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Industrial Property

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World Intellectual Property Organization

Contents

International Unions

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

Ratification

UNITED STATES OF AMERICA

The Government of the United States of America deposited on September 24, 1979, its instrument of ratification ("acceptance") of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977.

The date of entry into force of the said Treaty will be notified when the required number of ratifications or accessions is reached.

Budapest Notification No. 4, October 15, 1979.

Activities of Other Organizations

United Nations Conference on Science and Technology for Development

(Vienna, August 20 to 31, 1979)

The United Nations Conference on Science and Technology for Development was held in Vienna in August 1979. Among the official documents of the Conference was a report entitled *The Contribution of Transnational Enterprises to Future World Development* (document A/CONF.81/BP/MISC.1), prepared by the Industrial Sector Advisory Group to the Secretary-General of the Conference.

The summary of this report, a section of it on patent and trademark rights, and the list of the members of the Advisory Group are reproduced below.

Summary

Developing countries and transnational enterprises (TNEs) share a common interest in their concern for an increasing rate of economic development. It is well established that TNEs are effective contributors to the acceleration of economic growth in both advanced and developing countries. This effectiveness of the TNEs often depends on the creation, management, and use of technology in their business activities in home as well as in host countries. Thus, the interests of developing countries in applying modern technology appropriately to further the advance of economic and social conditions can coincide with the interests of TNEs in expanding business opportunities and markets through competitive technology.

Considerable diversity exists among developing countries in the degree of their development and in their national goals, just as there are wide differences in the character, size, and objectives of TNEs. Both are alike in that they are independent entities. Whether or not the host country or the TNE will choose to develop an activity in a given host country, and whether or not that activity can be sustained, depend on two factors. The first of these is the establishment of mutually satisfactory objectives. The second is the conclusion of negotiations in an atmo-

sphere of respect, complete understanding, and flexibility to achieve a mutually beneficial agreement.

The Secretary-General of the Conference, João Frank da Costa, recognized that the issue of where the balance of compromise should lie would be raised in the Conference. To assist the member States in selecting the most promising areas for improvement when discussing action for the future, he perceived the need for a better understanding of the experience of TNEs in negotiating and operating in developing economies. Such understanding should include the TNEs' perceptions of how their own and host country interests might better coincide in the future. Mr. da Costa felt it was imperative to indicate how TNEs with their so important potential could play a progressive role in future world development, taking into account in particular the need for scientific and technological development in developing countries.

Accordingly, Mr. da Costa suggested that an Advisory Group of senior technology and management executives examine the part TNEs might take in engaging more effectively in future world development. He requested that they prepare a report which would be illustrative of the thinking within a broad spectrum of TNEs without claiming in the least to be representative of all positions in the Industrial Sector. The resulting report would be made widely available and be included in summary form for the information of the member governments, as an official contribution to the Conference Agenda, Item 7—"Science and Technology and the Future." The Advisory Group was drawn from an illustrative range of TNEs based in Europe, North America, and South America.

Technology is a body of knowledge, or the "know-how," which permits the application of scientific findings to the creation of a specific product or performance of a specific task. While science is knowledge as well, and may suggest what is possible, technology translates the possible into the practical through the embodiment of planning, engineering, and management.

Creation of new science occurs across a wide spectrum of institutions—universities, government laboratories, institutes, and industrial research centers. Much governmental and institutional efforts are directed towards the development of infrastructure necessary to receive and apply technology, particularly in areas such as education, communication, transportation, health and agriculture. Such efforts are supported largely with public resources and the results are widely disseminated. The generation of technology or know-how for commercial application, on the other hand, has been undertaken predominantly by private industry as a key component of the process of providing competitive goods and services. Such know-how involves technology transfers within a firm in a complex array of coordinated activities and investments including specific technical processes, skilled personnel, marketing capabilities, and competent management. Consequently, the development and adaptation of technology requires the investment of human and capital resources by the developer who then has a proprietary interest in the technology. Even non-proprietary technology may have proprietary know-how elements which allow its efficient, safe and non-polluting use.

TNEs have developed successfully the capability of extending transfers of know-how beyond a firm's activity within its own country to affiliated facilities in other countries. Thus, the experiences and knowledge of the TNEs are available as an important resource to meet the technological needs of developing countries.

Because of the investments necessary to generate technology, its transfer between firms, whether within the same country or across frontiers, must be accompanied by some form of return to the originating company that is appropriate to the initial investment, the additional costs involved in the transfer, and the accompanying risks. All enterprises, large as some of them are, have limits to the resources that can be committed at any one time, and their managements must decide which investments and activities should receive priority. The decision of an enterprise to establish an activity in a developing country and subsequently to transfer technology, therefore, will include an assessment of the risk involved in committing the required resources. The mechanisms by which a transnational enterprise can assist in the transfer of technology vary in degree from licensing to direct investments, including joint ventures.

An essential step for the host country is to set priorities consistent with its national objectives and to choose the technologies which will give the highest probabilities of success. Such a step would logically be part of national plans for development taking into consideration such criteria as natural resources, employment needs, physical as well as institutional infrastructures, market and the technological level of the host country work force. Equally important is the choice of transnational partners for each particular case. Again it must be clear at the outset what the needs of both parties are, and what their individual contributions must be, and that the requirement for flexibility is essential in all phases of the project.

The detailed report includes a number of examples of TNEs' experiences describing some operations with developing countries. These examples show that successful projects meet certain basic requirements. They provide a competitive return on investment to the TNE. They also meet equally important objectives of the host countries of a social, environmental and economic nature.

Experience therefore shows that the transnational enterprises involved in the transfer of technology

nearly always serve the host countries to which they introduce new methods and techniques at the same time they serve their own commercial and financial interests. When the transfer of technology works well there are substantial benefits for both sides.

Specific commitments of transnational enterprises in host countries include the following:

— To make investments in the long term, helping to build up the country's basic infrastructure.
— To aid in meeting the goals of local governments by paying taxes and thus providing revenues, by increasing employment, and by developing local sources of supply; in so doing they contribute to the productive capacity and economic growth of the country.
— To train, develop and advance local personnel, thus adding to the pool of technologically qualified persons available to the country.
— To provide channels through which new technology can be funneled into the country.
— To make available to the host country a range of human resources, particularly managerial and technical personnel, that would not be readily accessible under other circumstances.
— To provide an opportunity for the exchange of ideas and information with local scientific and research institutions, thus enriching the research environment.

Similarly the successful collaboration between the host country and TNEs calls for certain commitments by the host countries:

— To create in the host country an inviting and attractive business environment, i.e. the probability of a transnational enterprise receiving satisfactory return on its investment of funds, technology and people in a given project. An overriding consideration for a transnational enterprise is the promise of stability of policies, attitudes and relationships on the part of the host country government. Features which contribute to such an attractive environment are the ability to achieve a pragmatic approach to regulation, the acceptance of international arbitration in disputes and freedom to repatriate a reasonable level of funds.
— To recognize the high value TNEs place on patents, trademarks and the protection of proprietary know-how.
— To improve the standard of technological and managerial education and also skills training. Cooperation with transnational enterprises on specific programs will accelerate such educational programs; furthermore, the existence of such programs can contribute to the ability of a host country to participate further with transnational enterprises.

Most TNEs have progressively developed high standards of business conduct outlining their responsibilities towards their owners, customers, employees and the communities within which they operate in their home countries. These standards are also the basis of positive guidelines for the development of their business relations with other countries. The TNEs, in endeavoring to support the national objectives of host countries and at the same time maintain their own business standards, often defer immediate financial returns for longer range benefits.

The report concludes with a look at possible future technical developments, not all of which will come to commercial fruition. Transnational enterprises will undoubtedly play a key role in the development of many of these concepts into working technologies available to all countries.

