October 10, 1925</i>	<i>London: June 27, 1957</i>
<i>Uganda</i>	<i>June 14, 1965</i>	<i>Lisbon: June 14, 1965</i>
<b>Union of Soviet Socialist Republics<sup>†)</sup></b>	<b>July 1, 1965</b>	<b>Lisbon: July 1, 1965</b>
<i>United Arab Republic</i>	<i>July 1, 1951</i>	<i>London: July 1, 1951</i>
<b>United Kingdom of Great Britain and Northern Ireland<sup>8)</sup></b>	<b>July 7, 1884</b>	<b>Lisbon: January 4, 1962</b>
<b>United States of America<sup>9)</sup></b>	<b>May 30, 1887</b>	<b>Lisbon: January 4, 1962</b>
<b>Upper Volta<sup>1)</sup></b>	<b>November 19, 1963</b>	<b>Lisbon: November 19, 1963</b>
<i>Uruguay</i>	<i>March 18, 1967</i>	<b>Lisbon: March 18, 1967</b>
<i>Viet Nam<sup>1)</sup></i>	<i>December 8, 1956</i>	<i>London: December 8, 1956</i>
<b>Yugoslavia</b>	<b>February 26, 1921</b>	<b>Lisbon: April 11, 1965</b>
<b>Zambia<sup>5)</sup></b>	<b>April 6, 1965</b>	<b>Lisbon: April 6, 1965</b>
<b>(Total: 79 States<sup>10)</sup></b>		

\*) The Stockholm Act (1967) is not yet in force.

\*\*) Explanation of type:

**Heavy type:** States bound by the Lishon Act (1958).

*Italics:* States bound by the London Act (1934).

Ordinary type: States bound by the Hague Act (1925).

<sup>†)</sup> This State has ratified the Stockholm Act (1967).

<sup>††)</sup> This State has notified its intention to avail itself of Article 30(2) of the Stockholm Act (1967).

<sup>1)</sup> The Convention was applied, by virtue of Article 16<sup>bis</sup> thereof, in the territories of the following States before their accession to full independence, as from the dates indicated: Australia (August 5, 1907), Canada (September 1, 1923), Ceylon (June 10, 1905), Indonesia (October 1, 1888), Israel (Palestine, except Transjordan, September 12, 1933, to May 15, 1948), New Zealand (September 7, 1891), Tanzania (except Zanzibar, January 1, 1938), Trinidad and Tobago (May 14, 1908). The Convention was applied by France, under Article 16<sup>bis</sup>, to the following States from various dates: Cameroon, Central African Republic, Chad, Congo (Brazzaville), Dahomey, Gahon, Ivory Coast, Laos, Madagascar, Mauritania, Niger, Senegal, Togo Upper Volta, Viet-Nam.

<sup>2)</sup> The Convention has been applied to Papua and New Guinea since February 12, 1933, and to Norfolk Island, since July 29, 1936 (the London Act has applied since February 5, 1960); the Hague Act has been applied to Nauru since July 29, 1936.

<sup>3)</sup> Including the Faroe Islands.

<sup>4)</sup> Including the Departments of Guadeloupe, Guiana, Martinique, Reunion and all Overseas Territories.

<sup>5)</sup> The Convention had applied to Malawi, Rhodesia and Zambia (as component parts of the former Federation of Rhodesia and Nyasaland) since April 1, 1958.

<sup>6)</sup> The Convention has been applied to Curaçao and Surinam since July 1, 1890 (the London Act has applied since August 5, 1948).

<sup>7)</sup> Including the Azores and Madeira.

<sup>8)</sup> The Lishon Act is applicable to the Bahamas as from October 20, 1967.

<sup>9)</sup> The Lishon Act has been applied to Puerto Rico, Virgin Islands, Samoa and Guam since July 7, 1963.

<sup>10)</sup> Or 80 if East Germany or the German Democratic Republic is also considered a party (see *Industrial Property*, 1964, p. 254). States disagree on this question.

**Special Agreement for the Repression of False or Deceptive Indications of Source on Goods  
(Madrid Agreement)**

founded by the Madrid Agreement (1891), revised at Washington (1911), The Hague (1925), London (1934), Lisbon (1958),  
and supplemented by the Additional Act of Stockholm (1967) \*)

Member States **)	Original date on which the State became bound by the Agreement	Latest Act by which the State is bound and date on which the ratification of or accession to such Act became effective
Brazil . . . . .	October 3, 1896 . . . . .	The Hague: October 26, 1929
Ceylon <sup>1)</sup> . . . . .	December 29, 1952 . . . . .	London: December 29, 1952
Cuba . . . . .	January 1, 1905 . . . . .	Lisbon: October 11, 1964
Czechoslovakia . . . . .	September 30, 1921 . . . . .	Lisbon: June 1, 1963
Dominican Republic . . . . .	April 6, 1951 . . . . .	The Hague: April 6, 1951
France <sup>2)</sup> . . . . .	July 15, 1892 . . . . .	Lisbon: June 1, 1963
Germany (Federal Republic) . . . . .	June 12, 1925 . . . . .	Lisbon: June 1, 1963
Hungary . . . . .	June 5, 1934 . . . . .	Lisbon: March 23, 1967
Ireland <sup>†)</sup> . . . . .	December 4, 1925 . . . . .	Lisbon: June 9, 1967
Israel <sup>1)</sup> . . . . .	March 24, 1950 . . . . .	Lisbon: July 2, 1967
Italy . . . . .	March 5, 1951 . . . . .	Lisbon: December 29, 1968
Japan . . . . .	July 8, 1953 . . . . .	Lisbon: August 21, 1965
Lebanon . . . . .	September 1, 1924 . . . . .	London: September 30, 1947
Liechtenstein . . . . .	July 14, 1933 . . . . .	London: January 28, 1951
Monaco . . . . .	April 29, 1956 . . . . .	Lisbon: June 1, 1963
Morocco . . . . .	July 30, 1917 . . . . .	Lisbon: May 15, 1967
New Zealand <sup>1)</sup> . . . . .	July 29, 1931 . . . . .	London: May 17, 1947
Poland . . . . .	December 10, 1928 . . . . .	The Hague: December 10, 1928
Portugal <sup>3)</sup> . . . . .	October 31, 1893 . . . . .	London: November 7, 1949
San Marino . . . . .	September 25, 1960 . . . . .	London: September 25, 1960
Spain . . . . .	July 15, 1892 . . . . .	London: March 2, 1956
Sweden . . . . .	January 1, 1934 . . . . .	London: July 1, 1953
Switzerland . . . . .	July 15, 1892 . . . . .	Lisbon: June 1, 1963
Syrian Arab Republic . . . . .	September 1, 1924 . . . . .	London: September 30, 1947
Tunisia . . . . .	July 15, 1892 . . . . .	London: October 4, 1942
Turkey . . . . .	August 21, 1930 . . . . .	London: June 27, 1957
United Arab Republic . . . . .	July 1, 1952 . . . . .	London: July 1, 1952
United Kingdom of Great Britain and Northern Ireland . . . . .	July 15, 1892 . . . . .	Lisbon: June 1, 1963
Viet Nam <sup>1)</sup> . . . . .	December 8, 1956 . . . . .	London: December 8, 1956
(Total: 29 States) <sup>4)</sup>		

\*) The Additional Act of Stockholm (1967) is not yet in force.

\*\*) Explanation of type:

**Heavy type:** States bound by the Lisbon Act (1958).  
**Italics:** States bound by the London Act (1934).

**Ordinary type:** States bound by the Hague Act (1925).

†) This State has ratified the Stockholm Act (1967).

1) The Agreement was applied, by virtue of Article 5 thereof, in the territories of the following States before their accession to full independence, as from the dates indicated: Ceylon (September 1, 1913), Israel (Palestine, except Transjordan, September 12, 1933, to May 15, 1948), New Zealand (June 20, 1913), and Viet-Nam.

2) Including the Departments of Guadeloupe, Guiana, Martinique, Reunion and all Overseas Territories.

3) Including the Azores and Madeira.

4) Or 30 if East Germany or the German Democratic Republic is also considered a party (see *Industrial Property*, 1964, p. 254). States disagree on this question.

## Special Union for the International Registration of Marks (Madrid Union)

founded by the Madrid Agreement (1891), revised at Brussels (1900), Washington (1911), The Hague (1925), London (1934), Nice (1957), and at Stockholm (1967) \*)

Member States **)	Date on which adhesion to the Union took effect	Latest Act by which the State is bound and date on which the ratification of or accession to such Act became effective
<i>Austria</i>	<i>January 1, 1909</i>	<i>London: August 19, 1947</i>
<i>Belgium</i>	<i>July 15, 1892</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Czechoslovakia</i>	<i>October 5, 1919</i>	<i>Nice: December 15, 1966</i>
<i>France<sup>2)</sup></i>	<i>July 15, 1892</i>	<i>Nice: December 15, 1966</i>
<i>Germany (Federal Republic)</i>	<i>December 1, 1922</i>	<i>Nice: December 15, 1966</i>
<i>Hungary</i>	<i>January 1, 1909</i>	<i>Nice: March 23, 1967</i>
<i>Italy</i>	<i>October 15, 1894</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Liechtenstein</i>	<i>July 14, 1933</i>	<i>Nice: May 29, 1967</i>
<i>Luxembourg</i>	<i>September 1, 1924</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Monaco<sup>3)</sup></i>	<i>April 29, 1956</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Morocco</i>	<i>July 30, 1917</i>	<i>London: January 21, 1941</i>
<i>Netherlands</i>	<i>March 1, 1893</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Portugal<sup>4)</sup></i>	<i>October 31, 1893</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Rumania</i>	<i>October 6, 1920</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>San Marino</i>	<i>September 25, 1960</i>	<i>Nice: December 15, 1966</i>
<i>Spain<sup>5)</sup></i>	<i>July 15, 1892</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Switzerland</i>	<i>July 15, 1892</i>	<i>Nice: December 15, 1966</i>
<i>Tunisia</i>	<i>July 15, 1892</i>	<i>Nice: August 28, 1967<sup>1)</sup></i>
<i>United Arab Republic<sup>3)</sup></i>	<i>July 1, 1952</i>	<i>Nice: December 15, 1966<sup>1)</sup></i>
<i>Viet Nam<sup>6)</sup></i>	<i>December 8, 1956</i>	<i>London: December 8, 1956</i>
<i>Yugoslavia</i>	<i>February 26, 1921</i>	<i>Nice: December 15, 1966</i>
<i>(Total: 21 States)<sup>7)</sup> <sup>8)</sup></i>		

\*) The Stockholm Act (1967) is not yet in force.

\*\*) Explanation of type:

**Heavy type:** States bound by the Nice Act (1957).

*Italics:* States bound by the London Act (1934).

<sup>1)</sup> The following States have declared, under Article 3<sup>bis</sup> of the Nice Act, that the protection resulting from international registration shall not extend to them unless the proprietor of the mark expressly requests it: Belgium (December 15, 1966), Italy (June 14, 1967), Luxembourg (December 15, 1966), Monaco (December 15, 1966), Netherlands (December 15, 1966), Portugal (December 15, 1966), Rumania (June 10, 1967), Spain (December 15, 1966), Tunisia (August 28, 1967), United Arab Republic (March 1, 1967). The dates in parentheses indicate the effective date of the declaration in respect of each country.

<sup>2)</sup> Including the Departments of Guadeloupe, Guiana, Martinique, Reunion and all Overseas Territories.

<sup>3)</sup> Monaco and the United Arab Republic only recognize trademarks registered under the Agreement after the date of their adhesion to the Union.

<sup>4)</sup> Including the Azores and Madeira.

<sup>5)</sup> Spain declared that it no longer wished to be bound by the texts earlier than the Nice Act. This declaration became effective on December 15, 1966.

<sup>6)</sup> This Agreement was applied, by virtue of Article 11 thereof, in the territory of Viet-Nam before its accession to full independence, as from July 15, 1892.

<sup>7)</sup> Turkey withdrew from the Union with effect from September 10, 1956. International registrations in effect on that date continue to be recognized by Turkey until they expire.

<sup>8)</sup> Or 22 if East Germany or the German Democratic Republic is also considered a party (see *Industrial Property*, 1964, p. 254). States disagree on this question. East Germany or the German Democratic Republic has invoked the benefits of Article 3<sup>bis</sup> of the Nice Act.

**Special Union Concerning the International Deposit of Industrial Designs (The Hague Union)**

founded by The Hague Agreement (1925), revised at London (1934) and The Hague (1960)<sup>1)</sup>, and supplemented by the Additional Act of Monaco (1961) and by the Complementary Act of Stockholm (1967)<sup>\*)</sup>

Member States **)	Date of adhesion to the Union	Date on which the State became bound by the London Act of the Agreement	Date on which the State became bound by the Additional Act of Monaco
Belgium	July 27, 1929	November 24, 1939	November 13, 1964
France <sup>2)</sup>	October 20, 1930	June 25, 1939	December 1, 1962
Germany (Federal Republic)	June 1, 1928	June 13, 1939	December 1, 1962
Holy See	September 29, 1960	September 29, 1960	—
Indonesia <sup>3)</sup>	December 24, 1950	December 24, 1950	—
Liechtenstein	July 14, 1933	January 28, 1951	July 9, 1966
Monaco	April 29, 1956	April 29, 1956	September 14, 1963
Morocco	October 20, 1930	January 21, 1941	—
Netherlands <sup>4)</sup>	June 1, 1928	August 5, 1948	September 14, 1963
Spain	June 1, 1928	March 2, 1956	—
Switzerland	June 1, 1928	November 24, 1939	December 21, 1962
Tunisia	October 20, 1930	October 4, 1942	—
United Arab Republic	July 1, 1952	July 1, 1952	—
Viet Nam <sup>3)</sup>	December 8, 1956	December 8, 1956	—
(Total: 14 States) <sup>5)</sup>			

\*) The Complementary Act of Stockholm (1967) is not yet in force.

\*\*) Explanation of type:

**Heavy type:** States bound by the London Act (1934) and the Additional Act of Monaco (1961).

*Italics:* States bound by the London Act (1934).

<sup>1)</sup> The Act revised at The Hague on November 28, 1960, has been ratified by France, Liechtenstein and Switzerland. *This Act is not yet in force.*

<sup>2)</sup> Including the Departments of Guadeloupe, Guiana, Martinique, Reunion and all Overseas Territories.

<sup>3)</sup> The Agreement was applied, by virtue of Article 22 thereof, in the territories of Indonesia and Viet-Nam before their accession to full independence, as from June 1, 1928.

<sup>4)</sup> Including Curaçao and Surinam.

<sup>5)</sup> Or 15 if East Germany or the German Democratic Republic is also considered a party (see *La Propriété industrielle*, 1956, p. 21). States disagree on this question.

**Special Union Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Union)**

founded by the Nice Agreement (1957), and revised at Stockholm (1967) \*)

Member States	Date on which adhesion to the Union took effect
<b>Australia</b>	<b>April 8, 1961</b>
<b>Belgium</b>	<b>June 6, 1962</b>
<b>Czechoslovakia</b>	<b>April 8, 1961</b>
<b>Denmark</b>	<b>November 30, 1961</b>
<b>France <sup>1)</sup></b>	<b>April 8, 1961</b>
<b>Germany (Federal Republic)</b>	<b>January 29, 1962</b>
<b>Hungary</b>	<b>March 23, 1967</b>
<b>Ireland <sup>†)</sup></b>	<b>December 12, 1966</b>
<b>Israel</b>	<b>April 8, 1961</b>
<b>Italy</b>	<b>April 8, 1961</b>
<b>Lebanon</b>	<b>April 8, 1961</b>
<b>Liechtenstein</b>	<b>May 29, 1967</b>
<b>Monaco</b>	<b>April 8, 1961</b>
<b>Morocco</b>	<b>October 1, 1966</b>
<b>Netherlands</b>	<b>August 20, 1962</b>
<b>Norway</b>	<b>July 28, 1961</b>
<b>Poland</b>	<b>April 8, 1961</b>
<b>Portugal</b>	<b>April 8, 1961</b>
<b>Spain</b>	<b>April 8, 1961</b>
<b>Sweden</b>	<b>July 28, 1961</b>
<b>Switzerland</b>	<b>August 20, 1962</b>
<b>Tunisia</b>	<b>May 29, 1967</b>
<b>United Kingdom of Great Britain and Northern Ireland</b>	<b>April 15, 1963</b>
<b>Yugoslavia</b>	<b>August 30, 1966</b>
<b>(Total: 24 States <sup>2)</sup></b>	

\*) The Stockholm Act (1967) is not yet in force.

