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## Notifications Concerning Treaties

### WIPO Convention

#### Accession

#### PARAGUAY

The Government of Paraguay deposited, on March 20, 1987, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

Paraguay will belong to Class C for the purpose of establishing its contribution towards the budget of the WIPO Conference.

The said Convention will enter into force, with respect to Paraguay, on June 20, 1987.

*WIPO Notification No. 139, of March 20, 1987.*

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### Patent Cooperation Treaty (PCT)

#### Withdrawal of Declaration Concerning Chapter II

#### UNITED STATES OF AMERICA

The Government of the United States of America has notified, in its notification received on April 1, 1987, the withdrawal of the declaration contained in its instrument of ratification of the Patent Cooperation Treaty (PCT) done at Washington on June 19, 1970, to the effect that the United States of America is not bound by the provisions of Chapter II of the said Treaty (see PCT Notification No. 9, of December 1, 1975<sup>1</sup>).

The withdrawal of the said declaration will take effect on July 1, 1987. Consequently, from the said date, the United States of America will be bound also by the provisions of Chapter II of the Patent Cooperation Treaty.

*PCT Notification No. 50, of April 1, 1987.*

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<sup>1</sup> See *Industrial Property*, 1975, p. 359.

### Budapest Treaty

#### I. Ratification

#### NETHERLANDS

The Government of the Netherlands deposited, on April 2, 1987, its instrument of ratification, for the Kingdom in Europe, the Netherlands Antilles and Aruba, 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, 1987.

The said Treaty, as amended on September 26, 1980, will enter into force, with respect to the Netherlands, insofar as concerns the Kingdom in Europe, the Netherlands Antilles and Aruba, on July 2, 1987.

*Budapest Notification No. 56, of April 2, 1987.*

#### II. Accession

#### AUSTRALIA

The Government of Australia deposited, on April 7, 1987, its instrument of accession to the Budapest Treaty.

The said Treaty, as amended on September 26, 1980, will enter into force, with respect to Australia, on July 7, 1987.

*Budapest Notification No. 57, of April 7, 1987.*

#### III. Change in Fees under Rule 12.2 of the Regulations under the Budapest Treaty

#### EUROPEAN COLLECTION OF ANIMAL CELL CULTURES (ECACC)

The following notification addressed to the Director General of WIPO by the Government of the United Kingdom under Rule 12.2(a) of the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on April 1, 1987, and is

published by the International Bureau of WIPO pursuant to Rule 12.2(b) of the said Regulations:

The fees payable to the European Collection of Animal Cell Cultures (ECACC) as published in the September 1984 and May 1985 issues of *Industrial Property* are changed as follows:

*Cell line deposits*

For storage in accordance with the Treaty . . . . . £ 750

Issuance of a viability statement in those cases in which, in accordance with Rule 10.2, a fee may be charged . . . . . 35

Furnishing a sample in accordance with Rule 11.2 or 11.3 . . . . . 60

*Virus deposits*

For storage in accordance with the Treaty . . . . . 850

Issuance of a viability statement in those cases in which, in accordance with Rule 10.2, a fee may be charged . . . . . 150

Furnishing a sample in accordance with Rule 11.2 or 11.3 . . . . . 100

The fees, plus Value Added Tax where applicable, are payable to the Public Health Laboratory Service Board.

[End of text of the notification of the Government of the United Kingdom]

The fees set forth in the said notification of the Government of the United Kingdom will apply as from the thirtieth day following the date (April 30, 1987) of publication of the said fees in the present issue of *Industrial Property*, that is, as from May 30, 1987 (see Rule 12.2(c) of the Regulations under the Budapest Treaty), and will replace the fees published in the September 1984 and May 1985 issues of *Industrial Property*.

*Budapest Communication No. 32 (this Communication is the subject of Budapest Notification No. 58, of April 13, 1987).*

# Activities of the International Bureau

## The World Intellectual Property Organization in 1986\*

### Industrial Property and Patent Information Activities

#### I. Information Concerning Intellectual Property

##### Objective

The objective is to increase and spread knowledge about the doctrine, legislation, frequency of use and practical administration of intellectual property.

##### Activities

The periodicals *Industrial Property* and *La Propriété industrielle* and *Copyright* and *Le Droit d'auteur* continued to be published each month.

*Collection of Intellectual Property Laws and Treaties.* WIPO continued to keep up to date its collection of the texts of intellectual property laws and regulations of all countries and of treaties dealing with intellectual property, both in their original languages and in English and French translations. The most important texts were published in the above-mentioned four periodicals.

*Surveys of the Practical Administration of Industrial Property Laws.* Work continued on the preparation of the survey entitled *The Situation of Industrial Property in the Countries of Africa*. Country reports prepared by two WIPO consultants were revised and completed by WIPO officials and further country reports were prepared.

*Industrial Property Statistics.* In January, the volume containing the detailed tables of the industrial property statistics (publication "B") for 1984 was distributed. It consists of 395 pages.

\* This article is the second part of a report on the main activities of WIPO in general and in the field of industrial property. Activities in the fields of copyright and neighboring rights are covered in a corresponding report in the review *Copyright*.

The first part dealt with the activities of WIPO as such and with development cooperation activities in respect of industrial property and patent information. This second part deals with other industrial property and patent information activities.

In July, a *Working Group on Teaching Materials for Intellectual Property*, organized jointly by WIPO and the International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP), took place in Geneva. The 15 participants came from Australia, China, France, Hungary, India, Italy, Peru, Sweden, the United Kingdom, the United States of America, and WIPO. The Working Group discussed *inter alia*: the collection of information on existing teaching materials; the classification of teaching materials under different subjects; and the location and dissemination of teaching materials.

#### II. Industrial Property Questions of Topical Interest

##### Objective

The objective is to look for solutions to specific questions of a legal nature, and of topical interest, in the field of the protection of industrial property. These questions are of topical interest because they are raised by recent changes in the social, economic or technological environment in which mankind lives.

##### Activities

*Links between the Madrid Agreement and the Proposed (European) Community Trade Mark.* In January, the *Working Group on Links Between the Madrid Agreement and the Proposed (European) Community Trade Mark* held its first session in Geneva. The following States were represented: Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, France, German Democratic Republic, Germany (Federal Republic of), Greece, Hungary, Ireland, Italy, Luxembourg, Morocco, Netherlands, Portugal, Romania, Soviet Union, Spain, Sudan, Switzerland, United Kingdom, Viet Nam, Yugoslavia (24). Representatives of three intergovernmental organizations (Benelux Trademark Office (BBM), Commission of the

European Communities (CEC), European Free Trade Association (EFTA)) and of 14 non-governmental organizations (Association française des praticiens du droit des marques et des modèles (APRAM), Benelux Association of Trademark and Design Agents (BMM), Committee of National Institutes of Patent Agents (CNIPA), European Association of Industries of Branded Products (AIM), European Communities Trade Mark Practitioners' Association (ECTA), Federal Chamber of Patent Attorneys (FCPA), Institute of Trade Mark Agents (ITMA), International Association for the Protection of Industrial Property (AIPPI), International Chamber of Commerce (ICC), International Federation of Industrial Property Attorneys (FICPI), Pharmaceutical Trade Marks Group (PTMG), Trade Marks, Patents and Designs Federation (TMPDF), Union of European Practitioners in Industrial Property (UEPIP), Union of Industries of the European Community (UNICE)) also participated as observers.