Patent and Trademark Rights

An effective patent system is one of the best incentives for technology transfer. It is of as much value to local enterprise as it is to foreign technology suppliers, since it helps develop indigenous technological capabilities. If local ingenuity and investment are to be encouraged, inventors must be able to disclose their inventions in a protected manner with a reasonable expectation of reward.

The inventor trades the disclosure of his invention, which has never before been known, for a limited term of exclusivity. The disclosure, in turn, provides technical information on which other technical and business people can build. The patent system thus encourages the dissemination of information which tends to be particularly concerned with resources and needs of the country—information which otherwise might be held as a trade secret.

The reduction of patent terms by some countries in recent years has effectively removed the patent incentive for all but the simplest of inventions. Studies show that it usually takes ten years and more for high-technology inventions to give rise to a commercial return. The recent weakening of patents in a number of developing countries, shortened terms, denial of patents for certain businesses (notably agricultural chemicals and drugs), and compulsory license provisions beyond those sanctioned by the Paris Convention, have deprived those countries of a valuable tool for technology transfer and infrastructure development. Transnational enterprises engaged in pharmaceutical production have been particularly affected. Such weakening of patent provisions reduces the willingness of TNEs to supply technology.

Once a patent has expired, it is available to all with no fees required. Thus, the technology represented by expired patents represents a potentially valuable resource to developing countries.

Trademarks, unlike patents, do not create exclusive rights to the goods themselves. The identical goods (or

services) may be sold under any other trademark, or no trademark. Trademark rights are granted to protect the public, by serving as symbols reflecting the quality standards of the producer.

Availability of trademark protection encourages foreign investment for local manufacture. A trademark license must be accompanied by quality standards, and the instruction in the manufacturing techniques required to create and maintain the standards is a valuable form of technology transfer. Thus a system for the effective protection of trademarks, in addition to being valuable for specific needs of development, is also of general benefit to the entire country.

TNEs place a high value on the know-how they have developed and the protection of it when the information is proprietary in nature. While some technology being transferred for development needs is not proprietary, even in those cases, the relevant know-how to allow its efficient, safe, and non-polluting use may well be proprietary.

Industrial Sector Advisory Group

Members

Helcio Camillo de Almeida, General Manager Interbras-London, London International Press Centre, United Kingdom;

Kurt F. Büchel, Dipl.-Ing. Dr. Techn., Corporate Know-how and Licensing Executive, Steyr-Daimler-Puch A.G., Austria;

Robert L. Cattoi, Staff Vice-President, Engineering, Rockwell International, United States of America;

C. Digby T. Collins, Chairman, Dunlop International Projects Ltd., United Kingdom;

K. Gillis Een, Director of Engineering, Alfa-Laval, Sweden;

Douglas H. Freeman, C.B.E., Executive Vice President, Union Carbide Corporation, United States of America;

Donald Furlong, Vice President and Manager, Corporate Marketing, Bechtel Incorporated, United States of America;

Dr. Jacob E. Goldman, Senior Vice President, Xerox Corporation, United States of America;

Judson Gooding, Managing Partner, Trend Analysis Associates, United States of America;

James D. Grant, Vice President, CPC International Inc., United States of America;

Leslie Greher (Ms), Public Affairs Coordinator, Philip Morris International, United States of America;

Bernhard Dominik Hauser, Consultant, Belgium;

Dr. Hansjörg Heller, Member of the Executive Committee, Ciba-Geigy A.G., Switzerland;

Dr. Charles M. Huggins, Manager International Programs, Operation for Corporate Research and Development, General Electric Company, United States of America;

Richard Laster, Executive Vice President, General Food Corporation, United States of America;

Edson Gueiros Leitão, Director, Petrobras/Interbras, Brazil;

Dr. James H. Leonard, Director, Advanced Technology Center, Allis-Chalmers Corporation, United States of America;

Frank V. Maltby, Head of Research and Development and Technical Services, Bata Limited, Canada;

Dr. William R. Nummy, Director, Pharmaceuticals R&D, Dow Chemical Company, United States of America;

Maurice Papo, Directeur Scientifique, IBM France, France;

Dr. S. Victor Radcliffe, Senior Fellow, Resources for the Future, United States of America;

Peter M. Rinaldo, Vice President, General Industrial Products Group, W.R. Grace & Comp., United States of America;

Dr. Lewis H. Sarret, Senior Vice President, Science & Technology, Merck & Comp. Inc., United States of America;

Joseph E. Stevenot, Director Services Division, Research & Development, Procter & Gamble Company, United States of America;

Anthony J. Taylor, Executive Director, Babcock & Wilcox Ltd., United Kingdom;

Dr. Sam W. Tinsley, Director of Corporate Technology, Union Carbide Corporation, United States of America;

John F. Tormey, Director and Senior Engineering Executive, Corporate Technology Policy, Rockwell International, United States of America;

John D. Upham, Consulting Patent Counsel, International Legislation, Monsanto Company, United States of America;

Dr. Helmut R.R. Wakeham, Vice-President, Science & Technology, Philip Morris Inc., United States of America.

International Association for the Protection of Industrial Property

Executive Committee

(Toronto, September 23 to 29, 1979)

Introduction

The Executive Committee of the International Association for the Protection of Industrial Property

(IAPIP) met in Toronto (Canada) from September 23 to 29, 1979. Approximately 200 participants from about 35 countries participated in the meeting.

The World Intellectual Property Organization (WIPO) was represented by Mr. L. Baeumer (Director, Industrial Property Division).

The Executive Committee adopted two resolutions concerning the revision of the Paris Convention for the Protection of Industrial Property. Those resolutions are reproduced below.

Resolutions Adopted

QUESTION 67

Revision of the Paris Convention

I. The IAPIP

Has thoroughly examined the "Basic Proposals" for the revision of the Paris Convention, contained in WIPO document PR/DC/3 and has reached the following results:

1. *Protection of Inventions by Patents and Inventors' Certificates—Article 1(2) to (5) of the Paris Convention*

(a) The IAPIP reaffirms the position taken at its Munich Congress.[1]

(b) The IAPIP notes that with respect to the proposed definition of a patent (Art. 1(2)), the drafting suggestion by the Director General of WIPO to replace the word "patents" by the words "patents for inventions" is helpful and supports this suggestion. It recommends, however, that in such a case draft Article 1(4) must be maintained.

2. *Working and Non-Voluntary Licenses—Article 5A of the Paris Convention*

(a) The IAPIP has studied the different paragraphs of draft Article 5A in detail. With respect to draft Article 5A(6), it reaffirms the principle adopted in Montreux[2] and Munich that a compulsory license should never be exclusive in nature.

(b) The IAPIP notes that draft Article 5A(1) *(b)* first sentence is of a self-executing character. The effects of this being undesirable, the IAPIP proposes the following substitute language:

"(1)*(b)* Any country of the Union has the right to determine whether or not the importation of articles incorporating the patented invention or made by the patented process fulfil the requirement of working the patented invention."

(c) With respect to the possible sanctions in case of failure to work or insufficient working (draft Article 5A(4)), the IAPIP notes that the draft article does not state with sufficient clarity that in cases of simple failure to work or simple insufficient working, forfeiture or revocation must be preceded by a procedure for the grant of a non-voluntary license.

(d) With respect to draft Article 5A(8), the IAPIP is of the opinion that Article 5A should be of a universal character. It, therefore, takes the position that draft Article 5A(8) should not be included in the Paris Convention.

(e) Even if draft Article 5A(8)*(a)* were to be adopted, the IAPIP strongly opposes the inclusion of draft Article 5A(8)*(b)* in the Paris Convention.

(f) Furthermore, if the Revision Conference should adopt a provision along the lines of draft Article 5A(8)*(b)*, the IAPIP urges that the sanction of forfeiture be replaced by temporary suspension of the patent rights ("French Proposal"—document PR/DC/3, para. 140).