†) This State has ratified the Stockholm Act (1967).

<sup>1)</sup> Including the Departments of Guadeloupe, Gniana, Martinique, Reunion and all Overseas Territories.

<sup>2)</sup> Or 25 if East Germany or the German Democratic Republic is also considered a party (see *Industrial Property*, 1964, p. 254). States disagree on this question.

**Special Union for the Protection of Appellations of Origin and their International Registration (Lisbon Union)**

founded by the Lisbon Agreement (1958), and revised at Stockholm (1967) \*)

Member States	Date on which ratification or adhesion to the Union took effect
<b>Cuba</b>	<b>September 25, 1966</b>
<b>Czechoslovakia</b>	<b>September 25, 1966</b>
<b>France <sup>1)</sup></b>	<b>September 25, 1966</b>
<b>Haiti</b>	<b>September 25, 1966</b>
<b>Hungary</b>	<b>March 23, 1967</b>
<b>Israel</b>	<b>September 25, 1966</b>
<b>Italy</b>	<b>December 29, 1968</b>
<b>Mexico</b>	<b>September 25, 1966</b>
<b>Portugal</b>	<b>September 25, 1966</b>
<b>(Total: 8 States)</b>	

\*) The Stockholm Act (1967) is not yet in force.

<sup>1)</sup> Including the Departments of Guadeloupe, Gniana, Martinique, Rennion and all Overseas Territories.

## RATIFICATIONS AND ACCESSIONS

### Ratification of the Stockholm Act of the Paris Convention for the Protection of Industrial Property

UNION OF SOVIET SOCIALIST REPUBLICS

#### *Notification of the Director of BIRPI to the Governments of the Union Countries*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs of . . . . and, in accordance with the provisions of the above international instrument adopted at Stockholm, has the honor to notify him that the Government of the Union of Soviet Socialist Republics deposited, on December 4, 1968, its instrument of ratification dated September 19, 1968, of the Paris Convention of March 20, 1883, for the Protection of Industrial Property, as revised at Stockholm on July 14, 1967.

The Union of Soviet Socialist Republics availed itself of the reservation provided for in Article 28(2) stating that:

*(Translation)*

"The Union of Soviet Socialist Republics does not consider itself bound by the provisions of paragraph 1 of Article 28 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property, which concerns the resolution of disputes arising from the interpretation or application of this Convention,"

and made the following declaration: *(Translation)*

"The Union of Soviet Socialist Republics deems it necessary to declare that the provisions of Article 24 of the Convention, providing the contracting parties with the possibility of extending the effects of the Convention to the territories for the external relations of which they are responsible, are antiquated and out of line with the Declaration of the General Assembly of the United Nations on the granting of independence to colonial countries and peoples (Resolution 1514/XV of December 14, 1960)."

A separate notification will be made of the entry into force of the Stockholm Act of the said Convention when the required number of ratifications or accessions is reached.

Geneva, December 18, 1968.

Paris Notification No. 6.

## OTHER ITEMS OF INFORMATION

### Committee of Experts on the BIRPI Plan for Facilitating the Filing and Examination of Applications for the Protection of the Same Invention in a Number of Countries

#### Plan for a Patent Cooperation Treaty (PCT)

(Geneva, December 2 to 10, 1968)

##### Note \*

Within the framework of the program of BIRPI as decided by the competent organs of the Paris Union concerning the BIRPI Plan for a Patent Cooperation Treaty (PCT), a "Committee of Experts on the BIRPI Plan for Facilitating the Filing and Examination of Applications for the Protection of the Same Invention in a Number of Countries" met at Geneva, in the *Palais des Nations*, from December 2 to 10, 1968.

Forty-one States, seven intergovernmental organizations, and eleven non-governmental organizations were represented. The list of over 150 participants appears at the end of this Note.

The meeting was chaired by Mr. E. M. Braderman, Head of the Delegation of the United States of America. The three Vice-Chairmen were: Mr. Kurt Haertel, Mr. E. I. Artemiev, and Mr. B. Jimbo, Heads of the Delegations of Germany (Federal Republic), the Soviet Union, and Japan, respectively.

BIRPI's approach to the PCT Plan was described in the opening speech by the Director of BIRPI in the following terms:

"Our approach is world-wide. We would like the PCT to respond to the needs not only of some but of all parts of the world: those of developing and developed countries; of capitalist and socialist countries and those in between; of Europe, the Americas, Asia, Africa, Oceania. This is a BIRPI-sponsored operation and, like the Paris Convention, should result in something useful to all nations."

"Another of our basic considerations is the desire to see a patent cooperation treaty which will be useful both to the Governments and to inventors and industry, whether they be considered as applicants for patents or as competitors of the applicants. A plan which would not be useful to Governments could never result in a treaty, if for no other reason than that international treaties cannot be made without Governments. A plan which would not be useful to the private sector could, perhaps, lead to the signing of a treaty which, however, might not be ratified and, even if ratified, would not be used. And since none of us wants to work on a treaty which would remain a dead letter, the Treaty must be such that its usefulness should be both certain and considerable also to private circles . . . .

"In all the preparatory work which has now been going on for almost two years, we have been guided by these con-

\* This Note has been prepared by the BIRPI Secretariat.

siderations. We have been in contact with very nearly all parts of the world and we have continuously consulted not only Governments but also representatives of the private sector. I believe I can say that our attention was just about equally divided between them.

"The participation in this meeting proves that our effort to bring together both sides continues."

The discussions of the Committee of Experts were based on BIRPI documents of the PCT/III series, one of which (No. PCT/III/4) was published in the August 1968 issue of this review (pages 243 to 251).

The Committee of Experts considered the BIRPI Draft Treaty article by article and the Draft Regulations in connection with the Treaty.

A number of proposals for changes in the Drafts were made. Some were adopted, others were referred back for further study or consultations. None of them affects the basic structure of the Drafts. However, they do represent an important step forward towards the achievement of a mutually satisfactory agreement in a particularly difficult enterprise.

In its closing meeting, the Committee of Experts adopted a long report placing on record the results of the deliberations<sup>1</sup>.

In the course of the year 1969, BIRPI plans to issue revised versions of the PCT Draft Treaty and Draft Regulations, versions which will take into account the deliberations of the Committee of Experts and the results of further consultations with Governments and interested non-governmental organizations. Such consultations are scheduled to take place in the coming months.

## List of Participants

### I. States

#### Algeria

Mr. S. Bouzidi, Head of Division, National Industrial Property Office, Algiers.  
Mr. M. Boukerh, Attaché, Ministry of Foreign Affairs, Algiers.  
Mr. K. Lokmane, Attaché of Embassy, Permanent Mission of Algeria, Geneva.

#### Argentina

Mr. L. M. Laurelli, Secretary of Embassy, Permanent Delegation of the Republic of Argentina, Geneva.

#### Australia

Mr. K. B. Petersson, Commissioner of Patents, Patent, Trade Mark, Design and Copyright Offices, Canberra.

#### Austria

Mr. T. Lorenz, Counsellor, Ministry for Trade, Commerce and Industry, Vienna.

#### Belgium

Mr. A. Schurmans, Director, Industrial and Commercial Property Service, Brussels.  
Mr. J. Degavre, Brussels.

#### Brazil

Mr. J. C. Ribeiro, Secretary of Embassy, Permanent Delegation of Brazil, Geneva.

<sup>1</sup> Document PCT/III/31. Copies, in reasonable quantities, may be obtained from BIRPI, free of charge, in English and French.

#### Canada

Mr. J. F. Grandy, Deputy Minister, Department of Consumer and Corporate Affairs, Ottawa.  
Mr. A. M. Laidlaw, Commissioner of Patents, Department of Consumer and Corporate Affairs, Ottawa.  
Mr. F. W. Simons, Assistant Commissioner of Patents, Department of Consumer and Corporate Affairs, Ottawa.  
Mr. J. Corheil, Second Secretary and Consul, Permanent Mission of Canada, Geneva.

#### Cuba

Mr. F. Ortiz Rodriguez, First Secretary, Permanent Mission of Cuba, Geneva.

#### Czechoslovakia

Mr. F. Kříštek, President, Office for Patents and Inventions, Prague.  
Mr. M. Všetečka, Head of the Legal and International Department, Office for Patents and Inventions, Prague.  
Mr. L. Lacina, Head of the Examination Department, Office for Patents and Inventions, Prague.

#### Denmark

Mr. E. P. Tuxen, Director, Patent and Trademark Office, Copenhagen.  
Mrs. D. Simonsen, Head of Department, Patent and Trademark Office, Copenhagen.

#### Finland

Mr. E. Tunli, Director-General, National Board of Patents and Registration of Trade Marks, Helsinki.  
Mr. S. Finne, Director, Federation of Finnish Industries, Helsinki.

#### France

Mr. F. Savignon, Director, National Institute of Industrial Property, Paris.  
Mr. R. Lahry, Counsellor of Embassy, Directorate of Economic and Financial Affairs, Ministry of Foreign Affairs, Paris.  
Mr. J.-P. Plantard, Judge, Ministry of Justice, Paris.

#### Germany (Federal Republic)

Mr. K. Haertel, President, German Patent Office, Munich.  
Mr. R. Singer, Leitender Regierungsdirektor, German Patent Office, Munich.  
Mr. H. Mast, Regierungsdirektor, Federal Ministry of Justice, Bonn.  
Mr. U. C. Hallmann, Regierungsrat, German Patent Office, Munich.  
Mr. P. Schönfeld, First Secretary, Permanent Delegation of the Federal Republic of Germany, Geneva.

#### Greece

Mr. G. Pilavachi, Legal Advisor, Permanent Delegation of Greece, Geneva.

#### Hungary

Mr. E. Tasnádi, President, National Office for Inventions, Budapest.  
Mr. G. Pusztai, Head of Service, National Office for Inventions, Budapest.  
Mr. G. Bánrévý, Acting Head of the Legal Department, Ministry for Foreign Trade, Budapest.  
Mr. G. Ürmösi, Head of Service, Ministry for Foreign Trade, Budapest.  
Mr. G. Kóvári, Engineer, National Office for Inventions, Budapest.

#### Indonesia

Mr. I. Darsa, Second Secretary, Permanent Mission of the Republic of Indonesia, Geneva.

#### Ireland

Mr. M. J. Quinn, Controller of Patents, Designs and Trade Marks, Duhlin.

#### Israel

Mr. Ze'ev Sher, Deputy Attorney General, Jerusalem.

**Italy**

Mr. P. A. Archi, Ambassador, Delegate for Intellectual Property Treaties, Ministry for Foreign Affairs, Rome.  
 Mr. G. Ranzi, Director-General, Italian Patent Office, Rome.  
 Mr. G. Trotta, Legal Advisor, Ministry for Foreign Affairs, Rome.  
 Mr. M. Angel-Pulsinelli, Inspector General, Ministry of Industry, Rome.  
 Mr. A. Annunziata, Doctor in Industrial Chemistry, SNAM Progetti S.p.A., San Donato Milanese.  
 Mr. G. Caselli, Engineer, Milan.  
 Mr. A. Ferrante, Lawyer, Milan.  
 Mr. R. Messerotti-Benvenuti, Lawyer, Montecatini-Edison S.p.A., Milan.  
 Mr. G. Omodeo-Salè, Patent Agent, Società Italiana Brevetti, Rome.

**Japan**

Mr. B. Jimbo, Director, Second Examination Division, Patent Office, Tokyo.  
 Mr. K. Hosbino, Chief, General Affairs Section, Patent Office, Tokyo.  
 Mr. T. Sakai, First Secretary, Permanent Delegation of Japan, Geneva.

**Lebanon**

Mrs. R. Homsy, First Secretary, Permanent Mission of the Lebanon, Geneva.

**Luxembourg**

Mr. J. P. Hoffmann, Head of the Industrial Property Service, Ministry of National Economy, Luxembourg.

**Monaco**

Mr. J. M. Notari, Director of the Industrial Property Service, Monaco.

**Netherlands**

Mr. J. B. van Benthem, President, Patent Council, The Hague.  
 Mr. W. M. J. C. Phaf, Head of the Division of Legislation and Legal Affairs, Ministry of Economic Affairs, The Hague.  
 Mr. M. van Dam, Attorney at Law, Eindhoven.

**Norway**

Mr. L. Nordstrand, Director, Industrial Property Office, Oslo.  
 Mr. E. Hammel, Director-General, Royal Ministry of Industry, Oslo.  
 Mr. T. Alfsen, Legal Counsellor, Royal Ministry of Industry, Oslo.

**Philippines**

Mr. E. G. Santos, Assistant-Director, Philippines Patent Office, Quezon City.  
 Mr. L. R. Lara, Jr., Legal Officer, Philippines Patent Office, Quezon City.

**Poland**

Mr. S. Kalinowski, Vice-President, Patent Office, Warsaw.  
 Mr. H. Piotrowski, Vice-Director, Patent Office, Warsaw.  
 Mr. M. Zoledowski, Head of International Section, Patent Office, Warsaw.

**Portugal**

Mr. J. Mota Maia, Engineer, Head of Inventions Service, Industrial Property Office, Lisbon.  
 Mr. A. J. De Sousa, Department of Industry, Lisbon.  
 Mr. R. Rolão Gonçalves, Engineer, Department of Commerce, Lisbon.

**Rumania**

Mr. N. Gheorghiu, First Deputy to the Director General, General Directorate of Metrology, Standards and Inventions, Bucharest.  
 Mr. L. Marinete, Director of the National Office for Inventions, Bucharest.

**Senegal**

Mr. M. Abou Souleymane Ly, Civil Administrator, Director of the National Department for History, Ethnography and Art, Dakar.

**South Africa**

Mr. T. Schoeman, Registrar of Patents, Pretoria.  
 Mr. O. J. Kok, South African Permanent Mission, Geneva.  
 Mr. H. Heese, South African Permanent Mission, Geneva.  
 Mr. K. N. Kisch, Patent Agent, Johannesburg.

**Spain**

Mr. A. Fernandez Mazarambroz, Director, Industrial Property Registration Office, Madrid.  
 Mr. J. L. Xifra de Ocerín, Secretary of Embassy, Permanent Delegation of Spain, Geneva.  
 Mr. J. Delicado y Montero-Rios, Head of the Technical and Administrative Office, Industrial Property Registration Office, Madrid.  
 Mr. H. Guillamón Reyes, Industrial Engineer, Paris.

**Sweden**

Mr. G. R. Borggård, Director-General, National Patent and Registration Office, Stockholm.  
 Mr. S. Lewin, Head of Division, National Patent and Registration Office, Stockholm.  
 Mr. F. L. Körner, Director, Federation of Swedish Industries, Stockholm.

**Switzerland**

Mr. J. Voyame, Director, Federal Bureau of Intellectual Property, Berne.  
 Mr. E. Lips, Deputy Director, Federal Bureau of Intellectual Property, Berne.  
 Mr. W. Stamm, Head of Section, Federal Bureau of Intellectual Property, Berne.  
 Mr. W. Winter, Director, F. Hoffmann-La Roche & Co., Basle.

**Turkey**

Mr. N. Kandemir, Deputy Permanent Delegate, Permanent Delegation of Turkey, Geneva.  
 Mr. S. Köksal, Second Secretary, Permanent Delegation of Turkey, Geneva.

**Uganda**

Mr. G. S. Lule, Administrator General, Registrar of Patents, Kampala.