Discussions were based on a memorandum by the Director General entitled "Draft Protocol and Draft Decision." The document consisted of the drafts of a possible Protocol to the Madrid Agreement Concerning the International Registration of Marks and a possible Decision by the Assembly and Committee of Directors of the Madrid Union on the provisional application of the Protocol, pending its entry into force.

The Protocol would make it possible to use simultaneously the Madrid Agreement and the future Community Trade Mark Regulation: an international registration made under the Madrid Agreement could have the effects of a Community registration and a Community registration could serve as a basis for an international registration.

In connection with the above-mentioned Working Group meeting, an extraordinary session of the Assembly of the Madrid Union for the International Registration of Marks was held. It was decided that the Working Group should meet again in July.

In July, the Working Group held its second session in Geneva. The following States were represented: Austria, Belgium, Bulgaria, Czechoslovakia, Democratic People's Republic of Korea, Denmark, France, German Democratic Republic, Germany (Federal Republic of), Greece, Hungary, Ireland, Italy, Luxembourg, Morocco, Netherlands, Portugal, Romania, Soviet Union, Spain, Sudan, Switzerland, Tunisia, United Kingdom, Viet Nam, Yugoslavia (26). Representatives of the following four intergovernmental (EFTA, BBM, CEC, Secretariat of the Council of Ministers of the European Communities (CMEC)) and 16 non-governmental organizations (AIM, AIPPI, APRAM, BMM, CNIPA, Council of European Industrial Federations (CEIF), ECTA, European Federation of Pharmaceutical Industries' Associations (EFPIA), FICPI, ICC, ITMA, Max Planck Institute for Foreign and International Patent, Copyright and Competition Law, PTMG, TMPDF, UEPIP, UNICE) participated as observers.

Discussions were based on a memorandum by the Director General entitled "Possible Protocols to the Madrid Agreement." It contained the drafts of two Protocols. Draft Protocol A aimed at modifying the Madrid Agreement so as to make the Agreement acceptable to the four States members of the European Community without being members of the Madrid Union (hereinafter referred to as the "four States").

Four main issues were raised by Protocol A: (i) the possibility of basing an international registration either on a national filing or on a national registration in the country of origin, at the choice of the applicant; (ii) the extension of the present 12-month time limit for provisional refusal to 18 months; (iii) the possibility of transforming (unsuccessful) international registrations into national applications; (iv) the possibility for the designated trademark office to require, for each international registration, the same amount of fees as it is entitled to in connection with a national registration (instead of a fee the amount of which would be determined by the members of the Madrid Union).

Draft Protocol B aimed at establishing a link between the Madrid Agreement and the future Community (European) Trade Mark, enabling the simultaneous use of the two systems, as indicated above.

Although in the Working Group it was not possible to agree on all the issues, a degree of progress was made that would seem to be sufficient to envisage seriously the convocation of a diplomatic conference for the adoption of texts along the lines of the two proposed Protocols.

Accordingly, in a memorandum dated July 15, 1986, the Director General proposed that the Assembly of the Madrid Union, at its meeting in September the same year, pronounce itself on the question whether such a diplomatic conference should be further prepared and convened.

*International Registration of Marks.* In November, the *Committee of Experts on the International Registration of Marks* held its third session. Discussions were based on a Memorandum of the Director General of WIPO entitled "Detailed Outline of a Proposed Treaty on International Trademark Applications and the Centralized Renewal and Modification of National Trademark Registrations ('Trademark Cooperation Treaty' (TCT))" (document IRM/CE/III/2), hereinafter referred to as "the Memorandum."

Thirty-six States were represented: Austria, Bulgaria, Canada, Chile, Costa Rica, Czechoslovakia, Denmark, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Greece, Guatemala, Honduras, Hungary, Ireland, Japan, Luxembourg, Monaco, Morocco, Netherlands, Norway, Panama, Portugal, Republic of Korea, Romania, Saudi Arabia, Soviet Union, Sudan, Sweden, Switzerland, Togo, United Kingdom, United States of America, Viet Nam, Yugoslavia. Three intergovern-

mental organizations (BBM, CEC, CMEC) and 24 non-governmental organizations (ABA, AIM, AIPPI, APRAM, Asian Patent Attorneys Association (APAA), Bundesverband der Deutschen Industrie e.V. (BDI), Center for the International Study of Industrial Property (CEIPI), CNIPA, ECTA, EFPIA, FICPI, ICC, International Federation of Pharmaceutical Manufacturers Associations (IFPMA), ITMA, Licensing Executives Society International (LES), Max Planck Institute, New York Patent, Trademark and Copyright Law Association (NYPTC), PTMG, The Chartered Institute of Patent Agents (CIPA), The United States Trademark Association (USTA), TMPDF, UEPIP, UNICE, Union des fabricants (UNIFAB)) were represented as observers.

The Director General of WIPO opened the meeting and introduced the Memorandum, indicating that the draft of the New Treaty proposed three things in order to facilitate trademark registration all over the world. One was related to the beginning of the procedure, namely, the filing of applications. The second concerned the renewal of trademark registrations. The third dealt with modifications in trademark registrations. There would be no international registration in the proposed system. Consequently, everything would remain at the national level, except that the procedure for obtaining a national registration could be started with one centrally-filed international application at the International Bureau of WIPO. The second item dealt with in the New Treaty concerned a centralized renewal system. A single act performed through the International Bureau of WIPO would cause the renewal of all the national registrations for the same trademark in all the member States where it was registered and for which renewal was requested. The third proposal contained in the New Treaty concerned centralized modifications, again by one single act, performed through the International Bureau of WIPO.

In a general debate, the representatives of the participating States and organizations expressed their views on the Memorandum. The Committee of Experts next proceeded with the discussion of a number of specific issues. The discussions of the Committee were summarized as follows by the Chairman:

(a) It had been useful and worthwhile to undertake a discussion of the specific proposals contained in the Memorandum, even in view of the skepticism expressed by many participants. The discussions had led to a useful exchange of views and to a better understanding of the problems involved in an attempt to develop, in addition to the Madrid Agreement, an international agreement on cooperation in trademark matters. These problems resulted primarily from the differences between the various national legal systems in respect of which there was little desire to envisage substantial changes.

(b) The discussions had shown that there was, at this stage, little enthusiasm to create a new international

trademark application system. The proposals on centralized renewal were generally seen as overly ambitious and raising practical difficulties. There was, however, growing interest from many sides in improving the administration of trademarks worldwide. The acquisition of trademarks in foreign countries and the management of trademark portfolios might be made easier than at present. The discussions had, in particular, related not only to the advantages of centralized modifications, but also to further simplification features, such as uniform application forms and the like.

(c) As far as the future was concerned, it would be for the competent Governing Bodies to decide, in their sessions of September 1987, what the further work in this field was to be. As the Director General had already announced, "trademark harmonization" would be included in his proposal for the program for the 1988-1989 biennium. The Director General, in preparing his proposals, and the Governing Bodies, in making their decisions, should consider the results reached in the three meetings of this Committee of Experts and the prospects for the future that discussions in this Committee had demonstrated.