3. *Process Patents—Article 5quater of the Paris Convention*

The IAPIP confirms its position taken in Montreux and Munich that Article 5quater must be retained in the Paris Convention.

4. *Preferential Treatment*

The IAPIP has studied the basic proposals "Article A" and "Article B," containing previous proposals already considered at Montreux and Munich.

(a) It reaffirms the position that a reduction of fees in favour of nationals of developing countries should not be provided for.

(b) It reaffirms the position that the terms for claiming priority should not be increased in favour of nationals of developing countries.

5. *Furnishing of Information—New Article 12bis of the Paris Convention*

The IAPIP has studied proposed New Article 12bis requiring national patent offices to furnish on request information concerning corresponding applications and patents. The IAPIP doubts the usefulness of such a proviso and declares against the inclusion of New Article 12bis in the Paris Convention.

6. *Contribution of the Union to the Development of Developing Countries—New Article 12ter of the Paris Convention*

The IAPIP approves the spirit of proposed New Article 12ter. It is of the opinion, however, that the proposed English text could be improved from a drafting standpoint.

[1] See *Industrial Property*, 1978, p. 235.

[2] *Ibid.*, 1977, p. 89.

7. *Final Provisions—Articles 20 to 30 of the Paris Convention*

(a) Entry into Force—Article 21 of the Paris Convention

The IAPIP stresses that only those countries which are members of the Union at the time of ratifying or acceding to the revised act of the Paris Convention should be able to cause this act to enter into force. It is of the opinion that the number of ratifications or accessions necessary for this entry into force should be at least ten. The IAPIP, therefore, supports Alternative B of draft Article 21.

(b) Closing of earlier Acts—Article 23 of the Paris Convention

The IAPIP notes the link between draft Article 23 and draft Article 21. It, therefore, takes the position that Alternative B of draft Article 23 is acceptable if Alternative B of draft Article 21 is adopted. In the event that Alternative A of draft Article 21 is adopted, then the IAPIP is of the opinion that Alternative A of draft Article 23 should be adopted.

(c) Territories—Article 24 of the Paris Convention

Having considered the sensitive political aspects of this question, the IAPIP, nevertheless, came to the conclusion that a deletion of this article would entail considerable juridical uncertainty as to the law applicable in those territories. It, therefore, takes the position that with respect to Article 24 Alternative B should be adopted.

(d) Application of the New Act—Article 27 of the Paris Convention

(i) The IAPIP notes that Article 27(3) of the present text does not appear in draft Article 27. It is, therefore, of the opinion that the problem of Article 27(3) of the present text raised in Montreux no longer exists.

(ii) With respect to draft Article 27(2)*(a)* and *(b)* the IAPIP is of the opinion that this provision should be of universal character. It, therefore, opposes special provisions applicable only to developing countries and favours the deletion of the words "which are developing countries and" in square brackets in draft Article 27(2)*(a)* and *(b)*.

(e) Settlement of Disputes—Article 28 of the Paris Convention

The IAPIP has studied draft Article 28 (Alternative B). It is of the opinion that the present text of Article 28 of the Paris Convention should be retained (Alternative A).

(f) Original and Official Text—Article 29 of the Paris Convention

The IAPIP is of the opinion that, as a practical matter, for the interpretation of the Convention one text, viz. the French text, should prevail. It, therefore, favours retaining the present text of Article 29(1)*(c)* (Alternative A).

8. *Protection of the Olympic Symbol*

The IAPIP has studied the draft Protocol on the Protection of the Olympic Symbol. It affirms the position taken in Munich that the matter of protecting the Olympic Symbol is inappropriate for regulation in the Paris Convention.

II. The IAPIP

Has examined the Provisional Rules of Procedure of the Diplomatic Conference on the Revision of the Paris Convention, contained in WIPO document PR/DC/2, and has reached the following results.

1. Having studied in particular Chapter VII of the Provisional Rules of Procedure relating to voting, the IAPIP is of the opinion that, as a minimum, the Rules of Procedure should be adopted unanimously.

2. The IAPIP notes with concern that Proposed Rule 2 provides for the participation of non-member States of the Union in the Diplomatic Conference. This is in conflict with Article 18 of the Paris Convention, and the fact that non-member States of the Union will not have the right to vote does not alleviate the IAPIP's concern.

3. Having studied the question of replacing the existing principle of unanimity for revising the Paris Convention by a system of qualified majority, the IAPIP takes the position:

— that even a highly qualified majority would not exclude the possibility of a revision conference deciding against the votes of a significant minority group of countries, and

— that, on the other hand, it would seem only necessary to exclude the possibility of one state using its voting right as a veto.

The IAPIP therefore proposes that the Revised Text shall not be adopted if at least three member States of the Union vote against such adoption.

QUESTION 62

International Protection of Appellations of Origin and Indications of Source

I. **General**

Having taken cognizance of document PR/DC/4 prepared by WIPO, the IAPIP is gratified by the proposal to insert in the Paris Convention new provisions designed to assure more efficient protection for geographical indications and to establish principles for the regulation of conflicts between trademarks and geographical indications.

The IAPIP which, in its earlier meetings since 1974, affirmed the importance that geographical indications have for both industrial and developing countries, notes that the proposals contained in document

PR/DC/4 largely parallel those which were formulated by it at the Munich Congress in 1978.

II. As to the proposal to refer in Article 6ter to the official names of the countries of the Union

The IAPIP,

while approving the principle of assuring that the official names of countries of the Union be protected against usurpation, is of the opinion that such protection cannot be assured by way of Article 6ter of the Convention.

In effect, the insertion of a reference to the official names of countries in Article 6ter will oblige traders and producers of a country to prove that they have obtained the authorization of the competent authorities to apply to their goods the official name of their own country, even if reference to the said name constitutes only an incidental element of the trademark and may actually be obligatory to indicate the origin of the goods.

In short, the proposal, as it is formulated, seems to have a very limited scope since it appears that the official names of countries often do not coincide with the customary designations of the countries.

Consequently, the IAPIP is of the opinion that the means to assure protection for the official names of countries ought to be found within the framework of a new Article 10quater

III. As to new Article 10quater of the Convention

The IAPIP,

considering that the different alternatives proposed by the industrial countries, the developing countries and the Socialist countries for the terms of a new Article 10quater already disclose a large measure of agreement for a new system for the protection of geographical indications,

is of the opinion that it ought to be possible to reach a commonly acceptable solution at the next Diplomatic Conference of Revision with respect to the points still under discussion

and, taking account of the fact that it includes in its membership the representatives of different groups of countries, the IAPIP *makes* the following observations on the paragraphs of the proposed Article:

As to paragraph (1)

The IAPIP approves the principle proposed in paragraph (1) but expresses the view that the following modifications should be made in such paragraphs:

As to subparagraph (i):

(a) In the text of Alternative A, substitute "... to refuse or to invalidate the registration of a trademark which contains a geographical *denomination or any other sign including a graphic representation, directly or indirectly indicating* a country of the Union...."

Actually, the expression appearing in Alternative A and reading "a geographical or other indication directly or indirectly suggesting a country..." appears to be too broad.

On the other hand, the counter expression of the subvariant reading "a geographical indication *denominating...*" appears to be too narrow.

However it is appropriate that a graphic representation also be mentioned as a non-limited example of a "sign" mentioned above in the proposed substitution.

Modifications corresponding to those recommended above should be carried out at other places in the proposed new Article 10quater where the same terms appear.

(b) The provision should not apply solely to goods but, equally, to services and this recommendation is made generally as to the entire proposal for a new Article 10quater.

As to paragraph (2)

The IAPIP approves the provision according to which the principle established by paragraph (1) is made applicable to geographical indications which, while literally true, are nevertheless capable of misleading the public as to the origin of the goods.