**Union of Soviet Socialist Republics**

Mr. E. I. Artemiev, Deputy Chairman, Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR, Moscow.  
 Mr. I. Tcherviakov, Deputy Director, Central Scientific Institute for Information on Patents and Technico-Economical Research, Moscow.  
 Mr. V. Roslov, Senior Engineer, Department of External Affairs, Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR, Moscow.  
 Mr. V. Kalinin, Second Secretary, Permanent Mission of the USSR, Geneva.

**United Arab Republic**

Mr. Y. Rizk, Second Secretary, Permanent Delegation of the United Arab Republic, Geneva.

**United Kingdom**

Mr. G. Grant, C.B., Comptroller-General of Patents, Designs and Trade Marks; Comptroller, Industrial Property and Copyright Department, Board of Trade, London.  
 Mr. W. Wallace, C.M.G., Assistant Comptroller, Industrial Property and Copyright Department, Board of Trade, London.  
 Mr. E. Armitage, Assistant Comptroller, Patent Office, Board of Trade, London.

**United States of America**

Mr. E. M. Braderman, Deputy Assistant Secretary of State for Commercial and Business Activities, Department of State, Washington.

Mr. E. J. Brenner, Commissioner of Patents, Patent Office, Washington.

Mr. G. R. Clark, General Patent Counsel, Sunbeam Corporation, Chicago.

Mr. W. O. Quesenberry, Director, Office of International Patent and Trademark Affairs, Patent Office, Washington.

Mr. W. E. Schuyler, Attorney-at-Law, Browne, Schuyler & Beveridge, Washington.

Mr. H. J. Winter, Assistant Chief, Business Practices Division, Office of Commercial Affairs and Business Activities, Bureau of Economic Affairs, Department of State, Washington.

Mr. W. R. Woodward, General Patent Attorney, Western Electric Co. Inc., New York.

**II. Observer****India**

Mr. S. Vedaraman, Controller-General of Patents, Designs and Trade Marks, Bombay.

**III. Intergovernmental Organizations****United Nations (UN)**

Mr. H. Cornil, Legal Officer, Commission Affairs and Trade Development Division, Economic Commission for Europe, Geneva.

Mr. A. Belkora, Manufactures Division, United Nations Conference on Trade and Development Secretariat, Geneva.

Mr. M. Gahay, Chief, Investment Unit, Fiscal and Financial Branch, Department of Economic and Social Affairs, New York.

**United Nations Industrial Development Organization (UNIDO)**

Mr. V. Dolezil, Industrial Development Officer, Vienna.

**International Patent Institute (IIB)**

Mr. G. Finniss, Director-General, The Hague.

Mr. P. van Waasbergen, Technical Director, The Hague.

Mr. R. Weber, Head of Division, The Hague.

**Organization of American States (OAS)**

Mr. R. C. Migone, Director, European Regional Office of General Secretariat, Geneva.

**Council of Europe**

Mr. P. von Holstein, Administrator, Directorate of Legal Affairs, Strasbourg.

**European Free Trade Association (EFTA)**

Mr. G. Latzel, Assistant, General and Legal Department, Geneva.

**European Communities**

Mr. J. P. Lauwers, Principal Administrator, Directorate for Unification of Laws, Brussels.

**IV. Non-Governmental Organizations****Committee of National Institutes of Patent Agents (CNIPA)**

Mr. C. E. Every, Patent Agent, London.

Mr. H. Bardehle, Patent Agent, Munich.

Mr. F. S. Muller, Head of Patent Department, Nederlandse Staatsmijnen, Geleen.

Mr. P. L. Bowtell, Patent Agent, London.

**Council of European Industrial Federations (CEIF)**

Mr. M. G. E. Meunier, Head of Patent Service, Ateliers de Constructions Electriques de Charleroi, Charleroi.

Mr. J. M. Auhrey, Patent Department, Courtaulds Ltd., Coventry.

Mr. P. Rouyre, Société des Forges et Ateliers du Grenot, Paris.

Mr. A. Sarti, Manager, Patent Department, Olivetti S.p.A., Ivrea.

Mr. C. Payraudeau, Compagnie générale d'électricité, Department of Industrial Property, Paris.

**European Industrial Research Management Association (EIRMA)**

Mr. F. L. Picard, Vice-President of EIRMA, Chairman of the EIRMA Working Group on Patents, Directeur Conseil, Régie Nationale des Usines Renault, Billancourt.

Mr. A. L. van der Auweraer, Vice-Chairman of the EIRMA Working Group on Patents, Conseil en brevets industriels, Gevaert-Agfa, N. V., Mortsel-Antwerp.

Mr. F. P. Panel, Rapporteur of the EIRMA Working Group on Patents, Director of Industrial Property Services, Compagnie Générale d'Electricité, Paris.

Mr. P. L. Hazelzet, Director, N. V. Philips, Eindhoven.

Mr. G. J. Hirt, Deputy Director, Société des Produits Nestlé S.A., Vevey.

**International Association for the Protection of Industrial Property (IAPIP)**

Mr. S. P. Ladas, Treasurer-General and Member of IAPIP, New York.

Mr. C. M. R. Davidson, President of the Netherlands Group of IAPIP, The Hague.

Mr. J. Monnet, President of the French Group of IAPIP, Paris.

**International Chamber of Commerce (ICC)**

Mr. D. A. Was, Group Industrial Property Advisor, Royal Dutch Shell Group, The Hague.

Mr. H. Vanderhorst, Head of Department of Technical Documentation and Patents, UCB (Union chimique — Chemische Bedrijven) S.A., Brussels.

Mr. D. O. Lewis, Patents Manager, Bacoock & Wilcox, London.

**International Federation of Inventors' Association (IFI)**

Mr. F. Burmester, Vice-President of IFIA, Facharzt für Augenheilkunde, Reutlingen.

Mr. H. Romanus, Vice-President of IFIA, Civil Engineer, Stockholm.

Lt. Col. M. V. Terä, Helsinki.

**International Federation of Patent Agents (FICPI)**

Mr. P. O. Langhalle, Honorary President, President of the Study and Working Group, FICPI, Copenhagen.

Mr. J. Corre, Rapporteur of the Study and Working Group, FICPI, Patent Agent, Paris.

Mr. K. Høst-Madsen, President, Association of Danish Patent Agents, Copenhagen.

**Japan Patent Association**

Mr. H. Ono, Patent Attorney, Manager, Patent Department, IBM Japan Co. Ltd., Tokyo.

Mr. T. Simada, Chief, First Patent Section, Takeda Chemical Industries Ltd., Osaka.

**National Association of Manufacturers (NAM) U. S. A.**

Mr. E. W. Adams, Jr., Director, Bell Telephone Laboratories Inc., Holmdel, N. J.

Mr. R. W. Ball, Foreign Patent Counsel, E. I. du Pont de Nemours & Co., Wilmington.

Mr. H. H. Green, Patent Consultant, General Electric Co., New York.

Mr. B. J. Kish, European Patent Counsel, Merck & Co., New York.

Mr. J. R. Shipman, Director of International Patent Operations, IBM, New York.

**Union of European Patent Agents**

Mr. C. Massalski, Rapporteur-General, Union of European Patent Agents, Paris.

**Union of Industries of the European Community (UNICE)**

Mr. J. M. Dopchie, Civil Engineer, Tréfileries Léon Bekaert, Zwevegem.

Mr. E. Fischer, Attorney-at-Law, Frankfurt/Main.

Mr. G. Oudemans, President of Patent Group of UNICE, Vught.  
 Mr. J. P. Simon, Legal Service, Syndicat Général de la Construction  
 Electrique, Paris.  
 Mr. J. Servot, Service of Legislative Studies, Conseil National du  
 Patronat Français, Paris.  
 Mr. P. Trupia, Confederazione Generale dell'Industria Italiana,  
 Rome.  
 Mr. J. Willems, Krefeld.

### V. Officers of the Meeting

Chairman: Mr. E. M. Braderman (United States of America).  
 Vice-Chairmen: Mr. K. Haertel (Germany (Federal Republic)).  
 Mr. E. I. Artemiev (Union of Soviet Socialist Republics).  
 Mr. B. Jimho (Japan).  
 Secretary: Dr. Arpad Bogsch (BIRPI).

### VI. United International Bureaux for the Protection of Intellectual Property (BIRPI)

Professor G. H. C. Bodenhausen, Director.  
 Dr. Arpad Bogsch, Deputy Director.  
 Mr. Klaus Pfanner, Counsellor, Head of the Industrial Property Division.  
 Mr. I. Morozov, Counsellor, Industrial Property Division.  
 Mr. L. H. Baeumer, Legal Assistant, Industrial Property Division.  
 Miss G. Davies, Legal Assistant, Industrial Property Division.  
 Mr. Y. Gyrdymov (Committee for Inventions and Discoveries attached to  
 the Council of Ministers of the USSR, Moscow).  
 Mr. Y. Hashimoto (Patent Office of Japan).  
 Mr. H. D. Hoinkes (U.S. Patent Office).  
 Mr. W. Weiss (Patent Office of the Federal Republic of Germany).

namely: Steroids, Organometallics (two subsystems), Electrolysis, Taps & Valves, Insulated Cables & Lines, Color TV. (Systems the development of which is already in an advanced stage are the following: Lubricants, AD Convertors, Lasers and Masers, Layered Products, Alloys.) The other members of the ETSC noted this agreement.

In view of this agreement, which was arrived at after considering the present situation and short-term future possibilities, the ETSC decided that BIRPI would no longer be requested to carry out the assessment concerning shared systems, an assessment which had been contemplated by earlier sessions of the ETSC. It was, however, understood that the Secretariat would still be required to write a report on all other activities of ICIREPAT where substantial work had been carried out in the past.

#### 2. Technical Committees, ABCS, and the Technical Coordination Committee

On a proposal by the US Representative, the ETSC decided, in principle, to replace the existing Standing Committees by some seven mission-oriented Technical Committees. The Technical Coordination Committee (TCC) will meet in the spring of 1969 and will establish the said Technical Committees and define the terms of reference for each of them.

In the meantime the present Standing Committees (STAC-s) will continue as Technical Committees, and the Advisory Board for Cooperative Systems will continue as a Working Group responsible for policing the shared systems.

#### 3. Technical Officer on the BIRPI Staff

The ETSC decided that BIRPI should employ a full-time specialist (in those matters with which ICIREPAT plans to deal) having the title of Technical Officer or some other such title. He would be the technical specialist in ICIREPAT matters on the BIRPI staff. He would, in particular, have the task of dealing with the technical preparation of the meetings of the TCC and would prepare proposals for that Committee concerning the coordination and work schedule of the Technical Committees<sup>3</sup>.

#### 4. Problems of Microform

The ETSC decided to ask BIRPI, when the latter transmits the report of the Tokyo meeting of STAC II dealing with the microform question, to invite the members of the TCC to indicate their wishes as to the further consideration of the problems still unsolved in this field, including their proposals for the date of the next meeting on the microform question to be convened by BIRPI.

This was the last session of the ETSC, since the new Organizational Rules of ICIREPAT came into force on January 1, 1969.

The first session of the TCC, the Committee which, in the new ICIREPAT, succeeds the ETSC, is scheduled for April 17 and 18, 1969.

The Fourth Session<sup>2</sup> of the Enlarged Transitional Steering Committee (hereinafter referred to as "the ETSC") of the Committee for International Cooperation in Information Retrieval Among Examining Patent Offices (ICIREPAT) was held at Geneva on December 12 and 13, 1968.

The list of participants follows this note.

The following are among the more important decisions made by the ETSC:

#### 1. Shared Systems and Reassessment of the ICIREPAT Program

Representatives of the Patent Offices of Germany (Federal Republic), the United Kingdom, and the United States of America, and of the International Patent Institute (IIB) agreed to cooperate in the development of six new shared systems,

<sup>1</sup> This note has been prepared by BIRPI on the basis of the official documents of the session.

<sup>2</sup> As to the first three sessions, see *Industrial Property*, 1968, pages 171, 251, and 296.

<sup>3</sup> An announcement inviting applications for this post will be published in the next issue of this review.

## List of Participants

### I. Member States of the Committee

#### Germany (Federal Republic)

Mr. K. Haertel, President, German Patent Office, Munich.  
 Mr. R. Singer, Leitender Regierungsdirektor, German Patent Office, Munich.  
 Mr. W. Axhausen, Regierungsdirektor, German Patent Office, Munich.

#### Japan

Mr. B. Jimbo, Director, Second Examination Division, Patent Office, Tokyo.  
 Mr. K. Hoshino, Chief, General Affairs Section, Patent Office, Tokyo.

#### Netherlands

Mr. J. B. van Benthem, President, Patent Board, The Hague.  
 Mr. G. Koelewijn, Head of Department, Netherlands Patent Office, The Hague.  
 Mr. J. Dekker, Member of Patent Board, The Hague.

#### Sweden

Mr. G. R. Borggård, Director-General, National Patent and Registration Office, Stockholm.  
 Mr. T. Gustafson, Deputy Director-General, National Patent and Registration Office, Stockholm.

#### Union of Soviet Socialist Republics

Mr. E. I. Artemiev, Deputy Chairman, Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR, Moscow.  
 Mr. I. Tcherviakov, Deputy Director, Central Scientific Institute for Information on Patents and Technico-Economical Research, Moscow.  
 Mr. V. Roslov, Senior Engineer, Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR, Moscow.  
 Mr. V. Kalinin, Second Secretary, Permanent Mission of the USSR, Geneva.

#### United Kingdom

Mr. G. Grant, C. B., Comptroller-General of Patents, Designs and Trade Marks; Comptroller, Industrial Property and Copyright Department, Board of Trade, London.  
 Mr. E. Armitage, Assistant Comptroller, Patent Office, Board of Trade, London.  
 Mr. D. G. Gay, Superintending Examiner, Patent Office, Board of Trade, London.

#### United States of America

Mr. E. J. Brenner, Commissioner of Patents, Patent Office, Washington.  
 Mr. W. O. Quesenberry, Director, Office of International Patent and Trademark Affairs, Patent Office, Washington.  
 Mr. R. A. Spencer, Director, Office of Research, Development and Analysis, Patent Office, Washington.  
 Mr. H. J. Winter, Assistant Chief, Business Practices Division, Office of Commercial Affairs and Business Activities, Bureau of Economic Affairs, Department of State, Washington.

## II. Observers

#### Canada

Mr. F. W. Simons, Assistant Commissioner of Patents, Department of Consumer and Corporate Affairs, Ottawa.

#### Switzerland

Mr. J. R. Fierz, Head of Section 1, Federal Bureau of Intellectual Property, Berne.

## III. International Patent Institute

Mr. R. Weber, Head of Division, The Hague.  
 Mr. L. F. W. Knight, Counsellor, The Hague.

## IV. Officers of the Session

Chairman: Mr. G. Grant, C. B. (United Kingdom).  
 Vice-Chairman: Mr. G. R. Borggård (Sweden).  
 Secretary: Dr. Arpad Bogsch (Deputy Director, BIRPI).

## V. United International Bureaux for the Protection of Intellectual Property (BIRPI)

Dr. Arpad Bogsch, Deputy Director.  
 Mr. Klaus Pfanner, Counsellor, Head of the Industrial Property Division.  
 Mr. I. Morozov, Counsellor, Industrial Property Division.  
 Mr. Y. Gyrdymov (Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR, Moscow).  
 Mr. Y. Hashimoto (Patent Office of Japan).  
 Mr. H. D. Hoinkes (United States Patent Office).  
 Mr. W. Weiss (Patent Office of the Federal Republic of Germany).

## Staff Changes in BIRPI

Mr. Charles-Louis MAGNIN, Deputy Director, retired on January 1, 1969.

Mr. Ross WOODLEY, Senior Counsellor for Relations with International Organizations, retired on December 1, 1968.

\* \* \*

Dr. Arpad BOGSCH, Deputy Director since 1963, has been appointed First Deputy Director, with effect from February 15, 1969.