(d) The Chairman closed by stating that the discussions, in spite of the differences in approaching them, had been held in a spirit of cooperation from all sides. They had demonstrated that there were prospects for finding common ground in the future, which might provide the basis for improving the presently unsatisfactory situation and in the end lead to worldwide cooperation in the field of trademarks.

*Industrial Property Protection of Biotechnological Inventions.* In February, the *Committee of Experts on Biotechnological Inventions and Industrial Property* held its second session in Geneva. Participating in the meeting were 29 States (Argentina, Austria, Belgium, Brazil, Bulgaria, Canada, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Hungary, India, Ireland, Italy, Japan, Madagascar, Netherlands, Nigeria, Norway, Portugal, Saudi Arabia, Soviet Union, Spain, Sweden, Switzerland, Thailand, United Kingdom, United States of America); five intergovernmental organizations (CEC, European Patent Organisation (EPO), International Union for the Protection of New Varieties of Plants (UPOV), United Nations Industrial Development Organization (UNIDO), World Health Organization (WHO)) and 18 non-governmental organizations (AIPPI, Association of Plant Breeders of the European Economic Community (COMASSO), CNIPA, EFPIA, European Federation of Agents of Industry in Industrial Property (FEMIPI), FICPI, ICC, IFPMA, International Association of Horticultural Producers (AIPH), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Community of Breeders of Asexually Reproduced Ornamental and Fruit Tree Varieties

(CIOPORA), International Federation of the Seed Trade (FIS), International Group of National Associations of Agrochemical Manufacturers (GIFAP), International Federation of Inventors' Associations (IFIA), LES, UEPIP, UNICE, World Federation for Culture Collections (WFCC)) were represented in the session.

The Committee of Experts had been convened in order to examine a report prepared by the International Bureau of WIPO, entitled "Industrial Property Protection of Biotechnological Inventions." That report examines the existing industrial property protection of the various categories of biotechnological inventions (products, processes and uses in respect of plants, animals, microorganisms and other biological material) and considers possibilities of improving the said protection where it appears to be inadequate.

Concerning the question of whether biotechnological inventions are covered by the concept of invention as developed under national industrial property laws, the Committee of Experts agreed with the conclusions presented in the WIPO report that divergencies still existing between various countries in respect of the interpretation of the concept of invention should be overcome, and that the fact that an alleged invention concerns living matter should not be an obstacle to its being recognized as an invention for purposes of its protection under industrial property laws. As regards the case of isolation of an existing microorganism, it was pointed out that if a process of isolation involving an important technical intervention was specified, the microorganism as obtained by the specific method of isolation could be considered as an invention.

The question of exclusion from patent protection of certain sectors of biotechnology was discussed in detail by the Committee of Experts, which, in this respect, focused almost entirely on the exclusion of plant varieties from such protection, as provided for in a number of national laws and in the European Patent Convention. Taking into account the need for strong protection for biotechnological inventions in order to encourage research, the Delegations of Ireland and Japan and several non-governmental organizations stated that the existing exclusion of certain categories of biotechnological inventions, in particular, plant varieties, from patent protection should no longer be maintained. Reference was also made to the recent decision of the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office (*Ex parte Hibberd et al.*), which held that no restriction applies in the United States of America to the patenting of plant varieties. Non-governmental organizations representing the interests of plant breeders, as well as the Office of UPOV, defended the existing provision in patent laws excluding the patenting of plant varieties and referred to Article 2 of the International Convention for the Protection of New Varieties of Plants, which obliges member States to grant only one form of protection in respect of the same botanical

genus or species. With the exception of the Delegations of Ireland and Japan, all other government delegations which spoke on this matter said that the time was not yet ripe for taking a decision on the question of abolishing the exclusion of plant varieties from patenting; those government delegations drew the same conclusion with respect to the exclusion of animal varieties and essentially biological processes contained in a number of national industrial property laws and in the European Patent Convention. It was pointed out that extensive studies were required in order to determine whether an effect of the exclusion under consideration was that the protection currently offered was not sufficient, and that it would also have to be studied whether the deletion of those exclusions could have the effect of creating a problem of imbalance in the resulting system of protection between the interests of patent owners and other interests involved, in particular, the interests of the public.

The Committee of Experts also examined, in connection with the condition of sufficient disclosure, whether a deposit of a microorganism as such should be considered a sufficient disclosure enabling an average expert to obtain the said microorganism or whether, for the purposes of a product claim with respect to a microorganism, additional information should have to be given in order to enable an average expert to obtain the deposited microorganism (the so-called condition of "repeatability").

With respect to the requirement of the deposit of microorganisms and conditions for the release of samples, the Committee of Experts examined the question whether the system of deposit should be available, or be made available, not only to microorganisms in the strict sense, but more generally to material that can replicate itself or that can direct its replication. The question was discussed whether, in the light of recent technical developments, it was necessary to clarify the term "microorganism" as used in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

As regards conditions for release of samples, it was suggested that the International Bureau should include the question of the possible harmonization of those conditions in its future studies.

In conclusion, the Committee of Experts suggested to the International Bureau that it continue its study of industrial property protection of biotechnological inventions, taking into account the views expressed during this session, in preparation for the next session of the Committee of Experts, to be held in 1987.

As a follow-up to the conclusion referred to in the preceding paragraph, the International Bureau prepared two questionnaires. One was sent in July to governments and non-governmental organizations, with the object of collecting information on the existing situation with respect to the legal protection of biotechnological inventions. The second was sent also in July to non-



governmental organizations to enable them to express their views with regard to the industrial property protection of biotechnological inventions. Completed questionnaires should have been returned to WIPO before October 1986.

*Intellectual Property in Respect of Integrated Circuits.* In February, consultations on technical issues involved in the protection of integrated circuits were held in Geneva. Fourteen consultants from Argentina, China, Germany (Federal Republic of), India, Japan, the Republic of Korea, the Soviet Union and the United States of America participated; in addition, two Brazilian nationals participated as observers. The consultants reviewed a memorandum prepared by the International Bureau outlining certain technical issues, in particular that of reverse engineering. Possible definitions of technical terms (semiconductor integrated circuit, layout-design, etc.) were discussed.

In March, the International Bureau issued the documents prepared for the second session of the Committee of Experts on Intellectual Property in Respect of Integrated Circuits.

In June, the second session of the *Committee of Experts on Intellectual Property in Respect of Integrated Circuits* took place in Geneva. Experts from the following 37 States participated: Algeria, Argentina, Australia, Austria, Brazil, Bulgaria, Canada, Chile, Denmark, Egypt, Finland, France, Ghana, Greece, Germany (Federal Republic of), India, Ireland, Italy, Japan, Madagascar, Morocco, Netherlands, Nicaragua, Nigeria, Norway, Philippines, Portugal, Republic of Korea, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, Uruguay, Yemen, Yugoslavia. In addition, experts from two intergovernmental organizations (CEC, EPO) and 17 non-governmental organizations participated as observers (AIPPI, British Computer Society (BCS), CNIPA, Computer and Business Equipment Manufacturers Association (CBEMA), Electronic Industries Association of Japan (EIAJ), European Electronic Component Manufacturers Association (EECA), FICPI, ICC, Industrial Property Cooperation Center (IPCC), International League for Competition Law (LIDC), International Literary and Artistic Association (ALAI), International Patent and Trademark Association (IPTA), International Publishers Association (IPA), Max Planck Institute, Semiconductor Industry Association (SIA), UEPPI, UNICE).