As to paragraph (3)

The IAPIP approves this provision which corresponds to the view it expressed at the Munich Congress in 1978 with respect to geographical names which have acquired a reputation in international trade and to resolutions adopted at earlier meetings with regard to the protection of famous trademarks and trade names.

As to paragraph (4)

As to subparagraph (i):

The IAPIP approves Alternative A which provides that respect be accorded to acquired rights, resulting from a use undertaken in good faith before the entry into force of the new provisions when such use could not have been prohibited under the national law of the country.

The IAPIP is of the opinion that it ought not support the proposal to insert a wording into subparagraph 4(i) that would have the effect of testing whether or not the national law prohibited the use of a geographical name, *at the time of the entry into force of the new provisions.*

The IAPIP expresses the wish that subparagraph (i) should read as follows:

"No country of the Union shall be required to apply this Article to geographical denominations or other signs as provided in paragraph (1) the use of which was begun in good faith before

the entry into force of this Act in that country, where such use could not have been prohibited, before ..." (insert here the closing date of the Diplomatic Conference).

As to subparagraph (ii):

The IAPIP approves Alternative A and is of the opinion that it is not opportune to give effect to the modification proposed in the sub-variant.

As to paragraph (5)

The IAPIP approves the rules of interpretation set out in this paragraph for the appreciation, on the one hand, of the importance of a geographical indication and, on the other hand, the distinctive character that a mark in conflict with a geographical indication, has acquired by reason of the length of time it has been in use.

The IAPIP further expresses the wish that such rules should refer not only to the application of paragraphs (1) and (2) but also to paragraph (3).

As to paragraph (6)

It is impossible not to approve of this paragraph which reserves the possibility of concluding bilateral and multilateral agreements.

As to paragraph (7)

The IAPIP understands the desire of developing countries to obtain the reservation for each such country of the possibility of claiming rights in geographical names not only of a country but also of a region or locality of that country, and which could indicate the origin of goods or services which may originate from that country, region or locality either at the time the list is notified or in the relatively near future thereafter.

However, the proposals contained in paragraph (7) raise serious difficulties of application.

First, it could create conflicts between, on the one hand, a geographical name the protection of which is claimed by a developing country, and on the other hand a geographical name or a surname, or even a generic or commonly used expression existing in another country.

Such a conflict may occur not only in the said other country but also in any third country into which goods originating from the said other country could be imported.

Moreover the country, in which the conflict may arise, can be a developing country, which would run the risk of being barred from, e.g. having for its traders, the right to use the name of one of its localities even as an accessory part of a mark.

The IAPIP, therefore, believes that a solution can and should be found according to which the proposals of paragraph (7) would not prohibit or limit the right to use a geographical name, or a surname, or a generic or commonly used name already existing in another country.

Furthermore the proposals contained in paragraph (7) appear exaggerated in relation to the number of names which would be reserved by each country, as well as to the duration of the periods during which such lists of names could maintain their effectiveness.

As to the new system as a whole

The IAPIP finally makes the observation that the new Article 10^{quater} protects geographical indications as far as the designated goods or services do not originate from the *country* to which the indication refers, even if said indication is a regional or local indication. The new Article does not, except in the case of geographical names having an international reputation, provide a complete protection of the actual place of origin within a given country.

The IAPIP is prepared to accept such a gap in international protection but expresses the wish that the new system should be understood as establishing only a minimum protection and recalls its wish as expressed at Munich of extending the application of Article 10^{bis}, paragraph (3), subparagraph 3, of the Paris Convention to the geographical origin of goods or services.

General Studies

The Protection of Service Marks in the Federal Republic of Germany

W. TILMANN*

The Law on the Registration of Service Marks, of January 29, 1979,[1] entered into force in the Federal Republic of Germany on April 1, 1979. By that date, the German Patent Office had already received, as permitted by the Law (Section 3(1)), 7,132 applications for service marks. It is probable that, by the close of 1979, some 12,000 service mark applications will have been filed. Once the initial phase is over, there are expected to be between 5,000 and 6,000 such applications each year. This would mean that the number of applications for marks filed with the German Patent Office (currently some 19,000 a year) will increase by approximately one-third. As these figures prove, the introduction of trademark protec-

* Dr. jur., Attorney, Dusseldorf, *Privatdozent* at the University of Heidelberg.

[1] *Bundesgesetzblatt I*, p. 125. See also this month's selection of *Industrial Property Laws and Treaties*, GERMANY, FEDERAL REPUBLIC OF — Text 3-001.

tion for service marks meets a genuine need in the Federal Republic of Germany. The background and the basic contents of the Law are described below.

Background

The new Law opens up the possibility for service undertakings to register the signs (service marks) they use in business to distinguish the services they provide. Until now, only those enterprises manufacturing goods or dealing in them could have their industrial and commercial marks (trademarks) registered with the German Patent Office in Munich and thereby obtain formal protection valid for the entire territory of the Federal Republic of Germany. No such protection was provided for service marks, however. Economically important service undertakings (banks, insurance companies, transport firms) have in fact already existed for quite some time. Only recently, however, has the service sector attained such considerable economic proportions on a broad scale that some people are speaking, slightly exaggeratedly, of the transition from an industrial society to a "service society."

Until the enactment of the new Law, protection for service marks had to be based solely on the legal provisions concerning names, trade names and unfair competition (Section 12 of the Civil Code; Sections 1, 3 and 16 of the Law on Unfair Competition; Sections 24, 28 and 31 of the Trademark Law). This protection failed to have the same force of law as the protection granted to registered trademarks for the very good reason that in infringement proceedings the courts were obliged to assess anew each time the distinctiveness of the designation in question and the geographical area of its use in which it was to be protected. In addition, these general rules of protection were in most cases not capable of preventing an identical trademark from being registered for another person. For some time, therefore, demands had been heard in the Federal Republic of Germany for service marks to be registrable with the German Patent Office in the same way as trademarks.[2]

Attention was, of course, drawn to the fact that in many other States service marks were already placed on the same footing as trademarks.[3] The provisions of the Paris Convention for the Protection of Industrial Property, on the other hand, have so far lagged, as regards service marks, behind the provisions applicable to trademarks. At the Lisbon Revision Conference in 1958, a proposal of the United States of America for a complete assimilation of service marks with trademarks in the Convention failed to gain any support. Article 6*sexies* of the Paris Convention simply requires the countries of the Union to protect service marks in a general way. They are neither required to provide for the registration of service marks nor are they committed, in cases where they provide for the registration of such marks, to afford to them the same protection as afforded to trademarks.

Accordingly, the individual provisions in the Paris Convention concerning trademarks make no explicit reference to service marks, with the exception of the definition of industrial property in Article 1(2). The Convention contains, insofar as it includes any provisions concerning trademarks, no corresponding commitments in respect of service marks. In line with the principle of Article 6*sexies*, it is left to each country of the Union to decide which of those provisions it wishes also to apply to service marks. Thus the Paris Convention lags behind more recent national laws in numerous countries of the Union, which fully assimilate service marks to trademarks. The Convention should therefore be adapted to this evolution in the foreseeable future. In the absence of a binding provision in the Convention, the countries of the Union that wish to apply the Convention's provisions on trademarks to service marks would have to do so on the basis of their national law, without any certainty of reciprocity. The Federal Republic of Germany has decided against anticipating the necessary amendment of the Paris Convention.[4]

It was not until relatively late that the Federal Republic of Germany came to the decision to open up its national trademark register to service marks. The initial intention had been to take this step either as part of a more extensive revision of the Trademark Law or in connection with the EEC trademark regulations currently being prepared. The work on reform of the national Trademark Law has been provisionally postponed[5] in view of the rapid progress of work on the EEC mark. The Draft Council Regulation on the Community trade mark, of July 1978, provides for the registration of service marks.[6] In this connection, it is also to be expected that there will be a Community commitment to introduce protection by registration for service marks. The creation, through registration with the future EEC trademark office, of trademark protection applicable to the whole of the Community territory has to be accompanied by the harmonization of the trademark regu-

[2] Cf. Droste, *Gewerblicher Rechtsschutz und Urheberrecht (GRUR)*, 1974, p. 649.