Mr. Joseph VOYAME, formerly Director of the Federal Bureau of Intellectual Property, Switzerland, has been appointed Second Deputy Director, with effect from February 15, 1969.

Mr. Claude MASOUYÉ, Head of the Copyright Division since 1961, has been appointed Senior Counsellor in charge of External Relations, with effect from January 1, 1969.

# LEGISLATION

GERMANY (Federal Republic)

I

## The Utility Model Law

(Text of January 2, 1968) \*

### Article 1

(1) Working tools and implements [*Arbeitsgerätschaften*] or articles of everyday use [*Gebrauchsgegenstände*] or parts thereof shall be protected as utility models under this Law in so far as they are intended to serve the working purpose or the purpose of use by means of a new configuration, arrangement or device.

(2) They shall not be considered new if, at the time of filing the application (Article 2), they have already been described in printed publications made available to the public [*öffentliche Druckschriften*] or have already been publicly used in this country. Any description or use within six months prior to the filing of the application shall not be taken into account if it is based upon the work of the applicant or his predecessor in title.

### Article 2

(1) Applications in respect of articles for which protection as utility models is sought shall be filed in writing with the Patent Office. The provisions of Article 27 of the Patent Law shall apply *mutatis mutandis*.

(2) The application must state under what designation the utility model is to be registered and what new configuration, arrangement or device is to serve the purpose of work or use. There shall be stated at the end of the description what is to be protected as being eligible for protection (claim for protection) [*Schutzzanspruch*].

(3) A drawing shall be attached to every application; a model may also be filed, instead of a drawing.

(4) The Federal Minister of Justice shall have power to issue by statutory order [*Rechtsverordnung*] regulations concerning other requirements for the application. He may delegate such power by statutory order to the President of the Patent Office.

(5) A fee as prescribed in the schedule of fees shall be paid with the application for every utility model in respect of which registration is applied for. In the event of failure to pay, the Patent Office shall notify the applicant that the application shall be deemed to have been withdrawn unless the fee is paid before the expiration of a period of one month after service of the notification.

(6) If the applicant applies for a patent for the same article, he may request that registration in the Utility Model

Register should not be effected until the patent application has been disposed of. In such case, only half the fee is payable at the time of filing the application and the other half prior to registration.

### Article 3

(1) If the application complies with the requirements of Article 2, the Patent Office shall order registration to be effected in the Utility Model Register.

(2) The registration must indicate the name and address of the applicant and of his duly appointed representative, if any (Article 20), as well as the date of filing the application.

(3) Registrations shall be published in the Patent Gazette [*Patentblatt*] in lists appearing at regular intervals.

(4) The Patent Office shall record in the Register any change in the identity of the proprietor of the utility model or of his representative if proof thereof is furnished to it. A fee as prescribed in the schedule of fees shall be paid with the relevant request; if the fee is not paid, the request shall be deemed not to have been filed. As long as the change has not been recorded, the former proprietor and his former representative shall remain subject to the rights and obligations as provided under this Law.

(5) Anyone may inspect the Register and the files of registered utility models, including the files of cancellation proceedings. In addition, the Patent Office shall permit anyone so requesting to inspect the files if and to the extent that satisfactory proof of a legitimate interest has been furnished.

### Article 3a

(1) If an application is filed for registration of a utility model the subject of which is a state secret (Article 99, paragraph (1), of the Penal Code [*Strafgesetzbuch*]), the Utility Model Section [*Gebrauchsmusterstelle*] shall order ex officio that laying open for inspection (Article 3, paragraph (5)) and publication in the Patent Gazette shall not take place. The competent highest federal authority shall be heard before the order is issued. The said authority may request that an order be issued. The utility model concerned shall be registered in a special Register.

(2) In other respects, the provisions of Article 24, paragraph (3), sentence 4, Article 30a, paragraphs (2) to (4), and Articles 30b to 30g, of the Patent Law shall apply *mutatis mutandis*.

### Article 4

(1) For requests relating to utility models, with the exception of cancellation requests (Articles 7 to 9), a Utility Model Section shall be established within the Patent Office, under the direction of a legal member appointed by the President of the Patent Office.

(2) The Federal Minister of Justice shall have power to establish by statutory order that officials of the higher intermediate [*gehobener Dienst*] and lower intermediate [*mittlerer Dienst*] grades of the civil service shall be entrusted with the handling of particular matters within the competence of the Utility Model Section or Utility Model Divisions [*Gebrauchsmusterabteilungen*]; with the exception, however, of the re-

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt I*, page 24.

jection of applications on grounds which the applicant has contested. The Federal Minister of Justice may delegate such power by statutory order to the President of the Patent Office.

(3) Decisions on cancellation requests (Articles 7 to 9) shall be made by one of the Utility Model Divisions to be set up within the Patent Office, which shall be composed of two technical members and one legal member. The provisions of Article 18, paragraph (7), of the Patent Law shall apply *mutatis mutandis*. It shall also be within the competence of each Utility Model Division to give opinions [*Gutachten*].

(4) For the exclusion and challenge [*Ablehnung*] of members of the Utility Model Section and Utility Model Divisions, Articles 41 to 44, Article 45, paragraph (2), sentence 2, and Articles 47 to 49, of the Code of Civil Procedure [*Zivilprozessordnung*] relating to exclusion and challenge of members of a court shall apply *mutatis mutandis*. The same holds good for officials of the higher and lower intermediate grades of the civil service in so far as they have been entrusted under paragraph (2) with the handling of particular matters within the competence of the Utility Model Section or Utility Model Divisions. Article 18, paragraph (6), sentence 3, of the Patent Law shall apply *mutatis mutandis*.

#### Article 5

(1) The effect of the registration of a utility model shall be such that the proprietor alone shall have the right to reproduce the model industrially, commercially or professionally and to put on the market, offer for sale, or use, the articles thus reproduced.

(2) Protection of a utility model shall not be constituted [*begründet*] on the basis of registration in so far as that model is already protected on the basis of an earlier application for a patent or utility model.

(3) If the essential elements of the registration have been taken from the descriptions, drawings, models, tools and implements, or devices of another person without that person's consent, protection under this Law shall not be invoked against the injured party.

(4) The provisions of the Patent Law with regard to the right to protection (Article 3), the right to the grant of protection (Article 4, paragraph (1)), the right to assignment (Article 5), and limitations of the effect (Articles 7 and 8), shall apply *mutatis mutandis*.

#### Article 6

If a patent applied for later infringes a right constituted under Article 5, the right deriving from that patent may not be exercised without the consent of the proprietor of the utility model.

#### Article 7

(1) If the requirements of Article 1 are not complied with, or if protection has not been constituted within the meaning of the provisions of Article 5, paragraph (2), any person may have a claim against the person registered as proprietor for cancellation of the utility model.

(2) In the case of Article 5, paragraph (3), the injured party may have a claim for cancellation.

#### Article 8

A request for cancellation of the utility model under Article 7 shall be filed in writing with the Patent Office. The request must state the facts on which it is based. A fee as prescribed by the schedule of fees shall be paid with the request; if the fee is not paid, the request shall be deemed not to have been filed. The provisions of Article 37, paragraph (6), and Article 44a of the Patent Law shall apply *mutatis mutandis*.

#### Article 9

(1) The Patent Office shall notify the proprietor of the utility model of the request and shall invite him to reply within one month. If he fails to file a contesting reply in due time, cancellation shall be effected.

(2) If, on the contrary, the proprietor does file a contesting reply, the Patent Office shall notify the person making the request of such reply and shall take all measures necessary for the investigation of the matter. It may order the examination of witnesses and experts. The provisions of the Code of Civil Procedure shall apply *mutatis mutandis* to any such examination. The proceedings relating to the taking of evidence shall be recorded by a sworn minute-writer [*Protokollführer*] called in for the purpose.

(3) A decision shall be given on the request on the basis of a hearing [*mündliche Verhandlung*]. The Patent Office shall determine, in its equitable discretion, in what proportion the costs of the proceedings shall be borne by the parties. Article 33, paragraph (2), sentences 2 to 7, of the Patent Law shall apply *mutatis mutandis*.

#### Article 10

(1) An appeal shall lie to the Patent Court [*Patentgericht*] from the decisions of the Utility Model Section and the Utility Model Divisions.

(2) If the appeal lies from a decision by the Utility Model Section to reject the application for registration of a utility model or from a decision by the Utility Model Division regarding the request for cancellation, a fee as prescribed by the schedule of fees shall be paid within the period allowed for filing the appeal; if the fee is not paid, the appeal shall be deemed not to have been filed.

(3) In other respects, the provisions of the Patent Law governing proceedings on appeal before the Patent Court shall apply *mutatis mutandis*.

(4) Appeals from decisions of the Utility Model Section and from decisions of the Utility Model Divisions shall be decided by a Chamber of Appeal [*Beschwerdesenat*] of the Patent Court. Appeals against rejection of the application for registration of a utility model shall be decided by the Chamber of Appeal when it is composed of two legal members and one technical member, and appeals from decisions of the Utility Model Divisions regarding cancellation requests when it is composed of one legal member and two technical members. The presiding judge [*Vorsitzende*] must be a legal mem-

ber. Article 36e, paragraph 5, of the Patent Law shall apply *mutatis mutandis* with regard to the allocation of business within the Chamber of Appeal. In the case of proceedings relating to appeals from decisions of the Utility Model Section, Article 36g, paragraph (1), of the Patent Law shall apply and, in the case of proceedings relating to appeals from decisions of the Utility Model Divisions, Article 36g, paragraph (2), of the Patent Law shall apply *mutatis mutandis*.

(5) An appeal on a point of law [*Rechtsbeschwerde*] from a decision of the Chamber of Appeal of the Patent Court shall lie to the Federal Court of Justice [*Bundesgerichtshof*] if the Chamber of Appeal, in its decision, has given leave to appeal on the said point of law. Article 41p, paragraphs (2) and (3), and Articles 41q to 41y of the Patent Law shall apply *mutatis mutandis*.

### Article 11

If, during cancellation proceedings, litigation is pending in respect of which the decision [*Entscheidung*] depends on the existence of utility model protection, the court may order that the hearing be postponed until the cancellation proceedings have been disposed of. It shall order such postponement if it considers the utility model registration to be invalid. If the cancellation request has been refused, the court shall be bound by that decision only if it was made in respect of the same parties.

### Article 11a

The provisions of the Patent Law concerning the grant of a compulsory license (Article 15, paragraph (1)) and the proceedings relating to the grant of a compulsory license (Articles 37 to 41o and 42 to 42m) shall apply in the case of registered utility models *mutatis mutandis*.

### Article 12

(1) The provisions of the Patent Law concerning the giving of opinions (Article 23), the obligation to observe the truth in proceedings (Article 44), the official language (Article 45), service of documents (Article 54a), and the grant of legal aid by the courts (Article 46), shall also apply to utility model cases.

(2) The provisions of the Patent Law granting legal aid to poor persons [*Armenrecht*] (Articles 46a to 46k) shall be applied correspondingly in utility model cases.

### Article 13

The right to the utility model, the right to registration of the utility model, and the right constituted on the basis of such registration, shall pass to the heirs. Such rights may be assigned to others with or without restrictions.

### Article 14

(1) Utility model protection shall last for a period of three years, beginning on the day following the filing of the application.

(2) The period of protection shall be renewed for a further three years, subject to payment of a fee as prescribed by the schedule of fees. Such renewal [*Verlängerung*] shall

be recorded in the Register. The renewal fee shall be paid before the expiration of a period of two months after the end of the first period of protection. If registration of the utility model is not decided upon until after the end of the first period of protection, the renewal fee shall be paid before the expiration of a period of four months after service of the decision. If the latter period has elapsed, the surcharge for delayed payment prescribed in the schedule of fees shall be paid. After the expiration of the grace period, the Patent Office shall notify the registered proprietor that the period of protection cannot be renewed unless the fee and the surcharge prescribed in the schedule of fees are paid before the expiration of a period of six months after the end of the first period of protection, or of one month after service of the notification if the latter period expires later than six months after the end of the first period of protection.

(3) The Patent Office may postpone dispatch of the notification at the request of the registered proprietor on proof being furnished by the latter that lack of resources prevents him from paying at that time. Postponement may be made conditional upon payment of installments within specified periods. If an installment is not paid in due time, the Patent Office shall advise the registered proprietor that the period of protection cannot be renewed unless the balance is paid within one month after service of the notification.

(4) If no request has been made to postpone dispatch of the notification, then, on proof being furnished that payment is not to be expected because of lack of resources, the due date of the fee and the surcharge may be deferred even after service of the notification, provided that a request is made within fourteen days after service and the previous delay is satisfactorily explained. Deferment may also be authorized subject to the payment of installments. If a deferred sum is not paid in due time, the Patent Office shall repeat the notification, whereby the whole of the balance outstanding shall be demanded. After service of the second notification, further deferment shall not be permitted.

(5) A notification which has been postponed on request (paragraph (3)), or which, after deferment has been granted, must be repeated (paragraph (4)), shall be dispatched not later than one year after the renewal fee falls due. Installments paid shall not be refunded if, owing to non-payment of the balance outstanding, the period of protection is not renewed.

(6) The provisions of Articles 12 and 43 of the Patent Law shall apply *mutatis mutandis*.

(7) Cancellations on grounds other than expiration of the period of protection shall be published in the Patent Gazette in lists appearing at regular intervals.

### Article 15

(1) Any person who uses a utility model contrary to the provisions of Articles 5 and 6 may be sued by the injured party to enjoin such use.

(2) Any person who undertakes such action intentionally or negligently shall be liable for compensation to the injured party for the damage suffered therefrom. If the infringer is

charged with only slight negligence, the court may fix, in lieu of compensation, an indemnity situated between the damage to the injured party and the profit which has accrued to the infringer.

(3) Claims on account of infringement of the right of protection shall come under the statute of limitation after three years from the time when the claimant obtains knowledge of the infringement and of the identity of the infringer, and, irrespective of such knowledge, after thirty years from the infringement. If the infringer has obtained anything through the infringement at the expense of the claimant, the said infringer shall be liable, even after expiration of the term of limitation, for restitution in accordance with the provisions on restitution of unjust enrichment.

#### Article 16

(1) Any person who intentionally uses a utility model contrary to the provisions of Articles 5 and 6 shall be punished by a fine or by imprisonment not exceeding one year.

(2) Criminal prosecution shall be instituted only upon request. The request may be withdrawn.

(3) Where sentence is passed, authority shall at the same time be given to the injured party, if he shows a legitimate interest in doing so, to publish the sentence at the expense of the party sentenced. The scope and nature of the publication shall be determined in the judgment. Such authority shall lapse if the decision is not published within three months after it becomes final.

#### Article 17

(1) In lieu of any compensation arising out of this Law, punitive damages *[Busse]* payable to the injured party may, on his demand, be awarded in addition to the penalty. The parties sentenced thereto shall be liable for the punitive damages as joint debtors.

(2) The award of punitive damages shall preclude the assertion of a further claim for compensation.

#### Article 17a

(1) If a party to civil litigation *[bürgerliche Rechtsstreitigkeiten]* in which an action is brought whereby a claim arising out of one of the legal relationships regulated under this Law is asserted satisfies the court that the awarding of the costs of the case against him according to the full value in dispute would considerably endanger his financial position, the court may, at his request, order that the said party's liability to pay court costs be adjusted in accordance with a portion of the value in dispute that shall be appropriate to his financial position. As a result of the order, the favored party shall likewise be required to pay the fees of his attorney at law *[Rechtsanwalt]* only in accordance with that portion of the value in dispute. To the extent that the costs of the case are awarded against him or to the extent to which he assumes such costs, he shall be required to refund the court fees paid by the opposing party and the fees of the latter's attorney at law only in accordance with that portion of the value in dispute. To the extent that the extra-judicial costs are ordered to be paid by the opposing party or are assumed by that

party, the attorney at law of the favored party may recover his fees from the opposing party in accordance with the value in dispute applying to the latter.