Discussions were primarily based on two memoranda prepared by the Director General: one contained the draft of a multilateral treaty, the other dealt with the obligations that States would have if they adhered to both a treaty of the kind proposed and the Berne Convention for the Protection of Literary and Artistic Works.

The draft Treaty would have provided for national treatment and certain common or minimum rules on the rights protected, the duration of the protection and

possible formalities. Furthermore, the question of whether non-voluntary licenses should be allowed was discussed.

In addition, the discussions concerned a suggestion by several experts that the draft Treaty provide for preferential treatment for developing countries and a proposal by one country for the establishment of consultation procedures for the settlement of disputes between Contracting States concerning the implementation of Treaty provisions.

With respect to future work toward the establishment of a Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits, the Director General informed the Committee of Experts that he would make a proposal to the September 1986 sessions of the Governing Bodies of WIPO, which would include provision for a further meeting at Committee level.

In July, the Director General issued a document in which he asked the Assembly of the Paris Union and the WIPO Coordination Committee to make decisions concerning future procedure.

*Protection Against Counterfeiting.* In May, the first session of a *WIPO Committee of Experts on Protection Against Counterfeiting* was held in Geneva.

The meeting was attended by approximately 110 participants from 37 States (Argentina, Australia, Austria, Bangladesh, Brazil, Cameroon, Canada, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Finland, France, Germany (Federal Republic of), Greece, Hungary, India, Ireland, Israel, Italy, Japan, Madagascar, Mexico, Morocco, Panama, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Tunisia, United Kingdom, United States of America, Yugoslavia), four intergovernmental organizations (Customs Co-operation Council (CCC), CEC, GATT, International Criminal Police Organization (INTERPOL)) and 32 non-governmental organizations (ABA, AIM, AIPPI, APAA, APRAM, BDI, CBEMA, European Council of Chemical Manufacturers' Federations (CEFIC), CEIPI, CIPA, CNIPA, Comité de lutte contre la contrefaçon (CO.L.C.), ECTA, FICPI, ICC, International Federation of Film Producers Associations (FIAPF), Institute of Patent Attorneys of Australia (IPAA), International Federation of Phonogram and Videogram Producers (IFPI), International Intellectual Property Alliance (IIPA), IPA, ITMA, Law Association for Asia and the Western Pacific (LAWASIA), LES, LIDC, PTMG, The International Anticounterfeiting Coalition, Inc. (IAC), The New York Patent, Trademark and Copyright Law Association, Inc. (NYPLA), TMPDF, UNICE, UNIFAB, The United States Council for International Business (USCIB), USTA).

Discussions were based on a Memorandum by the Director General of WIPO entitled "Counterfeiting and National Laws; Counterfeiting and the Paris Convention" (documents PAC/CE/I/2 and PAC/CE/I/2 Add.).

After a general debate, the Committee of Experts discussed specific issues dealt with in the Memorandum.

In particular, the model provisions for national laws were discussed in detail. Those provisions dealt with the definition of counterfeiting, with conservatory measures, civil remedies and criminal sanctions. In connection with the model provisions, the question of possible information meetings was also discussed.

At the end of the first session, the Director General outlined plans for future action and, subject to what is said below, those plans were noted by the Committee of Experts. The following is a summary of those plans:

(i) there would be two more sessions of the Committee of Experts before September 1987;

(ii) the governments would be asked for written information on their national laws;

(iii) the Memorandum would be revised in the light of the discussions and the said information, and it would continue to deal essentially only with counterfeiting where trademark rights are violated;

(iv) the revised Memorandum would merely elaborate on the ideas contained in the Memorandum considered by the first session; it would not contain draft rules of procedure for information meetings;

(v) the institution of any information meetings was a matter reserved for the Governing Bodies when they meet in September 1987.

After these plans were outlined:

(i) the Delegation of Brazil said that in the next Memorandum the International Bureau should present a profound analysis of the extent to which the Paris Convention can adequately provide for appropriate measures for combating counterfeiting, taking into account the information provided by member countries in respect of their national laws;

(ii) the Delegations of Argentina, Brazil, Colombia, Cuba and India said that, although they supported in principle the idea of information exchange, it was premature to deal with the question of special meetings; a much more profound analysis of the Paris Convention and of existing national laws should first be completed; in any case, future sessions of the Committee of Experts could also serve as an occasion to exchange information (PAC/CE/I/3, paragraph 106).

The request for information referred to in paragraph (ii), above, was mailed in May.

*Harmonization of Certain Provisions in Laws for the Protection of Inventions.* In May, the Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions held its second session. The following 30 States were represented at the session: Austria, Belgium, Brazil, Cameroon, Canada, China, Denmark, Finland, France, Germany (Federal Republic of), Hungary, Iceland, Indonesia, Italy, Japan, Madagascar, Netherlands, Nigeria, Norway, Philip-

pires, Poland, Portugal, Republic of Korea, Soviet Union, Spain, Sweden, Switzerland, Tunisia, United Kingdom, United States of America. In addition, representatives of one intergovernmental organization (EPO) and 21 non-governmental organizations (AIPPI, American Intellectual Property Law Association (AIPLA), APAA, ATRIP, CEFIC, CIPA, CNIPA, Deutsche Vereinigung für Gewerblichen Rechtsschutz und Urheberrecht e.V. (DVGR), FEMIP, FICPI, ICC, IFPMA, Inter-American Association of Industrial Property (ASIPI), International Confederation of Free Trade Unions (ICFTU), Japanese Patent Attorneys Association (JPAA), LIDC, Max Planck Institute, NYPLA, Pacific Industrial Property Association (PIPA), UEPIP, UNICE) participated in an observer capacity.

Discussions were based on several documents prepared by the International Bureau which dealt with, *inter alia*, draft provisions on the grace period for public disclosure of an invention before filing an application, requirements in respect of the granting of a filing date to a patent application, requirements in respect of the naming of the inventor and in respect of evidence to be furnished concerning the entitlement of the applicant, requirements in respect of the manner of claiming in patent applications, requirements in respect of unity of invention in patent applications, extension of patent protection of a process to the products obtained by that process, proof of infringement of a process patent and prior art effect of previously filed but yet unpublished patent applications.

The Committee of Experts expressed general support for WIPO's efforts in the harmonization of patent laws. Many delegations and representatives of organizations appreciated and underlined the importance of WIPO's work in this area. As regards the substantive questions themselves, significant progress was made towards reaching an agreement on the principles of solutions submitted by the International Bureau and on the proposals embodied in the draft Treaty contained in document HL/CE/II/2.