[3] Listed in the Official Motives to the Amending Law, *Bundestags-Drucksache* 8/1543, p. 7.

[4] In respect of the priority right under Article 4 of the Paris Convention, this is explicitly stated in the Official Motives to the Amending Law, p. 8, in connection with the transitional provisions. See also footnote 9.

[5] For a report on the results of a subcommittee of the German Association for Industrial Property and Copyright, based on a formulated first draft, see Droste and Reimer, *GRUR*, 1974, pp. 636 *et seq.*

[6] Commission document III/D/753/78. The 1964 preliminary draft of the Convention on European Trade Mark Law already provided for the assimilation of service marks to trademarks.

lations which will continue to exist in the Member States; otherwise, the existing differences in the degrees of protection in the various States would lead to a distortion of the free movement of goods. In this context a harmonized rule concerning service marks is to be expected.

Regarding the protection of service marks, however, the Federal Republic of Germany could not wait for the work on the Community mark and the said harmonization of national laws to be completed. The preliminary work in Brussels has shown that it will be necessary to limit the right of opposition, deriving from a national trademark, against the registration of a Community trademark, in principle, to nationally registered marks. No such right can, however, be afforded to the extremely numerous and, in most cases, regionally or locally limited marks which are not registered but only used. The reason is that the need to verify the practical and legal conditions for the protection of such marks would render the opposition procedure inoperable. If service marks had continued to be excluded from registration in the Federal Republic of Germany until such time as the Community trademark law entered into force, their owners would have suffered a clear disadvantage compared with the owners of service marks in other Community Member States in which a registration is open for service marks. For this reason, the German legislature decided that it was time for service marks to be placed on the same footing as trademarks insofar as domestic law was concerned.

The Basic Contents of the Amending Law

The provisions of the Law on the Registration of Service Marks are limited, following the model of many foreign laws and also that of the Draft Council Regulation on the Community trade mark,[7] to stating that the provisions on trademarks shall be applicable also to service marks (Section 1(2) of the Trademark Law). Only regarding one specific question does the provision contain a new ruling: it stipulates that trademarks and service marks may be regarded as similar within the meaning of the Trademark Law (Section 5(4), first sentence, of the Trademark Law). This regulation should not be misunderstood, however, as meaning that similarity can be assumed without careful examination. On this point as well the tendency noted in recent German practice to define more realistically, and therefore more stringently, than was hitherto usually the case the notions of similarity of goods and risk of confusion, that is to say the scope of protection of the mark, will have to be taken into account. The requirements of the Common Market and the numerous trademark conflicts occurring therein require courts, when applying national law, to declare a complaint relating to a conflict between marks as being valid only when there exists a definite danger of the consumer confusing the goods covered by the marks.

The assimilation of service marks to trademarks applies not only to the provisions on trademarks contained in the Trademark Law but also to all national regulations affecting trademarks. In the case of the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891 (Stockholm Act of July 14, 1967), which permits international registration also for service marks (Article 1(2)), this assimilation means that international registrations in which the Federal Republic of Germany is expressly mentioned (Article 3*bis* of the Madrid Agreement) will benefit, on the national level, from the same protection as if the marks in question had been directly deposited (Article 4 of the Madrid Agreement; Section 7 of the Ordinance on the International Registration of Trademarks of September 5, 1968[8]). The provision contained in Article 4(2) of the Madrid Agreement (priority right) is not applicable since Article 4 of the Paris Convention does not afford a priority right for service marks.[9]

The Law has additionally made use of the opportunity afforded by the introduction of registrability of service marks to rationalize the registration procedure in the German Patent Office by means of a new schedule of fees. The application fee and the registration fee have been combined in one single fee. A partial refund for unsuccessful applications can be obtained (Section 2(4) of the Trademark Law). The payments to cover printing costs have been abolished. Corrections to addresses are now made free of charge. In the interest of correct information in the register, it has been regarded as not being desirable to hinder the notification of such changes by levying fees.

The German legislature's aim in drafting the transitional provisions was to avoid the German Patent Office becoming flooded with applications on the first day following the Law's entry into force. They therefore provide that applications for the registration of service marks could be filed prior to April 1, 1979 (the date of entry into force of the Law). As already mentioned, extensive use was made of this possibility.[10] The applications submitted prior to that date

[7] The Draft uses a similar technique by designating marks for goods and services as "Community marks" (Section 1(1)).

[8] *Bundesgesetzblatt I*, p. 1001 amended by Ordinance of September 17, 1970, *Bundesgesetzblatt II*, p. 991.

[9] It is debatable whether, prior to such an amendment of the Paris Convention, the jurisprudence can recognize the applicability of the Paris Convention's provisions on trademarks to service marks, insofar as (practically) all member States of the Paris Convention in which the registration of service marks exists do so either in accordance with their law or in practice, meaning that reciprocity in this matter exists in fact.

[10] The German Patent Office accepted applications for the registration of service marks as from November 14, 1978. Communication No. 16/78 of the President of the German Patent Office, *Blatt für Patent-, Muster und Zeichenwesen*, 1978, p. 357.

were deemed to have been placed in the letter box of the German Patent Office on April 1, 1979. Since April 1, 1979, was a Sunday, they received the incoming mail stamp for April 2, 1979. This provision does not apply to marks internationally registered under the Madrid Agreement, for which the time of registration in Geneva is applicable. Since there are no international registrations effected on a Sunday, the earliest possible time of registration in this respect is also April 2, 1979.

All the applications submitted during the period prior to the entry into force of the Law have the same formal priority. Their legal relationship to each other, as far as substantive law is concerned, derives from the situation existing prior to the application within the framework of the provisions regarding names, trade names and unfair competition. This sometimes difficult relationship cannot be established in either opposition proceedings (Section 5(4) of the Trademark Law) or cancellation proceedings (Section 11(1)1 of the Trademark Law). If the parties are unable to agree, their legal situation must be established by the ordinary courts in an action for cancellation based on substantive law *(materiellrechtliche Löschungsklage)*. Even without filing an application, however, the legal position of the owners of earlier substantive rights remains unaffected. They can therefore assert themselves within the geographical area of their protection even against the owners of more recent registered service marks.

For the users of service marks who were not hitherto entitled to an exclusive right under existing substantive law, the Law provides limited protection against service mark applications forestalling them. If this intervening application by a third party is submitted within one year after the entry into force of the Law (i.e. by April 1, 1980), the earlier user may continue to use his mark provided that such use did not begin within six months prior to the entry into force of the Law (Section 3(2)).

News from Industrial Property Offices

UNITED STATES OF AMERICA

Commissioner's Annual Report—Fiscal Year 1978*

Introduction

The Patent and Trademark Office administers both the patent laws enacted by Congress in accordance with Article I, Section 8, of the Constitution and the Federal trademark laws. The first patent law was enacted in 1790 and the first Federal trademark act was passed in the late 19th century. The Patent and Trademark Office has been a bureau of the U.S. Department of Commerce since 1925.

Highlights of the Report

- The Patent Cooperation Treaty came into force.
- The average patent application pendency time rose one month, to 19.9 months.
- The patent depository library system was expanded by adding libraries in Dallas; Denver; Lincoln, Nebraska; and Raleigh, North Carolina.
- Plans were completed for the Office's new computer system and terminal network.
- The Office published an extensive assessment of technology relating to the geophysical exploration for oil, gas and coal.
- Filings of applications for trademark registration were up 12.5 percent from 1977, and up almost 50 percent over the 1975 level.
- The average time between filing of a trademark application and initial examination rose from three months to six months.
- The United States signed the new text of the Convention administered by the International Union for the Protection of New Varieties of Plants.
- The number of appeals to the Board of Appeals increased 20 percent.
- Four inventors were inducted into the National Inventors Hall of Fame.