(2) The request under paragraph (1) may be declared before and recorded at the registrar's office of the court. It shall be presented before the substance of the case is heard. Thereafter, it shall be admissible only if the presumed or fixed value in dispute is subsequently increased by the court. Before the decision is given on the request, the opposing party shall be heard.

#### Article 18

Civil litigation in which an action is brought whereby a claim arising out of the legal relationships regulated under this Law is asserted shall be heard by the civil chambers of the *Landgerichte*<sup>1</sup> in so far as the lower first instance courts *[Amtsgerichte]* are not competent to deal with the case.

#### Article 19

(1) If, under Article 51, paragraph (2), of the Patent Law, patent litigation *[Patentstreitsachen]* for the areas of several *Landgerichte* has been allotted to one such court, actions coming within the competence of a *Landgericht* whereby a claim arising out of one of the legal relationships regulated under this Law is asserted may also be brought before the court which is competent to deal with patent litigation.

(2) A case pending before another *Landgericht* shall, at the request of the defendant, be transferred to the court competent to deal with patent litigation. Such request shall be admissible only before the defendant is heard on the substance of the case. The request may also be made by an attorney at law admitted to practice in the court competent to deal with patent litigation. The decision *[Entscheidung]* shall be final and binding upon the court.

(3) The parties may also be represented before the court competent to deal with patent litigation by attorneys at law admitted to practice in the *Landgericht* otherwise competent. The same shall apply in the case of representation before the Court of Appeal *[Berufungsgericht]*.

(4) Any additional costs incurred by a party through transfer, in accordance with paragraph (2), or through arranging to be represented by an attorney at law not admitted to practice in the court hearing the case, as provided in paragraph (3), shall not be refunded.

(5) Of the costs arising from the collaboration of a patent attorney *[Patentanwalt]* in utility model litigation *[Gebrauchsmusterstreitsachen]*, fees up to the amount of a full fee according to Article 11 of the Federal Fee Ordinance for Attorneys at Law *[Bundesgebührenordnung für Rechtsanwälte]* shall be refunded, as well as the necessary expenses of the patent attorney.

#### Article 20

Any person who has neither a domicile nor an establishment in this country may take part in proceedings before the

<sup>1</sup> Higher first instance courts dealing with certain major civil and criminal cases.

Patent Office or the Patent Court regulated by this Law and assert the rights deriving from a utility model only if he has appointed a patent attorney or an attorney at law in this country as his representative. The registered representative shall be authorized to represent him in litigation affecting the utility model; he may also file requests for the institution of criminal proceedings [*Strafanträge*]. The place where the representative has his business premises shall be deemed, within the meaning of Article 23 of the Code of Civil Procedure, to be the place where the assets [*Vermögensgegenstand*] are located; if there are no business premises, then the place where the representative has his domicile shall be relevant, and, in the absence thereof, the place where the Patent Office has its seat.

#### Article 21

The Federal Minister of Justice shall regulate the establishment and the business procedure of the Patent Office and determine by statutory order the form of the procedure and the collection of administrative fees in so far as provision therefor has not been made by law.

#### Article 22

Any person who places on articles or their packing a marking or designation of such a nature as to create the impression that the articles are protected as utility models under this Law, or any person who uses a marking of such a nature in public notices, on signboards, on business cards or in similar announcements, shall be obliged to give on demand, to every person having a legitimate interest in knowing the legal position, information as to the utility model upon which the use of the marking or designation is based.

## II

### The Trademark Law

(Text of January 2, 1968)\*

#### Article 1

Whoever wishes to use a trademark in his business for the purpose of distinguishing his goods from the goods of other enterprises may file an application for the registration of the said trademark in the Trademark Register [*Zeichenrolle*].

#### Article 2

(1) The Trademark Register shall be maintained at the Patent Office. The application for registration of a trademark shall be filed in writing with that Office. Each application shall be accompanied by the designation of the business in which the trademark is to be used, a list of the goods for which it is intended, as well as a clear representation and, where required, a description of the trademark.

(2) The Federal Minister of Justice shall have power to issue by statutory order [*Rechtsverordnung*] regulations con-

cerning other requirements for the application. He may delegate such power by statutory order to the President of the Patent Office.

(3) An application fee and, for each class or subclass of the appended classification<sup>1</sup> of goods for which protection is sought, a class fee as prescribed by the schedule of fees shall be paid with the application. In the event of failure to pay, the Patent Office shall notify the applicant that the application shall be deemed to have been withdrawn unless the fees are paid before the expiration of one month after service of the notification.

(4) If the application is withdrawn before the Patent Office has decided to publish it in accordance with Article 5, paragraph (2), or has served notice of its decision to reject it, the fees paid for more than one class or subclass shall be refunded.

(5) The Federal Minister of Justice shall have power to alter the classification of goods by statutory order.

#### Article 3

(1) The Trademark Register shall contain:

1. the date of filing the application,
2. the elements which must accompany the application under Article 2, paragraph (1),
3. the name and address of the proprietor of the trademark and of his duly appointed representative, if any (Article 35, paragraph (2)), as well as any changes in the identity, name or address of the proprietor or his representative,
4. renewals of the period of protection,
5. the date of cancellation of the trademark.

(2) Anyone may inspect the Register. The Patent Office shall permit anyone so requesting to inspect the files if and to the extent that a legitimate interest has been substantiated.

(3) Each registration and each cancellation shall be published by the Patent Office in lists appearing at regular intervals (Trademark Gazette) [*Warenzeichenblatt*].

#### Article 4

(1) Generic names [*Freizeichen*] cannot be registered in the Register.

(2) Furthermore, trademarks cannot be validly registered:

1. which are incapable of distinguishing or which consist exclusively of figures, letters or words containing indications concerning the kind, time and place of production, the nature, the purpose, the price, quantity or weight of the goods,
2. which contain the armorial bearings, flags or other emblems of any State, or the armorial bearings of a locality, an association of communities or an association of other communal entities within the country,
3. which contain official signs and hallmarks which, according to a notice published in the Official Gazette [*Bundesgesetzblatt*], have been introduced into this country or abroad for specific goods,

<sup>1</sup> The classification is identical with the International Classification of the Nice Agreement of June 15, 1957 (as far as goods are concerned).

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt*, I, page 29.

- 3a. which contain armorial bearings, flags or other signs, seals, or designations, of international intergovernmental organizations, which, according to a notice published in the Official Gazette, cannot be validly registered as trademarks,
4. which contain representations liable to give offense or statements which obviously do not correspond to the actual facts and are in danger of causing confusion,
5. which are generally known in the relevant trade circles in this country to be already in use by another party as trademarks for identical or similar goods,
6. which are analogous with the name of a plant variety belonging to a third person which has previously been filed and registered in the Plant Variety Protection Register [*Sortenschutzrolle*] or in the Special Plant Variety Catalogue [*Besonderes Sortenverzeichnis*] of the Federal Office for Plant Varieties [*Bundessortenamt*].

(3) Registration shall, however, be permitted in the cases covered by paragraph (2), No. 1, if the trademark has established itself in trade as the distinguishing sign for the applicant's goods.

(4) The provisions of paragraph (2), Nos. 2, 3 and 3a, shall not apply in the case of an applicant authorized to include the emblem, sign or hallmark or other such designation in his trademark, even if it may be liable to be confused in the course of trade with the designation of another State or another international intergovernmental organization. Nor shall the provisions of paragraph (2), No. 3, apply in so far as the goods in respect of which the application for registration of the trademark is filed are neither identical nor similar to those for which the sign or hallmark has been introduced. The provisions of paragraph (2), No. 6, shall not apply in so far as the goods in respect of which the application for registration of the trademark is filed are neither identical nor similar to those for which the name of the plant variety is registered.

(5) The provisions of paragraph (2), No. 5, shall not apply if the applicant has been authorized by the other party to file the application.

## Article 5

(1) If the application satisfies the requirements of this Law (Articles 1 and 2) and if there is no obstacle under Article 4 to registration, the Patent Office shall order the publication of the application.

(2) The application shall be published by printing once in the Trademark Gazette the trademark in respect of which the application for registration has been filed, the date of filing the application, the name and address of the applicant and of his duly appointed representative, if any (Article 35, paragraph (2)), the elements accompanying each application in accordance with Article 2, paragraph (1), and the serial number of the application. Article 7 shall apply *mutatis mutandis*.

(3) If the examiner is aware that the trademark in respect of which the application for registration has been filed is identical to another trademark filed earlier in respect of

identical or similar goods, he may draw the attention of the proprietor of the latter mark to the publication.

(4) Any person who has previously filed an application for registration, in respect of identical or similar goods, of a trademark analogous with the mark which is the subject of the [pending] application (Article 31) may, within three months after publication of the latter application, lodge opposition [*Widerspruch*] to the registration of the newly filed trademark on the ground of the trademark filed earlier. Opposition may also be lodged by any person who, on the ground of an earlier application or use, has acquired rights in another country in a trademark analogous with the trademark which is the subject of the [pending] application for identical or similar goods and who furnishes proof that the applicant is bound, on the basis of an employment contract or other contractual relationship with him, to protect the opponent's interests in matters of trade and, notwithstanding, during the existence of the said contractual relationship, has filed an application in respect of the trademark without the consent of the opponent. In the event of failure to comply with the time limit for lodging opposition, there shall be no reinstatement to the former position [*Wiedereinsetzung in den vorigen Stand*].

(5) A fee as prescribed by the schedule of fees shall be paid within the time limit for lodging opposition. If the fee is not paid, opposition shall be deemed not to have been lodged.

(6) If opposition is lodged, the Patent Office shall render a decision as to whether the trademarks are analogous. Article 33, paragraph (2), of the Patent Law shall be applicable, *mutatis mutandis*, provided however that the Patent Office may also determine that other costs accruing to the parties in the opposition proceedings shall, in so far as they can be reasonably considered to have been necessary for the appropriate protection of the rights involved, be refunded in whole or in part by one of the parties.

(7) If the trademark on the basis of which opposition is lodged has been registered in the Trademark Register for at least five years at the time of publication of the mark which is the subject of the [pending] application, and if the applicant contests the use of that trademark, the opponent must satisfactorily show that he has used the trademark within the last five years before the publication of the mark whose registration is applied for. Use of the trademark by a third party with the consent of the opponent is equivalent to use of the trademark by the opponent. When deciding whether the trademarks are analogous, the Patent Office shall consider only those goods in respect of which use has been satisfactorily shown by the opponent. If the trademark on the basis of which opposition has been lodged was registered in accordance with Article 6a, and if opposition has been lodged against registration of the said trademark, sentences 1 to 3 shall be applicable only if five years have elapsed since the termination of the opposition proceedings.

(8) If no opposition is lodged, the trademark shall be registered.

(9) The Federal Minister of Justice shall have power to issue by statutory order regulations concerning the formal

requirements for lodging opposition, in particular the use of an official form. He may delegate such power by statutory order to the President of the Patent Office.

### Article 6

(1) If the trademarks are not found to be analogous, the newly filed mark shall be registered.

(2) If the trademarks are found to be analogous, registration shall be refused. In so far as the applicant wishes to assert that he has a right to registration despite such finding, he must seek recognition of the said right by bringing an action against the opponent. The action must be filed within one year after the decision whereby the trademarks were found to be analogous becomes final. Registration on the basis of a decision in favor of the applicant shall be effected as of the date of the original application.

(3) If the Patent Office has found that the trademark which is the subject of the [pending] application is analogous with one or more trademarks on the basis of which opposition has been lodged, it may suspend proceedings on any other oppositions until the final decision on the registration of the mark which is the subject of the [pending] application.

(4) If after publication (Article 5, paragraph (2)) the application is withdrawn, or if registration is refused, this fact shall be published.

### Article 6a

(1) Instead of ordering publication of the application in accordance with Article 5, paragraph (1), or, if publication of the application has already been ordered, instead of publishing the application in accordance with Article 5, paragraph (2), the Patent Office shall, at the request of the applicant, register the trademark if the latter can satisfactorily show that he has a legitimate interest in prompt registration of the mark.

(2) The request shall be filed in writing with the Patent Office not later than two weeks after receipt of the decision concerning publication. A fee as prescribed by the schedule of fees shall be paid within the said period; if the fee is not paid, the request shall be deemed not to have been filed.

(3) The registered trademark shall be published in accordance with Article 5, paragraph (2). Opposition may be lodged against registration of the trademark. Article 5, paragraphs (3) to (7) and (9), shall be applicable *mutatis mutandis* to opposition proceedings.

(4) If the trademarks are not found to be analogous, opposition shall be rejected. If the trademarks are found to be analogous, the mark registered in accordance with paragraph (1) shall be cancelled. The effect of cancellation shall be such that the mark shall be deemed not to have been registered from the first. The provisions of Article 6, paragraph (2), sentences 2 to 4, shall not be affected. Article 6, paragraph (3), shall apply *mutatis mutandis*.

### Article 7

There shall be paid in respect of each trademark, prior to registration, a registration fee as prescribed in the schedule

of fees, as well as a contribution towards the printing costs arising from the prescribed publications (Article 3, paragraph (3)). The amount of the contribution shall be calculated according to a progressive scale, which the Federal Minister of Justice shall, by statutory order, generally fix according to the volume of publication. He may delegate such power by statutory order to the President of the Patent Office.

### Article 8

(1) The right arising from the application for registration of a trademark, or from its registration, shall pass to the heirs and may be assigned to other persons. Such right, however, may pass to another person only together with the business or that portion of the business to which the trademark relates. An agreement relating to any other form of assignment [*Übertragung*] shall be invalid. Transfer [*Übergang*] shall, at the request of the successor in title, be recorded in the Trademark Register, if proof thereof is furnished to the Patent Office. A fee as prescribed by the schedule of fees shall be paid with the request; if the fee is not paid, the request shall be deemed not to have been filed.

(2) As long as the transfer has not been recorded in the Trademark Register, the successor in title may not assert his right deriving from the registration of the trademark.

(3) Orders and decisions of the Patent Office requiring to be served on the proprietor of the trademark shall in all cases be addressed to the person registered as the proprietor. If it proves that the latter has died, the Patent Office may at its discretion deem service to have been effected or may, for the purposes of service, have inquiries made in order to ascertain who are the heirs.

### Article 9

(1) Protection of a registered trademark shall last for a period of ten years, beginning on the day following the filing of the application.

(2) The period of protection may be renewed [*verlängert*] for further periods of ten years. Renewal of protection shall, after the expiration of a period of nine years from the date of filing the application or, in the case of trademarks whose period of protection has already been renewed, from the last renewal, be effected through payment of a renewal fee and, for each class or subclass in respect of which further protection is desired, of a class fee as prescribed in the schedule of fees. If the fees are not paid within two months after the date of expiration of the period of protection, the surcharge for delayed payment prescribed in the schedule of fees shall be paid. After the expiration of the grace period, the Patent Office shall notify the proprietor of the trademark that the trademark will be cancelled if the fees and the surcharge prescribed in the schedule of fees are not paid before the expiration of a period of six months after the end of the period of protection, or of one month after service of the notification if the latter period expires later than six months after the end of the period of protection.

(3) The Patent Office may postpone dispatch of the notification at the request of the proprietor of the trademark on

proof being furnished by the latter that lack of resources prevents him from paying at that time. Postponement may be made conditional upon payment of installments within specified periods. If an installment is not paid in due time, the Patent Office shall advise the proprietor of the trademark that the mark will be cancelled unless the balance is paid within one month after service of the notification.

(4) If no request has been made to postpone dispatch of the notification, then, on proof being furnished that payment is not to be expected because of lack of resources, the due date of the fees and the surcharge may be deferred even after service of the notification, provided that the request is made within fourteen days after service and the previous delay is satisfactorily explained. Deferment may also be authorized subject to the payment of installments. If a deferred sum is not paid in due time, the Patent Office shall repeat the notification, whereby the whole of the balance outstanding shall be demanded. After service of the second notification, further deferment shall not be permitted.