In conclusion, the Committee of Experts agreed that the questions discussed deserved a continued effort at harmonization at the international level. In endorsing the continuation of the work of the International Bureau, the Committee of Experts also agreed that other possible topics for inclusion in the draft Treaty should be studied, such as exclusion of certain categories of inventions from patent protection, interpretation of claims, duration of patents, first-to-file versus first-to-invent principle, manner of description, and rights conferred by the patent.

In September, a *High-Level Round Table on Intellectual Property Matters of Topical Interest in Latin America*, organized by WIPO with the cooperation of the Government of Mexico and the assistance of the United Nations Development Programme (UNDP), was held in Mexico City.

About 60 participants from Mexico and nine specialists from Colombia, Cuba, Germany (Federal Republic of), Mexico, Spain, the United States of America and Venezuela participated in the Round Table. The Round Table was attended by the Director General of WIPO, a Deputy Director General of WIPO and three WIPO officials.

The Round Table was opened by the Director General of WIPO and the Under Secretary for Foreign Investments and Transfer of Technology, Secretariat for Trade and Industrial Development of Mexico.

The purpose of the Round Table was to discuss and exchange views on the protection of layout-designs of integrated circuits, the protection of computer software and the protection of inventions in the field of biotechnology.

### III. Promotion of Patent Information and Development of Patent Classification

#### *WIPO Permanent Committee on Patent Information (PCPI)*

##### Objective

The objective is to encourage and institute close cooperation among national and regional industrial property offices and the International Bureau in all matters concerning patent information, including, in particular, the standardization of the forms of patent documents, the indexing and classifying of patent documents in order to facilitate the retrieval of their contents and searching for the purposes of patent examination.

##### Activities

The *WIPO Permanent Committee on Patent Information (PCPI)* consists of the States members of the Paris Union which have informed the Director General of their desire to be members, States members of the PCT Union, States members of the IPC Union, and (without the right to vote) the African Regional Industrial Property Organization (ARIPO), the EPO and the African Intellectual Property Organization (OAPI). By December 31, 1986, the members of the PCPI were: Algeria, Australia, Austria, Barbados, Belgium, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Dominican Republic, Egypt, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kenya, Liechtenstein, Luxembourg, Madagascar, Malawi, Mali, Mauritania, Monaco, Netherlands,

Norway, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Senegal, Soviet Union, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Togo, Trinidad and Tobago, Uganda, United Kingdom, United States of America, Viet Nam, Yugoslavia, Zambia, ARIPO, EPO, OAPI (68).

In September, the Permanent Committee held its tenth session in Geneva. The following 30 member States and two intergovernmental organizations were represented: Australia, Austria, Brazil, Cameroon, Canada, China, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, Italy, Japan, Madagascar, Netherlands, Norway, Poland, Portugal, Republic of Korea, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America, Viet Nam, Zambia, ARIPO, EPO. In addition, the United Republic of Tanzania was represented by an observer. The CEC, the International Patent Documentation Center (INPADOC), Patent Documentation Group (PDG) and the publishers of the journal *World Patent Information (WPI)* were also represented by observers.

The Permanent Committee reviewed the recommendations made by the PCPI Working Groups in 1986 and took action on them. These recommendations related, among others, to the following questions:

- IPC revision requests;
- inventory of computerized patent search systems;
- guidelines for the organization of search files based on the IPC;
- revision of Standard Code for Identification of Different Kinds of Patent Documents (WIPO Standard ST.16);
- name indexes for patent documents;
- reduction of volume of priority documents as filed with industrial property offices;
- coded character sets to be used in the exchange of machine-readable records;
- a standard dealing with the filing of patent applications in optical character recognition (OCR) format;
- revision of INID Code (WIPO Standard ST.9);
- revision of training course curricula.

The Permanent Committee approved the report prepared by the International Bureau on the various tasks assigned to it in 1986. Taking note of the Annual Technical Reports for 1985 prepared by 30 PCPI members and submitted in 1986, the Permanent Committee encouraged its members to continue their efforts to submit such reports also in 1987.

The Permanent Committee noted that INPADOC's data base contained, on June 27, 1986, information on a total of 12,867,380 patent documents. In respect of the CAPRI System (the Computerized Administration of Patent Documents Reclassified According to the International Patent Classification), the Permanent

Committee noted that the total of subclasses covered was 603 out of a total of 614, and that it was very likely, in view of further commitments taken, that the said project might be brought to a successful conclusion by the end of 1988.

In respect of the *WIPO Handbook on Patent Information and Documentation*, the Permanent Committee noted that a further set of updating pages would be published in 1986 incorporating decisions taken at its present session. In respect of the *Journal of Patent-Associated Literature (JOPAL)*, it noted that issues had continued to be published by the International Bureau at regular intervals, that the cumulative index of 1985, containing approximately 11,500 entries, had been published in April 1986 and that several offices were testing the possibility of using the *JOPAL* machine-readable data available at the International Bureau for their own automated search procedures.

The Permanent Committee adopted the revised PCPI Program for the 1986-1987 biennium. That program contains a total of 42 tasks. Furthermore, the Committee agreed that the five Working Groups established for 1986 be continued in 1987 with unchanged mandates.

After consideration of the proposals made by the Director General on simplification of the structure and streamlining of the procedures of the PCPI, the Permanent Committee agreed to the following conclusions:

(a) The Permanent Committee was of the opinion that it should be given another opportunity to pronounce itself on the proposals of the Director General before the competent Governing Bodies pronounced themselves on such proposals.

(b) If the Permanent Committee was given such an opportunity, it would also take a position on the question whether technical cooperation in the fields of trademarks and industrial designs should be organized.

(c) The Permanent Committee, in its next session, would then consider, among others, the following:

(i) the objectives of the PCPI should be revised to the extent found necessary, on the basis of an evaluation of its past work and the anticipated priorities in the future;

(ii) a policy for the further development of the IPC should be examined;

(iii) an increased opportunity should be created for the heads of offices to meet in the Permanent Committee at least once every two years—and, in between, if there was urgency—preferably during, rather than before, the sessions of the Governing Bodies;

(iv) an intermediary evaluation and steering organ, between the Permanent Committee and standing or *ad hoc* working groups, should be maintained;

(v) the subdivision of work among these

working groups as proposed by the Director General should be positively considered, including the emphasis laid on exchange of patent information and the proposals concerning developing countries; the Director General should be invited to propose means for facilitating the travel of certain at least of the developing country delegates to Geneva.

(d) The Permanent Committee should, in its next session, to be held in approximately six months, be presented with new proposals of the Director General which he would prepare with the help of consultants. He should invite all members of the PCPI to make suggestions in writing by November 1, 1986.

In September, a decision was taken during the meetings of the Governing Bodies that new proposals for the simplification of the structure and streamlining of the procedures of the PCPI should be prepared.

From October to December, following that decision those proposals were prepared by a WIPO consultant from Australia, who visited the industrial property offices of Germany (Federal Republic of), Japan, the Soviet Union, Sweden, the United Kingdom, the United States of America and the EPO in order to discuss the said proposals. On the basis of these discussions, a report was prepared for submission to an extraordinary session of the Permanent Committee to be held in April 1987.