Patent Examining

The Patent Cooperation Treaty (PCT) came into force on January 24, 1978. The PCT permits inventors

* This is an excerpt of the report issued under the same title.

or business firms to file a single English-language application in a standard format in the United States and have that application mature into separate national applications in as many member countries of the PCT as they wish. Under this Treaty, the Patent and Trademark Office, in addition to its traditional role of examining patent applications and issuing U.S. patents, became a receiving Office for international patent applications and an International Searching Authority. The Office took responsibility for conducting searches and preparing international search reports on international applications received by the U.S. and Brazilian receiving Offices. International searches help applicants decide in which of the member countries of the PCT they desire to have their application examined. Between June 1978, when the first applications were received, and the end of the year the Office received 93 international applications and issued 22 search reports.

Extensive rule changes were adopted in 1978 to govern examining procedures under the Patent Cooperation Treaty. Some of the main changes concerned multiple dependent claims, restriction procedures, and formats of drawings and specifications. Over 1,000 professional employees were given a 20-hour training course to familiarize them with their new responsibilities under the Treaty.

The quality review program, under which a sample of patent applications ready for issue is reviewed, was continued for the fifth consecutive year. Approximately 4 percent of all allowed applications were reviewed. Of the applications reviewed, about 4 percent were found to contain claims which the reviewers considered unpatentable. The Manual of Patent Examining Procedure was changed to make clear that examiners, when deciding whether inventions are obvious, should fully consider allegations relating to such matters as commercial success, unsolved needs, and failures of others.

During 1978 patent examiners disposed of 103,410 patent applications as allowances or abandonments, excluding designs. The Office received 101,304 new applications, excluding designs, during this period. The pendency time of an average patent application in the Office was 19.9 months, up from 18.9 at the end of the previous fiscal year.

The Office gained its first full year of experience with new patent examining rules designed to improve reliability of issued patents by affording owners an opportunity to have their patents reexamined in certain circumstances. Filings of reissue applications increased 17 percent over the last fiscal year. There also was a significant increase in the number of cases in which the Office investigated "fraud" in connection with patent applications.

Priority handling of patent applications for inventions related to environmental quality was continued for the eighth year; similar handling for energy-related applications was continued for the fourth year. During the year, 127 energy-related and 46 environment-related patent applications were expedited.

Documentation, Dissemination and Information Handling

Approximately 150,000 original U.S. patents were reclassified by subject matter in 1978. The program to upgrade search file integrity completed its first full year with a review of 650,000 patents in the examiner and public search files. Under this program, the search files are checked against the computerized master list of what they should contain, any missing patents are replaced, and additional references are placed in the public search files to make them more nearly identical to the files used by examiners.

The capability of the mini-computer system which displays patent classification information at terminals in the Public Search Room and other Office locations was expanded. The system is now used to assist in preparing and updating the Manual of Classification. The most up-to-date version of the Manual is available on the terminals in the Public Search Room with several user options which were not possible with the traditional paper copy.

An experimental on-line computerized system was developed for searching the full text of three files. These files were (1) the class and subclass titles from the Manual of Classification, (2) the Index to Classification, and (3) patent titles expanded for greater information content. The system was designed to aid persons not trained in the use of the U.S. Patent Classification System, and those not familiar with a particular technological area. The existing experimental computer-controlled microform search system also was expanded during 1978.

In 1978, four new public libraries were designated as patent depository libraries—the Dallas Public Library, Love Library at the University of Nebraska in Lincoln, the Denver Public Library and the D.H. Hill Library at North Carolina State University in Raleigh. This brought the total number of depository libraries in the country to 29.

The inventor and assignee index card file in the Public Search Room was replaced by a microform-based system. The new system offers more current information to the public on who owns any patent, and less space and cost is required to maintain the file. With this system the user can find any entry in only a few seconds, considerably less time than in the former manual system. In addition, a paper printout of index information can be produced quickly and at low cost.

A computerized inventory control system for the microfilm copies of approximately 4 million foreign patent documents from 16 countries was made fully operational during the year. Various indexes were

generated to facilitate retrieval of documents from the film in the Office's Scientific Library. New microfilms received by the Office added to the files approximately one-half million documents from ten countries, continuing the expansion of the Office's microfilm collection of foreign patent literature. This film replaced paper copies which occupied critical storage space.

The Office released the eighth in a series of reports assessing technological activity by using patent data. The eighth report continued the analysis from the seventh report concerning domestic and international patenting patterns in general, and contained an extensive technical discussion of various techniques used in the geophysical exploration for hydrocarbons, including oil, gas and coal. The Office also prepared 105 special technology assessment reports for public and private organizations.

During 1978 the Office began, in cooperation with the University of Missouri at Rolla, an experimental technology transfer program aimed at helping small businesses by combining the resources of the university's small business extension service with the PTO's office of technology assessment. Energy was the focus of Office technology assessment support provided to the Office of Energy-Related Inventions at the National Bureau of Standards. In addition, a program was initiated to provide the Department of Energy with coverage of all energy-related patents being issued by the United States. Support was also provided to the Department of Commerce Cooperative Technology and Commerce/Cities Programs.

The Patent and Trademark Office completed the installation of three custom-built reproduction machines to service the 20,000 orders received daily for patent copies. These machines produce paper copies of patents at high speed from microfilm cards and automatically stack and collate the copies. This new equipment has improved the quality and timeliness of patent copy services to the public.

The Office acquired a new computer system. This expandable, larger and faster system provided three times the on-line storage capacity at significantly less cost than the Office's existing computer system. Installation was scheduled for early fiscal 1979.

One of the most extensive on-line terminal networks in the federal government outside the Department of Defense will be connected to the new computer. This network will connect a large number of remote terminals to the computer to improve data collection, monitoring and operational control. By utilizing the latest technology, the Office will be able to keep better records of the status and location of pending applications, produce notices of allowances and other papers by machine, and better perform a variety of other functions such as monitoring examiner production and dockets. When fully operational, this computer-terminal network system will substantially improve and expedite the processing of patent and trademark applications.

Trademarks

Trademark examiners disposed of 39,910 applications during the year. Filings of applications for trademark registration totaled 50,106—an increase of 12.5 percent over the previous year and an increase of almost 50 percent over the 1975 level. By the end of the year, the time between filing of an application and the first correspondence from a trademark examiner had risen from three to six months. The Trademark Trial and Appeal Board, which celebrated its twentieth anniversary in September 1978, disposed of 1,927 cases. At the end of the fiscal year there were 2,549 cases pending before the Board, up 53 over the last year.

A hearing was conducted concerning a proposal to amend the rules to permit foreign applicants to register marks without actual use when the U.S. application was based on a registration or application in the applicant's home country. The proposal was withdrawn in light of objections raised by members of the public that some U.S. nationals would be placed in an unfavorable position compared with foreign nationals.

New word processing equipment was installed which utilizes a greatly expanded variety of form paragraphs to expedite the processing of letters from trademark examiners to applicants. Microfilming of expired and cancelled registrations was begun. Plans were finalized for utilizing computer technology to assist in the printing of copies of registered marks and the trademark section of the weekly *Official Gazette*. This system is expected to result in substantial savings in printing costs.

Legislative and International Affairs

The Office submitted two legislative proposals which were introduced in Congress. One bill would give the Office authorization to use fees paid to defray directly the costs incurred in providing requested goods and services, instead of depositing the fees in the general fund of the U.S. Treasury. The other proposal would clarify eligibility requirements for appointment to the Trademark Trial and Appeal Board.