(5) A notification which has been postponed on request (paragraph (3)), or which, after deferment has been granted, must be repeated (paragraph (4)), shall be dispatched not later than two years after the fees fall due. Installments paid shall not be refunded if, owing to non-payment of the balance outstanding, the trademark is cancelled.

#### Article 10

(1) Upon the request of the proprietor, the trademark may at any time be cancelled in the Register.

(2) The mark shall be cancelled *ex officio*:

1. if, after expiration of the period of protection (Article 9), there has been no renewal of protection,
2. if registration of the mark should have been refused. If cancellation is requested by a third party on such ground, a fee as prescribed by the schedule of fees shall be paid at the same time; the fee may be refunded, or it may be charged to the proprietor of the trademark if the request is found to be justified. In the event of non-payment of the fee, the request shall be deemed not to have been filed.

(3) If the mark is to be cancelled in accordance with paragraph (2), No. 2, the Patent Office shall notify the proprietor in advance. If the proprietor fails to file a contesting reply within one month after service of such notification, the trademark shall be cancelled. If he does file a contesting reply, the Patent Office shall decide upon the matter. If cancellation is requested by a third party, Article 33, paragraph (2), of the Patent Law shall apply *mutatis mutandis* with regard to the costs arising from an audience [*Anhörung*] or the taking of evidence [*Beweisaufnahme*].

#### Article 11

(1) A third party may request cancellation of a trademark:

1. if, on the ground of an earlier application, the trademark is registered in the Trademark Register in his name in respect of identical or similar goods,

1a. if he has acquired rights in the mark in another country on the ground of an earlier application or use in respect of identical or similar goods and furnishes proof that the person registered as proprietor of the mark is bound, on the basis of an employment contract or other contractual relationship with him, to protect the said third party's interests in matters of trade and, notwithstanding, during the existence of the said contractual relationship, has filed an application in respect of the trademark without his consent,

2. if the business to which the trademark pertains is no longer conducted by the proprietor of the trademark,
3. if there are circumstances which show that the elements of the trademark do not correspond to the actual facts and are in danger of causing confusion,
4. if the trademark has been registered in the Trademark Register for at least five years and the proprietor of the trademark has not used the trademark within the last five years before the request for cancellation, unless circumstances existed under which use during such period could not reasonably be expected. Article 5, paragraph (7), sentences 2 to 4, shall be applicable *mutatis mutandis*.

(2) The request for cancellation shall be made by bringing an action against the person registered as proprietor of the trademark or his successor in title.

(3) If the mark has been assigned to another person before or after the action is brought, the decision regarding the substance of the case shall be valid and shall be enforceable also against the successor in title. The provisions of Articles 66 to 69 and 76 of the Code of Civil Procedure [*Zivilprozessordnung*] shall apply *mutatis mutandis* with regard to the right of the successor in title to participate in litigation.

(4) In the cases referred to in paragraph (1), Nos 2 and 4, the request for cancellation may first be filed with the Patent Office. The Patent Office shall notify accordingly the person registered as proprietor of the trademark. If that person fails to file a contesting reply within one month after service of notification, cancellation shall be effected. If he does file a contesting reply, it shall be left to the discretion of the person filing the request to bring an action in support of his request for cancellation.

(5) If a trademark has not been used within five years after registration or, in the cases specified in Article 6a, after termination of the opposition proceedings, the proprietor of the trademark cannot invoke use of the trademark against a request for cancellation in accordance with paragraph (1), No. 4, if:

1. use was first started after the threat of a request for cancellation, or
2. use was first started after publication of an analogous trademark whose registration had been applied for at a later date in connection with identical or similar goods (Article 5, paragraph (2); Article 6a, paragraph (3)), and the applicant for registration of the said trademark or his successor in title has filed a request for cancellation within a period of six months after publication.

(6) Paragraph (1), No. 1, shall not be applicable if, at the time of publication of the trademark of the person opposing the request (Article 5, paragraph (2); Article 6a, paragraph (3)), the conditions existed, under paragraph (1), No. 4, for cancellation of the trademark of the person making the request.

### Article 12

(1) Applications, requests for recording assignments [*Anträge auf Umschreibung*], replies contesting [*Widersprüche*] the cancellation of trademarks, and requests for reinstatement, shall be dealt with in accordance with the provisions of the Patent Law regarding proceedings before the Patent Office, unless otherwise provided in this Law. The provisions of Article 43, paragraph (4), of the Patent Law shall not apply in the case of trademarks.

(2) There shall be established in the Patent Office:

1. Examining Sections [*Prüfungsstellen*] for the examination of trademark applications and for the rendering of decisions in accordance with Article 5, paragraphs (1), (6) and (8), and Articles 6 and 6a.
2. Trademark Divisions [*Warenzeichenabteilungen*] for matters not allocated to other authorities by this Law, such as the recording of assignments and cancellations in the Trademark Register; it shall also be within the competence of each Trademark Division to give opinions [*Gutachten*] (Article 14).

(3) The business of the Examining Section shall be conducted by a legal or technical member (examiner) or an official of the higher intermediate grade [*gehobener Dienst*] of the civil service. The official of the higher intermediate grade shall not be authorized, however, to order that evidence be given under oath, to administer an oath, or to put forward a request [*Ersuch*] to the Patent Court [*Patentgericht*] under Article 46, paragraph (2), of the Patent Law.

(4) The Trademark Division shall be competent to make decisions when at least three members participate. The Chairman of the Trademark Division may handle alone all the affairs of the Trademark Division, with the exception of decisions concerning the cancellation of trademarks under the terms of Article 10, paragraph (3), sentence 3.

(5) The Federal Minister of Justice shall have power to establish by statutory order:

1. that officials of the higher intermediate grade of the civil service shall be entrusted with the handling of particular matters within the competence of the Trademark Divisions which present no legal difficulties, with the exception of decisions on the cancellation of trademarks under the terms of Article 10, paragraph (3), sentence 3, the giving of opinions (Article 14), and decisions whereby the giving of an opinion is refused;
2. that officials of the lower intermediate grade [*mittlerer Dienst*] of the civil service shall be entrusted with the handling of particular matters within the competence of the Examining Sections and Trademark Divisions which present no legal difficulties; with the exception, however, of decisions on applications, oppositions, and other requests.

The Federal Minister of Justice may delegate such power by statutory order to the President of the Patent Office.

(6) For the exclusion and challenge [*Ablehnung*] of examiners and members of the Trademark Divisions, Articles 41 to 44, Article 45, paragraph (2), sentence 2, and Articles 47 to 49, of the Code of Civil Procedure relating to exclusion and challenge of members of a court shall apply *mutatis mutandis*. The same holds good for officials of the higher and lower intermediate grades of the civil service in so far as they have been entrusted with the handling of matters within the competence of the Examining Sections or Trademark Divisions. Article 18, paragraph (6), sentence 3, of the Patent Law shall apply *mutatis mutandis*.

### Article 12a

(1) Objection [*Erinnerung*] may be raised to the decisions of the Examining Sections and Trademark Divisions issued by an official of the higher intermediate grade of the civil service. The objection shall be filed in writing with the Patent Office within one month after service of the decision. Article 34, paragraph (2), of the Patent Law shall be applicable *mutatis mutandis*.

(2) Decisions on the objection shall be made by one legal or one technical member. Article 36 I, paragraph (4), sentence 1, and paragraph (5), of the Patent Law shall be applicable *mutatis mutandis*.

### Article 13

(1) An appeal from the decisions of the Examining Sections and Trademark Divisions shall lie to the Patent Court, in so far as an objection has not been raised (Article 12a, paragraph (1)).

(2) If the appeal lies from a decision relating to:

1. a trademark application, an opposition, or a request for cancellation, or
2. an objection to a decision as specified in No. 1,

a fee as prescribed in the schedule of fees shall be paid within the period allowed for lodging the appeal; if the fee is not paid, the appeal shall be deemed not to have been lodged.

(3) In other respects, the provisions of the Patent Law with regard to proceedings on appeal before the Patent Court shall apply *mutatis mutandis*.

(4) Appeals from decisions of the Examining Sections and Trademark Divisions shall be decided by a Chamber of Appeal [*Beschwerdesenat*] of the Patent Court, composed of three legal members. In the case of proceedings on appeal from decisions of the Examining Sections, Article 36g, paragraph (1), of the Patent Law shall apply *mutatis mutandis* and, in the case of proceedings on appeal from decisions of the Trademark Divisions, Article 36g, paragraph (2), of the Patent Law.

(5) An appeal on a point of law from a decision of the Chamber of Appeal of the Patent Court shall lie to the Federal Court of Justice [*Bundesgerichtshof*], if the Chamber of Appeal, in its decision, has given leave to appeal on the said point of law. Article 41p, paragraphs (2) and (3), and Articles 41q to 41y, of the Patent Law shall apply.

### Article 14

(1) The Patent Office shall be required to give opinions, at the request of the courts or of the State attorney's offices [*Staatsanwaltschaften*], on questions concerning registered trademarks if divergent opinions have been expressed by a number of experts in the proceedings.

(2) In other respects, the Patent Office shall not have power to make decisions or give opinions outside its competence as provided by this Law, without the permission of the Federal Minister of Justice.

### Article 15

(1) The effect of the registration of a trademark shall be such that the proprietor of the trademark alone shall have the right to apply the said trademark to goods of the type listed in the application or to their packing or wrapping, to put the goods thus marked on the market, and to use the trademark in advertisements, price lists, business letters, prospectuses, invoices, or the like.

(2) If the trademark is cancelled, rights deriving from the registration shall cease to be enforceable in respect of the period during which legal grounds for cancellation already existed.

### Article 16

No person shall be prevented through registration of a trademark from applying his name, that of his firm, his address, as well as indications concerning the kind, time and place of production, the nature, the purpose, the price, quantity or weight of goods, even in abbreviated form, on goods or their packing or wrapping, and from using such indications in the course of trade in so far as such use is not equivalent to use of a trademark.

### Article 17

(1) Associations having legal personality [*rechtsfähige Verbände*] which pursue commercial or industrial aims may, even although they have no business enterprise for the production or marketing [*Vertrieb*] of goods, apply for the registration of trademarks intended for the purpose of marking goods in their members' business enterprises (collective marks) [*Verbandszeichen*].

(2) Legal entities constituted under public law [*juristische Personen des öffentlichen Rechts*] shall be regarded as equivalent to the said associations.

(3) The provisions relating to trademarks shall apply to collective marks, unless otherwise provided in Articles 17 to 23.

### Article 18

The application for registration of a collective mark shall be accompanied by a copy of the regulations governing the use of the mark [*Zeichensatzung*], specifying the name, headquarters, aims and representatives of the association, the group of persons entitled to use the mark, the conditions for use, and the rights and obligations of the parties concerned in the event of infringement of the mark. Subsequent alterations shall be communicated to the Patent Office. Anyone may inspect the regulations.

### Article 19

The President of the Patent Office shall lay down rules for the establishment of the Collective Mark Register.

### Article 20

The right arising from the application for registration of a collective mark, or from its registration, may not be assigned as such to any other person.

### Article 21

(1) Notwithstanding the provisions of Article 11, paragraph (1), Nos 1, 1a, 3, and 4, a third party may request the cancellation of a collective mark:

1. if the association in respect of which the mark is registered no longer exists,
2. if the association allows the mark to be used in a manner contrary to the general aims of the association or the regulations governing use of the mark. If permission to use the mark leads to deception of trade circles or the public, such use shall be deemed to be misuse.

(2) In the cases referred to in paragraph (1), No. 1, the provisions of Article 11, paragraph (4), shall apply.

(3) In the cases referred to in Article 5, paragraph (7), and Article 11, paragraph (1), No. 4, and paragraph (5), use of the collective mark shall be used by at least two members of the association.

### Article 22

The association's claim to compensation for unauthorized use of the collective mark (Article 24) shall include the damage suffered by a member.

### Article 23

The provisions regarding collective marks shall apply to foreign marks only when reciprocity is guaranteed according to a notice published in the Official Gazette.

### Article 24

(1) Any person who, in the course of trade, unlawfully uses the name, or the name of the firm, of another person or a trademark protected under this Law on goods or their packing or wrapping, or in advertisements, price lists, business letters, prospectuses, invoices, or the like, or who puts on the market or offers for sale any goods thus unlawfully marked, may be sued by the injured party to enjoin such use.

(2) Any person who undertakes such action intentionally or negligently shall be liable for compensation to the injured party for the damage suffered therefrom.

(3) If the action is undertaken intentionally, the offender shall be punished by a fine or by imprisonment not exceeding six months.

### Article 25

(1) Any person who, in the course of trade, unlawfully provides goods or their packing or wrapping, or advertisements, price lists, business letters, prospectuses, invoices, or the like, with a presentation [*Ausstattung*] recognized in the relevant trade circles as the distinguishing sign for similar or

identical goods of another person, or who puts on the market or offers for sale any goods thus unlawfully marked, may be sued by the injured party to enjoin such use.

(2) Any person who undertakes such action intentionally or negligently shall be liable for compensation to the injured party for the damage suffered therefrom.

(3) If the action is undertaken intentionally, the offender shall be punished by a fine or by imprisonment not exceeding three months.

#### Article 26

(1) Any person who, in the course of trade, intentionally or negligently uses upon goods or their packing or wrapping a false indication concerning the source, nature or value of the goods which is liable to be misleading, or who intentionally puts the goods thus marked on the market or offers them for sale, or uses the misleading indication in advertisements, business papers or the like, shall be punished by a fine and by imprisonment, or by either of those penalties, in so far as he has not incurred a heavier penalty under other provisions.

(2) Signs which contain or are derived from a geographical name but have lost their original significance in connection with the goods for which they are used, and which serve in trade exclusively as a name for the goods or as an indication of the nature of the goods, shall not be deemed to constitute false indications of source within the meaning of the foregoing provision.

#### Article 27

Any person who, without authority, uses the armorial bearings, flags, emblems, official signs and hallmarks, or other signs referred to in Article 4, paragraph (2), Nos. 2, 3 and 3a, for the purpose of marking goods, shall be punished by a fine not exceeding 500 *Deutsche Mark* or by imprisonment, in so far as he has not incurred a heavier penalty under other provisions.

#### Article 28

(1) Foreign goods unlawfully bearing the name of a German firm and locality or a distinguishing sign protected by virtue of this Law shall, at the request of the injured party and upon deposit of security therefor, be seized, on entering, for the purposes of importation or transit, the territory for which this Law is applicable [*Geltungsbereich*], with a view to removal of the unlawful marking.

(2) Seizure shall be effected by the customs authorities, which shall also order the necessary action to be taken to remove the unlawful marking. If the orders of the customs authorities are not complied with or if removal is impracticable, the customs authorities shall order confiscation of the goods.

(3) Seizure and confiscation may be appealed against by means of those legal remedies permissible against such seizure and confiscation in punitive damage proceedings according to the Law on Offenses against Order Regulations [*Gesetz über Ordnungswidrigkeiten*]. The appellant shall be heard in appeals proceedings.

#### Article 29

(1) In lieu of any compensation arising out of this Law, punitive damages [*Busse*] payable to the injured party may, on his demand, be awarded in addition to the penalty. The parties sentenced thereto shall be liable for punitive damages as joint debtors.

(2) The award of punitive damages shall preclude the assertion of a further claim for compensation.

#### Article 30

(1) Where sentence is passed on the grounds of Articles 24 to 27, the court shall order the removal of the unlawful marking from the articles in the possession of the party sentenced, or, if such is not possible, the destruction of the articles.

(2) Where sentence is passed in criminal proceedings under Articles 24 and 25, authority shall be given to the injured party, if he shows a legitimate interest in doing so, to publish the sentence at the expense of the party sentenced. The scope and nature of the publication shall be determined in the judgment. The authority shall lapse if the decision is not published within three months after it becomes final.

#### Article 31

Application of the provisions of this Law shall not be precluded on account of differences in the form of the trademark (figurative and word marks) or on account of any other variations in the manner in which marks, armorial bearings, names, titles of firms and other signs distinguishing goods are reproduced, in so far as there exists, despite such variations, the danger of confusion of trade circles or the public.