In April, the *PCPI Working Group on General Information* held its ninth session in Geneva. The following 17 States and one intergovernmental organization, members of the Working Group, were represented: Austria, Canada, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Japan, Netherlands, Norway, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO. CEC, INPADOC and PDG were represented by observers.

The Working Group considered various matters and requested the International Bureau to prepare a discussion paper on the problem concerning the appropriate code to be given to patent documents that are essentially the publication of translations of patent documents published under regional or international arrangements, as well as a survey among industrial property offices concerning the reciprocal admittance of priority documents.

The Working Group also made suggestions and decisions on a number of other matters such as the INID Codes and the recording of IPC symbols on machine-readable records.

The Working Group made several recommendations to the Permanent Committee, including the use of coded character sets in the exchange of machine-readable data and the adoption of the filing of patent documents in optical character recognition (OCR) format.

In October, the Working Group held its tenth session

in Geneva. The following 14 States and one intergovernmental organization were represented: Canada, Czechoslovakia, Finland, France, German Democratic Republic, Germany (Federal Republic of), Japan, Netherlands, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO. In addition, the Republic of Korea was represented by an observer. The CEC and PDG were also represented by observers.

The Working Group agreed that WIPO Standard ST.16 (Standard Code for Different Kinds of Patent Documents) should be enlarged to provide a new code "T," defined as "Publication, for information or other purposes, of the translation of the whole or part of a patent document already published by another office or organization."

The Working Group agreed upon the text of two new standards, viz., the "Recommended Standard Format of the Generic Coding of the Text of Patent Documents Exchanged on a Machine-Readable Carrier"—which would enable the reconstitution of the exact format of the text of a patent document as filed to be made from a magnetic tape record thereof—and the "Recommended Standard Format of the Data Exchange of Facsimile Information of Patent Documents"—which would enable offices to exchange drawings or other embedded images in a facsimile form.

As regards the revision of WIPO Standard ST.9 (Recommendation Concerning Bibliographic Data on and Relating to Patent Documents), the Working Group agreed upon a revised wording of INID Code (23).

The Working Group also discussed a proposal for revising WIPO Standard ST.8 (Standard Recording of IPC Symbols on Machine-Readable Records) which had the aim of permitting a greater number of sets of linked IPC symbols to be recorded so that information would not be lost for retrieval purposes, and also discussed a proposal concerning the presentation of check digits associated with publication numbers, which check digits served to minimize errors in the use of publication numbers.

In May and June, the *PCPI Working Group on Search Information* held its sixteenth session in Geneva. The following 13 States and one intergovernmental organization were represented: Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Japan, Norway, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO.

The Working Group dealt with 53 of the 58 IPC revision projects that were pending. Of the projects dealt with, 11 were priority projects in the mechanical field, nine were priority projects in the electrical field, and seven were priority projects in the chemical field.

The Working Group also dealt with 71 of the 87 new IPC revision projects. Of the projects dealt with, 29 were priority projects in the mechanical field, 16 were priority projects in the electrical field, and six were

priority projects in the chemical field. Substantial amendments were agreed to in respect of subclasses A 62 C and A 63 B, relating to "fire-fighting" and "apparatus for physical training," respectively.

The Working Group agreed to standardize certain expressions in the *Guide to the IPC* and in the notes in the IPC, which will give users better advice on where to classify, or search for, certain subject matter.

In November and December, the Working Group held its seventeenth session in Geneva. The following 15 States and one intergovernmental organization were represented: Austria, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Japan, Norway, Republic of Korea, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO.

The Working Group dealt with 26 IPC revision projects in the mechanical and electrical fields carried over from 1985.

The Working Group also dealt with 69 of the other IPC revision projects in the program for the 1986-1987 biennium in the mechanical and electrical fields.

The Working Group considered the question raised by Romania on where to classify patent documents relating to "new breeds" and agreed that the documents cited could be classified under group A 01 K 67/00, which covered "rearing living beings."

In October, *Subgroup K* of the Working Group on Search Information held a session in the EPO in The Hague to discuss revisions of subclass C 07 C of the IPC. The following four States and one intergovernmental organization were represented: Denmark, Finland, France, Germany (Federal Republic of), EPO.

The Working Group completed the task assigned to it and agreed on a number of amendments to the IPC.

In June, the *PCPI Working Group on Patent Information for Developing Countries* held its seventh session in Geneva. The following 18 States and one intergovernmental organization members of the Working Group were represented: Brazil, Canada, China, Cuba, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Japan, Philippines, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO. The International Federation for Documentation (FID) and INPADOC were represented by observers.

The Working Group discussed the present situation under the WIPO Program of Free-of-Charge Patent Information Services, and noted with approval that the scope of contributions to that program had been further broadened to cope with the increasing demand from users in developing countries.

The Working Group also noted analytical surveys prepared by the International Bureau on the returns of the evaluation questionnaires distributed together with the search reports. The International Bureau was



requested to prepare a simplified evaluation sheet and a modified form for the submission of search requests.

The Working Group revised the "Guidelines for the Organization of a Patent Information and Documentation Center, with Particular Regard to the Needs of and Conditions in Developing Countries" and asked the International Bureau to finalize the consolidated text.

The Working Group discussed the second draft of the "Glossary of Terms and Expressions Used in Patent Information and Documentation" and requested the International Bureau to invite further comments on the said draft and to prepare a consolidated draft on the basis of those comments. The Working Group also requested the International Bureau to take the necessary steps to prepare the corresponding draft Glossaries in French and Spanish.

The Working Group prepared revised model curricula on "Training Courses on Patent Information (in general)" and on "Training Courses on the International Patent Classification" and recommended them to the PCPI for approval.

The Working Group recommended that the task of updating the "List of Periodicals Obtainable Free of Charge or on Very Favorable Conditions by Developing Countries" be included in the PCPI Program for the 1986-1987 biennium.

Also in June, the *PCPI Working Group on Special Questions* held its ninth session in Geneva. The following 14 States and one intergovernmental organization members of the Working Group were represented: Australia, Austria, Brazil, Canada, Finland, France, Germany (Federal Republic of), Japan, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO. FID was represented by an observer.

The Working Group agreed that time was not yet ripe for carrying out a study on the consistency in the application of the fourth edition of the IPC, since a sufficient number of documents had not yet been classified according to that edition. It expressed the view that, when adopting the program for the 1988-1989 biennium, the PCPI may wish to consider whether a further consistency study should be carried out.

The Working Group finalized the revised text of the "Guidelines for the Organization of Search Files Based on the IPC."

The Working Group agreed to continue its task of monitoring the use of microforms and other mass storage media for patent documents by offices. The information available seemed to indicate that the use of microforms was well established for the mass storage of patent documents but the use of optical storage and of magnetic storage was still regarded by offices as experimental.

The Working Group noted the progress made in updating the inventory of computerized search systems consisting exclusively, or almost exclusively, of references to patent documents, and agreed that the said

inventory should be maintained as up to date as possible.

The Working Group discussed a detailed proposal for an advanced IPC Seminar to be held in October 1987 and agreed on the time schedule for the preparation of the Seminar, its title, structure and content.