The United States signed the text of the Convention administered by the International Union for the Protection of New Varieties of Plants. This Convention accords plant breeders the same general right of protection in foreign countries as the Paris Convention does for industrial inventions. No significant changes in our present laws governing plants will be needed for adherence.

The Office continued to participate actively in international efforts toward implementation of the Trademark Registration Treaty and modernization of the International Trademark Classification System under the Nice Agreement. Draft legislation designed to implement the Trademark Registration Treaty in the U.S. has been published in the trademark section of the *Official Gazette.*

During 1978, the U.S. and 18 other countries signed the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. Legislation for implementing this Treaty is expected to be introduced in the 96th Congress.

At a Diplomatic Conference scheduled to be held in early 1980, the Office will continue to participate in discussions directed at revising the Paris Convention for the Protection of Industrial Property. The main issues under consideration include: (1) the problem of alleged conflicts between an appellation of origin and a trademark; (2) preferential treatment for but without reciprocity from developing countries; (3) further accommodation of inventors' certificates in the Paris Convention; and (4) exclusive nonvoluntary licensing of patents.

Model state legislation proposed by the Patent and Trademark Office for regulating invention promoters was accepted by the Council of State Governments. The model legislation will be distributed to the state legislatures for consideration in their 1979 legislative sessions.

Legal Affairs

The United States Supreme Court granted the Government's petitions for certiorari in two patent cases. One case, *Parker* v. *Flook,* involved the patentability under the present patent law of computer programs containing mathematical formulae. In this case the Court upheld the Patent and Trademark Office position of unpatentability. The other case was *Parker* v. *Bergy,* which involved the patentability of living microorganisms. The Supreme Court remanded *Bergy* to the lower court for further consideration in light of the Supreme Court's decision in *Flook.* In another microorganisms case, *In re Chakrabarty,* the U.S. Court of Customs and Patent Appeals granted the Office's petition asking it to recall its mandate and vacate its decision based on the Supreme Court's action in *Bergy.*

The United States Court of Appeals for the Ninth Circuit sustained a Patent and Trademark Office decision in the case of *Lee Pharmaceuticals* v. *Kreps* denying access to abandoned patent applications under the Freedom of Information Act. This suit was the second unsuccessful attempt to compel production of abandoned patent applications under the Freedom of Information Act.

Other Activities

During the year the number of appeals filed with the Board of Appeals increased 20 percent; 4,326 appeals were received as compared to 3,600 during the previous fiscal year. At the end of the year the number of appeals pending was 4,439, up from 3,900 at the end of the previous year. The pendency time for an average appeal at the Board of Appeals was slightly over one year starting from the time the Board obtained jurisdiction over the appeal. A typical appealed application spends about six months in the examining group, before the Board obtains jurisdiction, during which time the brief and examiner's answer are filed. The Board of Patent Interferences had 73 cases awaiting final hearing or decision at the end of the year, compared with 66 for the last fiscal year. The total number of interferences pending at the end of the year was 618.

The sixth annual National Inventors Day was observed and four outstanding inventors were inducted into the National Inventors Hall of Fame. Luis Walter Alvarez was recognized for his invention of basic radar systems; Leo Hendrik Baekeland was honored for his invention of synthetic resins; Carl Djerassi was recognized for his invention of oral contraceptives; and Louis Pasteur was honored for his beer fermentation process.

Operating Costs and Income

Funds available to the Patent and Trademark Office for the fiscal year ending September 30, 1978, were $94,397,754, consisting of $94,321,000 regular appropriations and $76,754 received as reimbursements. The 1978 appropriations were $1,458,000 lower than 1977 appropriations adjusted for salary increases and other uncontrollable cost increases.

The total amount obligated during 1978 was $94,291,000, or 99.88 percent of new obligational authority. Total operating costs for the year on the accrual basis of accounting were $92,711,000. Under the accrual basis of accounting, equipment purchased is treated as an asset and only an allocated portion (depreciation) based on its useful life, is included as a cost for the year.

Compensation and benefits for an average 2,769 employees accounted for $69,175,000, or 75 percent of total operating costs. Printing and reproduction costs amounted to $10,988,000 (12 percent) and other costs were $12,548,000 (13 percent).

Fees collected in 1978 and deposited in the general treasury totaled $27,722,254. Balances in customer deposit accounts as of September 30, 1978, aggregated $2,354,264, an increase of $151,264 over the prior year. Fee income in 1978 was 30 percent of operating costs.

Exhibitions

ITALY

Decrees Concerning Temporary Protection of Industrial Property Rights at Exhibitions

Sole Section

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

XXXIII[a] Presentazione internazionale modacalzatura – Salone del cuoio, accessori, pelletteria, modellisti (Bologna, March 9 to 12, 1979);

X[a] Esposizione internazionale del regalo novità, X[a] Rassegna mondiale dei viaggi e delle vacanze and *VIII[a] Esposizione internazionale Caravan-Camping* (Genoa, March 9 to 18, 1979);

XXVI[a] Rassegna internazionale elettronica, nucleare ed aerospaziale (Rome, March 9 to 18, 1979);

LXXXI[a] Fiera internazionale dell'agricoltura e della zootecnia – FIERAGRICOLA, XXXII° Salone della macchina agricola and *XI° Salone delle tecniche nuove* (Verona, March 10 to 18, 1979);

VIII° Salone internazionale cine foto ottica – SICOF '79 (Milan, March 14 to 19, 1979);

V° Salone del mobile triveneto (Padua, March 15 to 19, 1979);

II° CEVAS – Salone nazionale del rimorchio, campeggio e degli equipaggiamenti per la vita all'aperto e lo sport (Naples, March 24 to April 1, 1979);

X° NAUTICSUD – Salone internazionale della nautica italiana (Naples, March 24 to April 1, 1979);

XVIII° Salone nautico dell'Adriatico (Ancona, March 24 to April 1, 1979);

IX° EXPOSPORT LEVANTE – Fiera internazionale dello sport e del tempo libero (Bari, March 28 to April 2, 1979);

XVI[a] Fiera internazionale del libro per ragazzi and *XIII[a] Mostra internazionale degli illustratori* (Bologna, March 31 to April 3, 1979);

XI[a] Mostra mercato nazionale delle vacanze e tempo libero, del turismo e degli sports, arredamento seconda casa, abbigliamento, attività affini (Piacenza, March 31 to April 8, 1979);

SIC – Salone internazionale del caffè, dei macchinari per la lavorazione, trasformazione e conservazione del prodotto and *I[a] MIDA – Mostra italiana della distribuzione automatica* (Genoa, April 5 to 8, 1979);

Esposizione nazionale città e bambino (Turin, April 13 to 22, 1979);

LVII[a] Fiera di Milano – Campionaria internazionale (Milan, April 14 to 23, 1979);

XII° COSMOPROF – Salone internazionale della profumeria e cosmesi (Bologna, April 21 to 25, 1979);

EUROFORESTA – III° Salone delle attività forestali (Verona, April 21 to 25, 1979);

VIII° Salone internazionale bottoni, materie prime, macchine e affini – SIBA (Piacenza, April 22 to 25, 1979);

XLIII[a] Mostra mercato internazionale dell'artigianato (Florence, April 24 to May 6, 1979);

II[a] DISCO-EXPO – Mostra mercato nazionale del disco, del nastro e della musica (Genoa, April 25 to May 1, 1979);

IV[a] Festa dei fiori (Padua, April 25 to May 1, 1979);

Rassegna suinicola internazionale (Reggio Emilia, April 28 to May 1, 1979);

XIV[a] Fiera nazionale del radioamatore (Pordenone, April 29 to May 1, 1979);

V° ENOLSUD – Salone nazionale della vite e del vino (Foggia, April 29 to May 6, 1979);