#### Article 31a

(1) If a party to civil litigation [*bürgerliche Rechtsstreitigkeiten*] in which an action is brought whereby a claim arising out of one of the legal relationships regulated under this Law is asserted satisfies the court that the awarding of the costs of the case against him according to the full value in dispute would considerably endanger his financial position, the court may, at his request, order that the said party's liability to pay court costs be adjusted in accordance with a portion of the value in dispute that shall be appropriate to his financial position. As a result of the order, the favored party shall likewise be required to pay the fees of his attorney at law [*Rechtsanwalt*] only in accordance with that portion of the value in dispute. To the extent that the costs of the case are awarded against him or to the extent to which he assumes such costs, he shall be required to refund the court fees paid by the opposing party and the fees of the latter's attorney at law only in accordance with that portion of the value in dispute. To the extent that the extra-judicial costs are ordered to be paid by the opposing party or are assumed by that party, the attorney at law of the favored party may recover his fees from the opposing party in accordance with the value in dispute applying to the latter.

(2) The request under paragraph (1) may be declared before and recorded at the registrar's office of the court. It

shall be presented before the substance of the case is heard. Thereafter, it shall be admissible only if the presumed or fixed value in dispute is subsequently increased by the court. Before the decision is given on the request, the opposing party shall be heard.

#### Article 32

(1) The State Governments [*Landesregierungen*] shall have power to designate, by statutory order, for the areas of several *Landgerichte*, one such court to be the competent court for trademark litigation [*Warenzeichenstreitsachen*]. It shall have jurisdiction, in addition to the courts whose areas are assigned to it, for all actions whereby a claim arising out of one of the legal relationships regulated under this Law is asserted. The State Governments may transfer those powers to the State Ministries of Justice [*Landesjustizverwaltungen*].

(2) A case pending before another *Landgericht* shall, at the request of the defendant, be transferred to the court competent to deal with trademark litigation. Such request shall be admissible only before the defendant is heard on the substance of the case. The request may also be made by an attorney at law admitted to practice in the court competent to deal with trademark litigation. The decision [*Entscheidung*] shall be final and binding upon the court.

(3) The parties may be represented before the court competent to deal with trademark litigation also by attorneys at law admitted to practice in the *Landgericht* otherwise competent. The same shall apply in the case of representation before the Court of Appeal [*Berufungsgericht*].

(4) Any additional costs incurred by a party through transfer, in accordance with paragraph (2), or through arranging to be represented by an attorney at law not admitted to practice in the court hearing the case, as provided in paragraph (3), shall not be refunded.

(5) Of the costs arising from the collaboration of a patent attorney [*Patentanwalt*] in trademark litigation, fees up to the amount of a full fee according to Article 11 of the Federal Fee Ordinance for Attorneys at Law [*Bundesgebührenordnung für Rechtsanwälte*] shall be refunded, as well as the necessary expenses of the patent attorney.

#### Article 33

Claims concerning legal relationships regulated under this Law and based on the provisions of the Law on Unfair Competition of June 7, 1909 (*Reichsgesetzblatt*, page 499), last amended by the Law of July 21, 1965 (*Bundesgesetzblatt I*, page 625), shall not require to be asserted before the forum [*Gerichtsstand*] provided for in Article 24 of the Law on Unfair Competition.

#### Article 34

If German goods are required, for purposes of importation into or transit through foreign countries, to bear a distinctive sign indicating their German origin, or if, in the matter of customs clearance, they receive less favorable treatment because of the distinctive sign on such goods than do goods of other countries, the Federal Minister of Finance may impose a similar tax [*Auflage*] on foreign goods entering this country for the purposes of importation or transit and may, in the event of non-compliance, order the goods to be seized and

confiscated. Seizure and confiscation shall be ordered by the customs authorities; Article 28, paragraph (3), shall apply *mutatis mutandis*.

#### Article 35

(1) A person who neither is a German national nor has an establishment in this country may claim protection under this Law only if, according to a notice published in the Official Gazette, German trademarks are granted legal protection to the same extent as domestic marks in the country in which his establishment is located.

(2) The applicant for registration or the proprietor of a trademark who has no establishment in this country may assert a claim to protection in respect of a trademark and the right arising from the registration only if he has appointed a patent attorney or an attorney at law in this country as his representative. The latter shall be authorized to represent him in Patent Office and Patent Court proceedings and in civil litigation affecting the trademark. For all actions brought against the proprietor of the trademark, the court in whose area of jurisdiction the representative has his business premises shall be competent; if there are no business premises, then the place where the representative has his domicile shall be relevant, and, in the absence thereof, the place where the Patent Office has its seat.

(3) Any person who applies for the registration of a foreign trademark shall be required to furnish proof that he has sought and obtained trademark protection for the mark in the country in which his establishment is located. Such proof shall not be required if, according to a notice published in the Official Gazette, German trademarks are registered in the other country without the furnishing of such proof. Registration shall be permitted only if the trademark complies with the requirements of this Law, unless otherwise provided by international agreements.

#### Article 36

The Federal Minister of Justice shall regulate the establishment and the business procedure of the Patent Office and determine by statutory order the form of the procedure and the collection of administrative fees in so far as provision therefor has not been made by law.

### III

## The Law on Patent Office and Patent Court Fees

(Text of January 2, 1968) \*

### Chapter I Schedule of Fees

#### Article 1

Patent Office fees shall be as follows:

*Deutsche  
Mark*

1. For the application (Article 26, paragraph (2), of the Patent Law) . . . . .

50

\* BIRPI translation of the text as published in the German *Bundesgesetzblatt I*, page 39.

	Deutsche Mark	Deutsche Mark	
1a. For the request for the search for publications to be taken into consideration (Article 28a) . . . . .	100	9. For the request to limit the patent (Article 36a, paragraph (2)) . . . . .	60
1b. For the request for examination of the application (Article 28b) when a request under Article 28a has previously been filed . . . . .	200	<i>B. Utility Models</i>	
1c. For the request for examination of the application (Article 28b) when no request under Article 28a has been filed . . . . .	300	1. For the application (Article 2, paragraph (5), of the Utility Model Law) . . . . .	30
2. For publication of the application (Article 11, paragraph (1), Article 31) . . . . .	60	2. For the request to record a change in the identity of the proprietor or of his representative (Article 3, paragraph (4)) . . . . .	10
3(a) For the third year of the patent (Article 11, paragraph (1)) . . . . .	50	3. For the renewal of the period of protection (Article 14, paragraph (2)) . . . . .	150
(b) for the fourth year of the patent (Article 11, paragraph (1)) . . . . .	50	4. (Deleted)	
(c) for the fifth year of the patent (Article 11, paragraph (1)) . . . . .	80	5. For the request for cancellation (Article 8) . . . . .	150
(d) for the sixth year of the patent (Article 11, paragraph (1)) . . . . .	125	<i>C. Trademarks</i>	
(e) for the seventh year of the patent (Article 11, paragraph (1)) . . . . .	175	1. For the application — application fee — (Article 2, paragraph (3), of the Trademark Law) . . . . .	30
(f) for the eighth year of the patent (Article 11, paragraph (1)) . . . . .	250	2. For the application — class fee — (Article 2, paragraph (3))	
(g) for the ninth year of the patent (Article 11, paragraph (1)) . . . . .	325	(a) for the first and second classes, in each case . . . . .	40
(h) for the tenth year of the patent (Article 11, paragraph (1)) . . . . .	400	(b) for the third and fourth classes, in each case . . . . .	60
(i) for the eleventh year of the patent (Article 11, paragraph (1)) . . . . .	525	(c) for every additional class, in each case . . . . .	70
(k) for the twelfth year of the patent (Article 11, paragraph (1)) . . . . .	675	3. For lodging opposition (Article 5, paragraph (5)) . . . . .	75
(l) for the thirteenth year of the patent (Article 11, paragraph (1)) . . . . .	825	4. For the request to record the transfer of a trademark or a change in the representative of the proprietor of the trademark (Article 3, paragraph (1), No. 3, Article 8, paragraph (1)) . . . . .	20
(m) for the fourteenth year of the patent (Article 11, paragraph (1)) . . . . .	1000	5. For registration (Article 7) . . . . .	50
(n) for the fifteenth year of the patent (Article 11, paragraph (1)) . . . . .	1175	6. For the request for prompt registration (Article 6a, paragraph (2)) . . . . .	200
(o) for the sixteenth year of the patent (Article 11, paragraph (1)) . . . . .	1350	7. For renewal of the period of protection — renewal fee — (Article 9, paragraph (2)) . . . . .	120
(p) for the seventeenth year of the patent (Article 11, paragraph (1)) . . . . .	1525	8. For renewal of the period of protection — class fee — (Article 9, paragraph (2))	
(q) for the eighteenth year of the patent (Article 11, paragraph (1)) . . . . .	1700	(a) for the first and second classes, in each case . . . . .	60
4. For the request for assessment of reasonable compensation for use of the invention (Article 14, paragraph (4)) . . . . .	50	(b) for the third and fourth classes, in each case . . . . .	80
5. For the request for alteration of the assessment of compensation for use of the invention (Article 14, paragraph (5)) . . . . .	100	(c) for every additional class, in each case . . . . .	100
6. For the request to record a change in the identity of the patentee or his representative (Article 24, paragraph (2)) . . . . .	20	9. For the application for a collective mark — application fee — (Article 17, paragraph (3), Article 2, paragraph (3)) . . . . .	300
7. For the request to record the grant of a right to the exclusive use of the invention or to cancel the recording of such grant (Article 25, paragraph (4)) . . . . .	20	10. For the application for a collective mark — class fee — (Article 17, paragraph (3), Article 2, paragraph (3)) . . . . .	100
8. (Deleted)	20	11. For registration of a collective mark (Article 17, paragraph (3), Article 7) . . . . .	300
		12. For renewal of the period of protection of a collective mark — renewal fee — (Article 17, paragraph (3), Article 9, paragraph (2)) . . . . .	
		13. For renewal of the period of protection of a collective mark — class fee — (Article 17, paragraph (3), Article 9, paragraph (2)) . . . . .	150
		14. (Deleted)	
		15. For the request for cancellation (Article 10, paragraph (2), No. 2) . . . . .	150

<i>D. Other Fees</i>		<i>Deutsche Mark</i>	<i>Deutsche Mark</i>	
1. Surcharge for delayed payment (a) of the publication fee or of an annual patent fee (A. Nos. 2 and 3(a) to (q) of the schedule; Article 31, sentence 2, Article 11, paragraph (3), sentence 2, of the Patent Law)			6. For filing an appeal from a decision concerning a request for the issue of a provisional order (Article 11a of the Utility Model Law in conjunction with Article 42m, paragraph (2), of the Patent Law) . . . . .	200
(b) of the fee for renewal of the period of protection of a utility model (B. No. 3 of the schedule; Article 14, paragraph (2), sentence 5, of the Utility Model Law)	10% of the overdue fee			
(c) of the fee for renewal of the period of protection of a trademark (C. Nos. 7 and 12 of the schedule; Article 9, paragraph (2), sentence 3, Article 17, paragraph (3), of the Trademark Law).				
2. National fee for the request for international trademark registration (Article 2, paragraph (2), of the Law relating to accession of the Reich to the Madrid Agreement concerning the International Registration of Trademarks, of July 12, 1922 — <i>Reichsgesetzblatt II</i> , pp. 669, 779) . . . . .	100			

**Article 1a**

Fees payable in respect of proceedings before the Patent Court shall be as follows:

**A. Patents**

1. For filing an appeal (Article 36l, paragraph (3), of the Patent Law) . . . . .	150
2. For an action for declaration of nullity, or revocation, or the grant of a compulsory license (Article 37, paragraph (5)) . . . . .	350
3. For the request for the issue of a provisional order (Article 41, paragraph (2)) . . . . .	300
4. For filing an appeal (Article 42, paragraph (1)) . . . . .	300
5. For filing an appeal from a decision concerning a request for the issue of a provisional order (Article 42m, paragraph (2)) . . . . .	300

**B. Utility Models**

1. For filing an appeal from a decision of the Utility Model Section (Article 10, paragraph (2), of the Utility Model Law) . . . . .	150
2. For filing an appeal from a decision of the Utility Model Division (Article 10, paragraph (2)) . . . . .	250
3. For an action for the grant of a compulsory license (Article 11a of the Utility Model Law in conjunction with Article 37, paragraph (5), of the Patent Law) . . . . .	250
4. For the request for the issue of a provisional order (Article 11a of the Utility Model Law in conjunction with Article 41, paragraph (2), of the Patent Law) . . . . .	200
5. For filing an appeal (Article 11a of the Utility Model Law in conjunction with Article 42, paragraph (1), of the Patent Law) . . . . .	200

<i>D. Other Fees</i>	<i>Deutsche Mark</i>
6. For filing an appeal from a decision concerning a request for the issue of a provisional order (Article 11a of the Utility Model Law in conjunction with Article 42m, paragraph (2), of the Patent Law) . . . . .	200

**C. Trademarks**

1. For filing an appeal (Article 13, paragraph (2), of the Trademark Law) except in the case of No. 2 . . . . .	150
2. For filing an appeal in cancellation proceedings (Article 13, paragraph (2), Article 10, paragraph (2), No. 2) . . . . .	250
3. For filing an appeal under Article 2, paragraph (3), of the Ordinance concerning the International Registration of Trademarks, in the text of July 17, 1953 ( <i>Bundesgesetzblatt I</i> , p. 656) . . . . .	150

**Chapter II****Fee Stamps****Article 2**

Fees may be paid by means of fee stamps.

**Chapter IIa****Powers****Article 2a**

The Federal Minister of Justice shall have power to issue by statutory order, for the purposes of Patent Office and Patent Court fees, regulations concerning the forms of payment which may be assimilated to cash payment.

**Chapter III****Transitional and Final Provisions****Article 3**

(1) Fees falling due before the entry into force of this Law shall be payable in accordance with the former provisions.

(2) The provisions of Article 24, paragraph (1), of the First Law for the Amendment of Provisions in the Field of Industrial Property and Transitional Measures Relating Thereto, of July 8, 1949 (*Wirtschaftsgesetzblatt*, p. 175), shall be applicable, provided however that, in the case of annual patent fees falling due after the entry into force of this Law, the rates according to the Law on Patent Office Fees of May 5, 1936 (*Reichsgesetzblatt II*, p. 142), shall be superseded by the rates according to this Law.

**Article 4**

(1) In the case of annual patent fees falling due after the entry into force of this Law and which were paid in advance before January 1, 1954, in accordance with Article 11, paragraph (9), of the Patent Law, the previous rates shall apply.

(2) The previous rates shall also apply in the case of annual patent fees falling due after the entry into force of this

Law and which are payable for (patent) years which have begun before the entry into force of this Law.

#### Article 5

(1) If a fee payable in respect of a request or a legal remedy and falling due within three months after the entry into force of this Law is paid in due time at the previous rates, the difference in the amount between the fee payable at the previous rates and that payable under this Law may be paid before the expiration of a period, fixed by the Patent Office, of one month after service of notification. If the difference is paid within the period fixed by the Patent Office, the fee shall be deemed to have been paid in due time.

(2) If a publication fee, an annual fee or a fee for renewal of the period of protection of a utility model or a trademark falling due within three months after the entry into force of this Law is paid in due time at the previous rates, the notification provided for under Article 11, paragraph (3), and Article 31, of the Patent Law, Article 14, paragraph (2), of the Utility Model Law, and Article 9, paragraph (2), of the Trademark Law, shall be served only in respect of the difference in the amount between the fee already paid and the fee payable under this Law. The surcharge for delayed payment as prescribed in the schedule of fees shall not be demanded.

#### Article 6

The Law on Patent Office Fees of May 5, 1936 (*Reichsgesetzblatt* II, p. 142), is hereby repealed.