Finally, the Working Group noted the draft of the "Handbook on Telex Interrogation of On-line Patent Data Bases" prepared by the International Bureau. It agreed that a revised draft of the said Handbook, to include as many examples as possible, should be prepared before its next session.

In December, the Working Group held its tenth session in Geneva. The following 15 States and one intergovernmental organization were represented: Austria, Canada, Denmark, Finland, France, Germany (Federal Republic of), Japan, Norway, Republic of Korea, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO. FID was represented by an observer.

The Working Group discussed the second draft of the "Handbook on Telex Interrogation of On-line Patent Data Bases" and requested the International Bureau to prepare a final draft of the Handbook which would include also some additional information.

In respect of a proposal to amend the list of PCT minimum documentation periodicals established under PCT Rule 34.1(b)(iii) so as to take into account the field of biotechnology, the Working Group expressed the view that, before any detailed proposals were considered, relevant data on the possible importance of certain periodicals in this respect should be gathered.

In respect of microforms and other mass storage media for patent documents, the Working Group considered the discussion paper prepared by the International Bureau and requested the latter to revise the document as well as to update it annually.

The Working Group discussed the updated summary of experiences gained in the use of computerized search systems prepared by the International Bureau. The Working Group decided that the said summary should be updated annually and could, possibly, be used to identify those problems which should be solved by patent offices in a common effort to facilitate a more effective use of data bases, as well as those problems which would have to be discussed with data base producers or vendors. The Working Group also agreed that a procedure for bilateral exchange of information between patent offices should be established.

The Working Group noted the progress made in the preparation of an Advanced IPC Seminar to be held in October 1987 and accepted the invitation from the Swedish Patent Office to host a meeting of experts who would prepare the detailed program of the Seminar, and the invitation from the EPO to host the Seminar in October 1987.

In June, the *PCPI Working Group on Planning* held

its seventeenth session in Geneva. The following 14 States and one intergovernmental organization were represented: Australia, Austria, Brazil, Canada, Finland, France, Germany (Federal Republic of), Japan, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO.

The Working Group noted a proposal submitted by the Hungarian Office, relating to the addition of periodicals concerning the rapidly expanding technical subject of biotechnology to the list of "minimum documentation" periodicals established under PCT Rule 34.1(b)(iii), and a study prepared by ARIPO concerning the availability of translations of international publications under the PCT, and agreed to request the International Bureau to put both matters before the PCT/CTC for consideration at its forthcoming ninth session (see below).

The Working Group agreed in general with the conclusions reached and recommendations made by the IPC Committee of Experts in respect of the number of IPC revision projects selected each year and the process of selecting them. The Working Group recommended that any interested office should be given the opportunity to act as rapporteur for any revision project it had not originated.

The Working Group discussed a draft questionnaire, prepared by the Australian Patent Office, relating to the use of patent statistics for technological assessment and forecasting, and requested the International Bureau, in consultation with the Australian Patent Office, to revise and issue the questionnaire.

The Working Group noted a statement by the International Bureau concerning the preparation of inventories of English-language abstracts of Japanese and Soviet patent documents, heard several members of the Working Group reaffirm the strong interest of their offices in receiving copies of the said inventories, and requested the International Bureau to issue a circular letter inviting offices to express their firm intention to purchase copies of the said inventories.

In December, the Working Group held its eighteenth session in Geneva. The following 15 States and one intergovernmental organization were represented: Austria, Canada, Denmark, Finland, France, Germany (Federal Republic of), Japan, Norway, Republic of Korea, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, EPO.

The Working Group discussed various new requests and proposals for the PCPI program and recommended that the item, "Treatment of published and abandoned PCT international applications," be added to the PCPI program for the next biennium (1988-1989). The Working Group assigned the items "Changes in official Gazettes" and "Citations under INID Code (56)," to the PCPI Working Group on General Information.

The Working Group noted the present instructions on how to prepare an Annual Technical Report (ATR) and decided that the International Bureau should make a list of documents, surveys, etc., which needed regular

updating and should invite all PCPI members to make suggestions on how the ATRs could be improved.

The Working Group noted an oral report by the representative of the EPO on the present status of the DATIMTEX project.

The Working Group began discussions on a new task, namely, to reassess the usefulness of the IPC to all offices and other users, as well as its further development, and agreed that the problems encountered in further developing the IPC to the satisfaction of all users seemed to stem from the fact that the use of the IPC, as well as the views on how to develop it further, were divergent and possibly conflicting. It recognized that it would not be possible to satisfy all needs of all users of the IPC, but felt that it would be worthwhile to collect information on how the various categories of users utilized the IPC, and possibly what problems they experienced therewith, in order to be able to define problem areas for the purpose of finding solutions in the interests of all users.

The Working Group noted that a questionnaire on the use of the IPC—requesting information on how offices printed the IPC symbols on their documents, in particular in accordance with the different editions of the IPC, and on how the IPC was used by offices for search purposes—had been sent to all industrial property offices, and requested the International Bureau to send similar questionnaires to observers in the PCPI and other users of the IPC.

*Patent and Trademark Information Fair.* In September, in order to provide up-to-date information and guidance in the use of patent and trademark data bases, WIPO organized a Patent and Trademark Information Fair in Geneva. The theme of the Fair was the role of computers in industrial property offices in their tasks concerning the administration of patents and trademarks.

The exhibitors consisted of nine industrial property offices—those of Brazil, China, France, Germany (Federal Republic of), Spain, Sweden, Switzerland, the United Kingdom and the EPO—and of the following 14 organizations in addition to WIPO: Bertelsmann Datenbankdienste GmbH, Carl Heymanns Verlag, Chemical Abstracts Service, Compumark, Derwent Publications Ltd., Dialog Information Services Inc., INPADOC, Mead Data Central International, Pergamon-Infoline Ltd., Research Publications Ltd., SDC Information Services Inc., Skriptor Juris AB, Télé-systèmes-Questel S.A., Thomson and Thomson.

More than 450 visitors attended the Fair. They were able to use computer data bases located in many European countries, in North and South America and were given up-to-date information concerning developments in other regions of the world. The visitors were able to discuss with the world's leading experts the role that the services available could play in their own field of interest.

A *Round Table* was held for a day in conjunction

with the said Fair to discuss standardization among computerized search systems having substantial coverage of patent documents. The participants in the Round Table were representatives of the exhibitors as well as representatives of the industrial property offices of Japan and the Soviet Union.

*Annual Technical Reports* for 1985 were received from 29 national industrial property offices, the EPO and ARIPO for circulation to the members of the Permanent Committee.

In 1986, nine issues of *JOPAL (Journal of Patent-Associated Literature)* were published by WIPO. The said Journal is a compilation of bibliographic data of articles of relevance to patent searching appearing in periodicals included in the list of minimum documentation under the PCT, arranged according to the IPC. The selection and the classification of the said articles is undertaken by the industrial property offices which cooperate in the project: Australia, Austria, Brazil, Bulgaria, Czechoslovakia, France, German Democratic Republic, Germany (Federal Republic of), Japan, Soviet Union, Sweden, United Kingdom, United States of America, EPO.

In February, May, June and December, WIPO was represented at sessions of the Supervisory Board (*Aufsichtsrat*) of the *International Patent Documentation Center (INPADOC)* in Vienna.