XXX[a] Fiera internazionale dell'agricoltura e della zootecnia (Foggia, April 29 to May 6, 1979);

VI° SIMAC – Preselezione italiana moda (Milan, May 3 to 6, 1979);

MI DO – Mostra internazionale di optometria e oftalmologia (Milan, May 5 to 8, 1979);

VI° Salone internazionale del veicolo industriale e commerciale (Turin, May 5 to 13, 1979);

III° Salone nazionale della sedia e dell'imbottito (Martignacco (Udine)), May 6 to 10, 1979);

EXPO-ITA – Esposizione internazionale dell'isolamento termico ed acustico e dell'impermeabilizzazione (Milan, May 8 to 12, 1979);

INTERNATIONAL EXPODENTAL (Milan, May 9 to 13, 1979);

V[a] MILC – Mostra internazionale degli impianti e delle attrezzature lattiero-casearie (Parma, May 9 to 13, 1979);

SARP '79 – Salone internazionale di macchinari, attrezzature e materiali per la vendita e la ricostruzione dei pneumatici and *SIAC '79 – Salone internazionale di attrezzature per autofficine e carrozzerie* (Bologna, May 9 to 13, 1979);

III° EDILMAT LEVANTE – Salone internazionale dei materiali edili, pavimenti, rivestimenti, infissi coperture e forniture, materiale da costruzione, idrosanitaria, arredamenti da bagno, prefabricazione interna (Bari, May 9 to 14, 1979);

VII° MARMOLEVANTE – Salone internazionale dei marmi, macchine, attrezzature ed accessori (Bari, May 9 to 14, 1979);

Salone internazionale del tappeto e del tessile d'arredamento – STAR '79 (Milan, May 18 to 22, 1979);

XXXIX ª Fiera internazionale di pesca professionale e degli sports nautici (Ancona, May 19 to 27, 1979);

GEC – Mostra internazionale dell'industria grafica editoriale cartaria e trasformatrice (Milan, May 19 to 27, 1979);

HERBORA – IV° Salone dell'erboristeria, delle piante officinali e delle attività connesse (Verona, May 23 to 28, 1979);

REGALIT – Fiera del regalo alimentare (Verona, May 23 to 28, 1979);

Salone internazionale delle attività vinicole – VINITALY (Verona, May 23 to 28, 1979);

I ª Mostra nazionale di componenti ed attrezzature per carrelli elevatori – COMPATT '79 (Piacenza, May 24 to 28, 1979);

II° IMMAGTRA – Salone dell'imballaggio, immagazzinaggio e trasporto (Naples, May 25 to 29, 1979);

VI° SIOGO – Salone nazionale dell'orologeria, gioielleria ed oreficeria (Naples, May 25 to 29, 1979);

XII° SIR – Salone internazionale del regalo, ceramiche, cristallerie, porcellane (Naples, May 25 to 29, 1979);

LVII ª Fiera di Padova – Campionaria internazionale (Padua, May 25 to June 3, 1979);

XXVII ª Fiera campionaria generale di Roma (Rome, May 26 to June 10, 1979);

III° Salone della subfornitura (Parma, May 30 to June 3, 1979);

TECNOMAR '79 – Mostra convegno di cantieristica navale, costruzioni ed attrezzature portuali, comunicazioni marittime e utilizzazione delle risorse marine (Genoa, May 30 to June 3, 1979);

XI° MOBILEVANTE – Fiera internazionale del mobile e dell'arredamento (Bari, May 30 to June 4, 1979);

XLIII ª Fiera di Bologna – Campionaria internazionale (Bologna, June 1 to 10, 1979);

XXII° SIA – Salone internazionale dell'alimentazione (Bologna, June 1 to 10, 1979);

XXXV° MIPEL – Mercato internazionale della pelletteria (Milan, June 7 to 12, 1979);

IV° AUTOMOTOR – Mostra internazionale professionale di componenti, accessori e attrezzature per autofficina e garage (Turin, June 16 to 20, 1979);

II ª Mostra convegno sull'energia solare (Bari, June 20 to 24, 1979);

XXII ª Fiera internazionale della casa (Naples, June 20 to July 1, 1979);

XI° SIRTE – Salone italiano radio TV ed elettrodomestici (Naples, June 20 to July 1, 1979);

X° TECHNEDIL – Salone nazionale attrezzature e materiali dell'edilizia e le opere pubbliche (Naples, June 20 to July 1, 1979);

IV ª Fiera campionaria nazionale (Ancona, June 23 to July 1, 1979);

XL ª Fiera di Messina – Campionaria internazionale Messina, August 4 to 19, 1979)

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

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

News Items

URUGUAY

Director of Industrial Property

We have been informed that Mr. Julio Marmolejo has been appointed Director of Industrial Property.

Calendar

WIPO Meetings

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

1980

January 7 to 9 (Geneva) — Development Cooperation (Copyright) — Working Group on Intellectual Property Aspects of Folklore Protection (convened jointly with Unesco)

January 14 to 17 (Geneva) — Paris Union — Working Group on Industrial Property Aspects of Consumer Protection

January 21 to 25 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information

January 28 to February 1 (Bissau) — Development Cooperation — Intellectual Property Seminar for Newly Independent Countries in Africa (convened jointly with UNECA and OAU)

January 28 to February 1 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information

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

February 11 to 15 (Rio de Janeiro) — Permanent Committee for Patent Information (PCPI) — Working Group on Planning

March 17 to 21 (Geneva) — Nice Union — Preparatory Working Group

March 17 to 28 (Geneva) — International Patent Cooperation (PCT) Union — PCT Budget Consultants Meeting

April 28 to 30 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property

June 9 to 16 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)

June 13 to 19 (Geneva) — Budapest Union (Microorganisms) — Interim Committee

June 23 to 27 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information

September 8 to 12 (Rijswijk) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning

September 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions; Assembly of the International Patent Cooperation (PCT) Union)

October 14 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries

October 20 to 24 (Geneva) — Permanent Committee on Patent Information (PCPI)

December 8 to 12 (Paris) — Berne Union — Committee of Experts on Problems Arising from the Use of Computers (convened jointly with Unesco)

UPOV Meetings

1980

March 18 and 19 (Geneva) — Technical Committee

April 14 and 15 (Geneva) — Subgroups of the Administrative and Legal Committee

April 16 (Geneva) — Consultative Committee

April 17 and 18 (Geneva) — Administrative and Legal Committee
April 27 to May 11 (Nelspruit) — Technical Working Party for Fruit Crops
May 12 to 14 (Wageningen) — Technical Working Party for Agricultural Crops
June 23 to 25 (Geneva) — Subgroups of the Administrative and Legal Committee
August 26 to 28 (Hanover) — Technical Working Party for Forest Trees
September 16 to 18 (Lund) — Technical Working Party for Ornamental Plants
September 23 to 25 (Lund) — Technical Working Party for Vegetables
October 14 (Geneva) — Consultative Committee
October 15 to 17 (Geneva) — Council
November 10 to 12 (Geneva) — Technical Committee
November 13 and 14 (Geneva) — Administrative and Legal Committee

Meetings of Other International Organizations Concerned with Industrial Property

1980

European Patent Organisation:

Administrative Council: June 2 to 6, December 8 to 12 (Munich)
Inauguration of the New Building and Administrative Council (Special Session): September 18 and 19 (Munich)

European Communities:

Interim Committee of the European Communities for the Community Patent: January 9 (Brussels)
Working Group of the European Communities for the Community Trade Mark: January 7 to 11 (Brussels)

International Association for the Protection of Industrial Property: November 16 to 21 (Buenos Aires) — 31st Congress

Licensing Executives Society: April 28 to 30 (Geneva) — International Conference on Licensing and the International Economic Order, Product and Process Liability and New Trends in Technology Transfer