#### Article 7

Upon entry into force of this Law, Article 13 of the Fifth Law for the Amendment of Provisions in the Field of Industrial Property and Transitional Measures Relating Thereto, of July 18, 1953 (*Bundesgesetzblatt* I, p. 615), shall no longer be applicable to Patent Office fees falling due thereafter, with the exception of the fee for lodging opposition.

#### Article 8

In accordance with Article 13, paragraph (1), of the Third Transitional Law, of January 4, 1952 (*Bundesgesetzblatt* I, p. 1), this Law shall also be applicable in the *Land* Berlin.

#### Article 9 \*

This Law shall come into force on April 1, 1955.

\* This provision relates to the entry into force of the Law in its original text of February 22, 1955. The new text comes into force on October 1, 1968, Article 2a having already come into force, however, on March 30, 1961. [Note in the text in the *Bundesgesetzblatt*.]

#### ITALY

##### Decrees

Concerning the Temporary Protection of Industrial Property Rights at Two Exhibitions  
(of November 30, 1968)<sup>1</sup>

##### Single Article

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

*I MACEF LEVANTE* (Bari, January 25 to 28, 1969);  
*SAMIA — Salone mercato internazionale dell'abbigliamento* (Turin, February 7 to 10, 1969)

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

<sup>1</sup> Official communication from the Italian Administration.

<sup>2</sup> See *La Propriété industrielle*, 1939, p. 124; 1940, p. 84.

<sup>3</sup> *Ibid.*, 1940, p. 196.

<sup>4</sup> *Ibid.*, 1942, p. 168.

<sup>5</sup> *Ibid.*, 1960, p. 23.

## CONVENTIONS AND TREATIES

other than those administered by BIRPI

### Member States of Industrial Property Conventions and Treaties other than those administered by BIRPI, as on January 1, 1969

#### I

##### Council of Europe

European Convention relating to the Formalities required  
for Patent Applications (1953)  
(Entered into force June 1, 1955)

Member States	Date of Ratification or Accession to the Convention
Belgium	March 12, 1965
Denmark	September 3, 1956
Federal Republic of Germany	May 17, 1955
France	January 18, 1962
Greece	June 15, 1955
Iceland	March 24, 1966
Ireland	June 17, 1954
Israel *)	April 29, 1966
Italy	October 17, 1958
Luxembourg	July 4, 1957
Netherlands	May 9, 1956
Norway	May 21, 1954
South Africa *)	November 28, 1957
Spain *)	June 28, 1967

\*) These countries are not members of the Council of Europe.

Sweden . . . . .	June 28, 1957
Switzerland . . . . .	December 28, 1959
Turkey . . . . .	October 22, 1956
United Kingdom of Great Britain and Northern Ireland . . . . .	May 5, 1955

**European Convention on the International Classification  
of Patents for Invention**  
(including Annex as amended) (1954-1967)  
(Entered into force August 1, 1955)

Member States	Date of Ratification or Accession to the Convention
Australia *) . . . . .	March 7, 1958
Belgium . . . . .	May 16, 1955
Denmark . . . . .	September 23, 1957
Federal Republic of Germany . . . . .	November 28, 1955
France . . . . .	July 1, 1955
Ireland . . . . .	March 11, 1955
Israel *) . . . . .	April 18, 1966
Italy . . . . .	January 9, 1957
Netherlands . . . . .	January 12, 1956
Norway . . . . .	March 11, 1955
Spain *) . . . . .	September 1, 1967
Sweden . . . . .	June 28, 1957
Switzerland . . . . .	December 20, 1966
Turkey . . . . .	October 22, 1956
United Kingdom of Great Britain and Northern Ireland . . . . .	October 28, 1955

\*) These countries are not members of the Council of Europe.

**Convention on the Unification of Certain Points of Substantive Law on Patents for Invention (1963)**

This Convention, signed on November 27, 1963, is not yet in force. It was ratified by Ireland on June 25, 1968, and has been signed but not ratified by the following States: Belgium, Denmark, Federal Republic of Germany, France, Italy, Luxembourg, Netherlands, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland.

**II**

**International Patent Institute**  
**The Hague Agreement of June 6, 1947, establishing the International Patent Institute**

Member States	Date on which adhesion to the Union took effect	Date on which the State ratified the Act of The Hague of February 16, 1961 *)
Belgium . . . . .	June 10, 1949	June 13, 1962
France . . . . .	June 10, 1949	December 23, 1963
Luxembourg . . . . .	June 10, 1949	December 13, 1962
Monaco . . . . .	August 2, 1956	September 4, 1963
Morocco . . . . .	January 1, 1956	May 3, 1962
Netherlands . . . . .	June 10, 1949	
Switzerland . . . . .	January 1, 1960	
Turkey . . . . .	September 28, 1955	
United Kingdom . . . . .	August 2, 1965	

\*) This Act, not having been ratified by all the signatory States, has not yet entered into force.

**NEWS ITEMS**

**SOUTH AFRICA**

*Appointment of a New Registrar of Patents of the South African Companies, Patents, Trade Marks and Designs Office*

We have recently been informed that Mr. Theo Schoeman has been appointed Registrar of Patents of the South African Companies, Patents, Trade Marks and Designs Office.

We take this opportunity to congratulate Mr. Schoeman on this appointment.

**YUGOSLAVIA**

*Appointment of a New Director of the Yugoslav Patent Office*

We have recently been informed that Professor Dr. Stojan Pretnar has been appointed Director of the Yugoslav Patent Office.

We take this opportunity to congratulate Professor Dr. Pretnar on his appointment.

**INDIA**

*New Publication*

*Journal of the Patent Office Technical Society*

Under this title, a new journal dealing with patent and design matters has been brought out by the Patent Office Technical Society (founded by the technical staff of the Indian Patent Office).

This publication, which is of unquestionable interest to research workers, industrialists and patent agents, is intended to constitute a forum in which all specialists in such matters will be able to give free expression to their views.

Included in the diversified headings that appear in the table of contents of the first issue are the following subjects: studies on the various legal and practical aspects of Indian patent law, reports on recent decisions, a classified list of some of the patent applications of Indian origin accepted in 1966, as well as informative statistical information on the applications filed in India.

It is the rightful ambition of the *Journal of the Patent Office Technical Society*, which now appears biannually, to increase the frequency of its issues as soon as possible.

(Patent Office Technical Society  
214 Lower Circular Road, Calcutta 17)

**Moscow Symposium 1969**

The Committee for Inventions and Discoveries attached to the Council of Ministers of the USSR has asked BIRPI to make a supplementary announcement<sup>1</sup> to the effect that the Organizing Committee of the Moscow Jubilee Symposium 1969, as a result of the enlargement of the theme of the Symposium and some organizational circumstances, has extended the time limit for participants' registration until April 1, 1969. The same time limit applies to the payment of the registration fee.

<sup>1</sup> See *Industrial Property*, 1968, p. 238, and the announcement in the October issue of this periodical, distributed as a separate green sheet and entitled "Moscow Symposium 1969."

## BOOK REVIEWS

**Patentgesetz und Gebrauchsmustergesetz** [Patent Law and Utility Model Law]. Systematic Commentary, by *Eduard Reimer*. Third edition revised and completed by *Karl Nastelski, Rudolf Neumar, Ernst Reimer, and Wilhelm Trüstedt*. Publisher: Carl Heymanns Verlag KG, Cologne, 1968. Price DM 248. (In German).

Since the second edition of Reimer's well-known Patent Law Commentary — completed by the distinguished author shortly before his death, and published in 1958 (for the first edition, see the review published in *La Propriété industrielle*, 1961, pp. 251 and 278) — the German Patent Law has undergone a number of important changes.

Firstly, as a result of the amendment of March 23, 1961 (a French translation of the Law, as revised by that amendment, was published in *La Propriété industrielle*, 1961, pp. 251 and 278), the Federal Patent Court was established to review decisions of the Patent Office.

Secondly, the Law for the Amendment of the Patent Law, Trademark Law and Other Laws, of September 4, 1967, has changed three main features of the German patent system:

- (1) the examination procedure (introduction of the principle of deferred examination);
- (2) the publication of patent applications (unrestricted publication 18 months after the priority date);
- (3) the subject matter of patent protection (patentability of foodstuffs, alcoholic beverages and tobacco [*Genussmittel*], medicaments, and substances produced by chemical processes).

(For details see Krieger: "The New German Patent and Trademark Law," *Industrial Property*, 1968, p. 155; an English translation of the new German Patent Law was published in *Industrial Property*, 1968, p. 134).

In addition to these statutory changes, the last ten years have also seen an important development of the patent law by court decisions, thus increasing the task of those undertaking to write a new edition of Reimer's classical commentary.

This task was shared by Prof. Dr. Karl Nastelski, former President of the Chamber of the Federal Court of Justice dealing with industrial property, Dr. Rudolf Neumar, judge at the Patent Court (who had already contributed to the second edition), Dr. Ernst Reimer (who — as in the

first and second editions — wrote the chapter concerning patent licenses), and Wilhelm Trüstedt, judge at the Federal Court of Justice.

All the above mentioned, being practitioners of great experience, have followed the tradition of Professor Reimer. They have combined a systematic approach with a clearness of explanation, thus leading the reader to a better understanding of the frequently complicated problems of the Patent Law. This remark applies not only to the thorough work done in updating the old commentary but also to the efforts expended in creating the outstanding supplements to the third edition. By way of examples, the chapter may be cited concerning the effect of the patent (Article 6, pp. 260 *et seq.*), which gives a complete image of the patent's scope of protection, as well as the instructive commentary — in the additional part to the third edition — on the new provisions concerning the deferred examination (Articles 28 *et seq.*, pp. 1029 *et seq.*). Thus, the commentary, which has almost doubled in size compared with the second edition, continues to be of great interest to practitioners as well as scholars.

The authors of the third edition, while respecting Professor Reimer's authority, did not, however, hesitate to clarify the text if the opinion expressed in the second edition no longer had a chance of being accepted by the courts (see, for example, Nos 39 and 40 of the commentary to Article 1 of the Patent Law, concerning certain concepts of the "doctrine of equivalents").

Concerning the general presentation of the text, however, it would perhaps have been desirable to provide a subdivision of the marginal numbers of the commentary, which would have made it possible to quote passages with more precision.

But this remark does not diminish the value of the commentary, which, having appeared at an opportune moment, offers precious help to anybody seeking information about the German Patent Law.

L. B.

\* \* \*

**Le droit des brevets d'invention**, by *Z. Weinstein*, in the collection "Documents Actuels." 127 pages. Published by J. Delmas et Cie. Paris, 1968.

The author, in a style both clear and concise, comments on the principal provisions of the French Law of January 2, 1968, on patents.

In particular, he analyzes the problems raised by the introduction into French patent law of such new notions as "inventive activity" and contemplates how this criterion of patentability, new in French law, might be assessed and applied by the courts.

The full text of the Law appears in an annex.

P. M.

## CALENDAR OF MEETINGS

### BIRPI Meetings

**February 3 to 7, 1969 (Paris) — Permanent Committee of the Berne Union (Extraordinary Session)**

*Object:* Consideration of various questions concerning copyright — *Invitations:* Belgium, Brazil, Denmark, France, Germany (Fed. Rep.), India, Italy, Portugal, Rumania, Spain, Switzerland, United Kingdom — *Observers:* All other member States of the Berne Union; interested international intergovernmental and non-governmental organizations

**April 17 and 18, 1969 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Examining Patent Offices (ICIREPAT) — Technical Cooperation Committee (1<sup>st</sup> Session)**

**September 17, 1969 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Examining Patent Offices (ICIREPAT) — Technical Cooperation Committee (2<sup>nd</sup> Session)**

**September 18 and 19, 1969 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Examining Patent Offices (ICIREPAT) — First Annual Meeting**

September 22 to 26, 1969 (Geneva) — Interunion Coordination Committee (7<sup>th</sup> Session)

*Object:* Program and Budget of BIRPI for 1970 — *Invitations:* Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Denmark, France, Germany (Fed. Rep.), Hungary, India, Iran, Italy, Japan, Kenya, Morocco, Mexico, Netherlands, Poland, Portugal, Rumania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America

September 22 to 26, 1969 (Geneva) — Executive Committee of the Conference of Representatives of the Paris Union (5<sup>th</sup> Session)

*Object:* Program and Budget (Paris Union) for 1970 — *Invitations:* Argentina, Australia, Austria, Cameroon, France, Germany (Fed. Rep.), Hungary, Iran, Japan, Kenya, Morocco, Mexico, Netherlands, Poland, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America — *Observers:* All the other member States of the Paris Union; United Nations; International Patent Institute

September 22 to 26, 1969 (Geneva) — Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration (4<sup>th</sup> Session)

*Object:* Annual Meeting — *Invitations:* All member States of the Lisbon Union — *Observers:* All other member States of the Paris Union

## Meetings of Other International Organizations Concerned with Intellectual Property

January 28 and 29, 1969 (The Hague) — International Patent Institute (IIB) — 99<sup>th</sup> Session of the Administrative Council

March 24 to 27, 1969 (Cairo) — Afro-Asian Organization for Economic Cooperation (AFRASEC) — Afro-Asian Conference on the Development of Small Industries

May 19 to 22, 1969 (Prague) — International Federation of Musicians — Executive Committee

May 26 to 30, 1969 (Vienna) — International League Against Unfair Competition (LICCD) — 21<sup>st</sup> Congress

May 31 to June 7, 1969 (Istanbul) — International Chamber of Commerce (ICC) — XXII<sup>nd</sup> Congress

June 9 to 14, 1969 (Venice) — International Association for the Protection of Industrial Property (IAPIP) — XXVII<sup>th</sup> International Congress

July 1 to 5, 1969 (Moscow) — Moscow Jubilee Symposium 1969 (Industrial Property)

July 3 to 7, 1969 (Moscow) — International Writer's Guild (IWG) — 2<sup>nd</sup> Congress

September 8 to 12, 1969 (Nuremberg) — International Federation of Musicians — 7<sup>th</sup> Ordinary Congress

## ANNOUNCEMENT OF A VACANCY FOR A POST IN BIRPI

### COMPETITION No. 79

#### Technical Counsellor (ICIREPAT)

*Category and Grade:* P. 4/P. 5, according to qualifications and experience.

#### Principal duties:

The incumbent will be responsible, subject to general directives, for the implementation of BIRPI's program in the field of information retrieval in the patent field, particularly within the framework of the program of the "Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices" (ICIREPAT). The particular duties will include:

- (a) preparation of long range and short range draft programs for ICIREPAT;
- (b) preparation of documents for ICIREPAT meetings, and of reports on the work performed and plans of ICIREPAT;
- (c) preparation of, and secretarial assistance to, meetings of ICIREPAT and its Technical Coordination Committee;
- (d) coordination of the work of, and secretarial assistance to, the Technical Committees and special working groups of ICIREPAT;
- (e) execution of those parts of the ICIREPAT program which are within the competence of the International Bureau;
- (f) assistance in coordinating the work of the Offices of the participating countries and the International Patent Institute in execution of the ICIREPAT program;
- (g) contacts with industry and private organizations to ensure harmonization of efforts in information retrieval in the patent field;
- (h) participation in meetings of other international organizations dealing with technical information retrieval.

#### Qualifications:

- (a) University degree in a relevant field of science or technology or qualifications equivalent to such degree.
- (b) Good knowledge and experience in the field of information retrieval.
- (c) Excellent knowledge of English and at least a good knowledge of French.

Practical experience in the processing of patent applications, especially as a patent examiner, and in dealing with documentation problems in the patent field, would be an advantage.

#### Nationality:

Candidates must be nationals of one of the member States of the Paris or Berne Unions.

#### Age limit:

At the P. 5 level: less than 55 years of age at date of appointment.  
At the P. 4 level: less than 50 years of age at date of appointment.

#### Date of entry on duty:

As mutually agreed.

*Application forms and full details regarding the conditions of employment* may be obtained from the Head of Personnel, BIRPI, 32, chemin des Colombettes, 1211 Geneva, Switzerland.

Application forms, duly completed, should reach BIRPI not later than March 31, 1969.