In September and October, a WIPO official attended an INPADOC Users'-Meeting held in Vienna.

Four issues of the periodical *World Patent Information (WPI)*, a joint periodical of the CEC and WIPO, were published in 1986. In May, a Deputy Director General attended a meeting of the Management Committee of *WPI* in Munich.

In February and October, WIPO was represented at *DATIMTEX* (Data Image and Text) meetings organized at the EPO in Munich, and, in April and October, at meetings of the *Committee for Patent Documentation* of the FID in Düsseldorf and Stuttgart, respectively.

### *International Patent Classification (IPC)*

#### **Objective**

The objective is to continue the improvement of the IPC by continuously revising it.

#### **Activities**

In January, the *Committee of Experts* of the International Patent Classification (IPC) Union held its fourteenth session in Geneva. The following 14 States were

represented: Brazil, Denmark, Finland, France, Germany (Federal Republic of), Japan, Netherlands, Norway, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America; the EPO was also represented.

This session was the second of a series of sessions of the Committee of Experts that will lead to the adoption of the fifth edition of the IPC (to be published in 1989).

The Committee of Experts approved amendments (in both the English and the French versions) submitted to it by the PCPI Working Group on Search Information. Those amendments affect 61 subclasses of the IPC.

The Committee of Experts adopted a recommendation concerning the printing of non-obligatory classification symbols and non-obligatory indexing codes on patent documents.

The Committee of Experts discussed the matter of the revision of IPC areas relating to rapidly developing technologies and recommended the PCPI Working Group on Planning to elaborate a procedure to deal with some IPC revision requests with very high priority.

*Publications.* In January, and in consultation with WIPO, the Federation of Arab Scientific Research Councils (FASRC) published volume 9 of the *fourth edition of the International Patent Classification* (Int. Cl.<sup>4</sup>) in Arabic. In March, the *IPC General Information Brochure* was published in Spanish.

## **IV. Development of Trademark Classifications**

### **Objective**

The objective is to continue the improvement of the International (Nice) Classification of Goods and Services for the Purposes of the Registration of Marks and to promote the use of the International (Vienna) Classification of the Figurative Elements of Marks, two important tools in the orderly registration of trademarks and service marks. "Improvement" means the covering of new products and services and the more precise description and classification of existing ones, in addition to the updating of the Classifications in various languages.

### **Activities**

*Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks*

In April, a WIPO official undertook a mission to Oslo in order to advise Norwegian specialists on the



procedures for inputting and printing the Nice Classification (5th edition) in Norwegian, together with another language.

Special studies were made on the transition from a national classification to the International (Nice) Classification in Germany (Federal Republic of), the United Kingdom and the United States of America. After approval by the patent offices in those countries, the studies were sent to the Chinese Trademark Office.

Sixty-one requests for Classification Reports under the Nice Union were received and fulfilled.

## V. Registration Activities

### Objective

The objective is to maintain the registration and similar activities under the Paris Convention, the Patent Cooperation Treaty, the Madrid Agreement (Marks), the Hague Agreement (Industrial Designs) and the Lisbon Agreement (Appellations of Origin), in particular by accurately and promptly providing the services required under those treaties.

### Activities

#### *Paris Convention for the Protection of Industrial Property*

*Communication of State Emblems, etc.* WIPO continued the communication of official signs under Article 6ter of the Paris Convention. In 1986, four communications of an official sign were made under the said Article; one of these communications concerned Ireland and Portugal, one concerned Luxembourg, and the two others concerned EFTA and the Intergovernmental Bureau for Informatics (IBI).

#### *Patent Cooperation Treaty (PCT)*

*Information Services.* In May and October, a new brochure containing the text of the PCT and its Regulations as applicable from January 1, 1986, was published in Arabic and Russian, respectively.

In January and July, replacement pages were issued to update volumes I and II of the *PCT Applicant's Guide*, in English and French.

The fortnightly publication of the *PCT Gazette* in separate English and French editions was continued throughout 1986. In April, an updated list of published items of non-patent literature (technical periodicals) included in the PCT minimum documentation, as agreed upon by the International Searching Authorities, was published in the *PCT Gazette*. A special issue of the

*PCT Gazette* was published in July containing consolidated information of a general character.

*Meetings.* In September, the *PCT Committee for Technical Cooperation* held its ninth session jointly with the tenth session of the WIPO Permanent Committee on Patent Information. Twenty States and one intergovernmental organization, members of the Committee, were represented: Australia, Austria, Brazil, Cameroon, Democratic People's Republic of Korea, Denmark, Finland, France, Germany (Federal Republic of), Italy, Japan, Madagascar, Netherlands, Norway, Republic of Korea, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America, EPO. In addition, observers from eight countries (Czechoslovakia, German Democratic Republic, Ghana, Poland, Portugal, United Republic of Tanzania, Viet Nam, Zambia), two intergovernmental organizations (ARIPO, CEC) and three non-governmental organizations (INPADOC, PDG and the publishers of the journal *World Patent Information (WPI)*) attended.

The Committee discussed certain questions concerning the minimum patent documentation as defined in PCT Rule 34.1 and took the following decisions:

(a) It approved the inventory of Patent Documents 1920 to 1985 according to PCT Rule 34.1(b)(i) and (ii).

(b) It decided, in respect of the inventories of sorted collections of patent documents according to PCT Rule 34.1(c)(vi), that:

(i) the regular updating of the machine-readable data file created by the International Bureau should be discontinued;

(ii) the cooperating offices nevertheless should continue to forward their data to the International Bureau; and

(iii) the International Bureau could continue to make copies of the data available to it at cost to any office so requesting.

(c) It decided that, notwithstanding the withdrawal of cooperation by Chemical Abstracts Services (CAS), the project for preparing inventories of English-language abstracts of patent documents according to PCT Rule 34.1(e) be pursued.

(d) It decided that the proposal by Hungary to amend the list of periodicals established under PCT Rule 34.1(b)(iii) so as to take into account the rapidly evolving field of biotechnology be studied in detail.

In February, a meeting on the PCT was held near Montreal (Canada) with the participation of patent agents. A lecture was given by a Deputy Director General of WIPO.

In February, a meeting on recent developments in international patenting was held in Manchester (United Kingdom) with the participation of representatives of

industry and universities and patent agents. Lectures on the PCT were given by a WIPO official.

In February, a Deputy Director General of WIPO participated in New York in a meeting of a non-governmental organization of patent agents during which he gave a lecture on WIPO in general and the PCT in particular.

In April, a WIPO official gave a lecture on the PCT in Munich at a meeting of a non-governmental organization of patent agents.

In April, a meeting on the PCT was held in Leverkusen (Federal Republic of Germany) with the participation of representatives of industry and patent agents. Lectures were given by a Deputy Director General and another WIPO official.

In April, two meetings on the PCT were held in Paris with the participation of representatives of industry and patent agents. Lectures were given by a WIPO official.

In May, a Deputy Director General of WIPO participated in Reykjavik (Iceland) in a meeting of a non-governmental organization with the participation of representatives of industry, attorneys and patent agents during which he gave a lecture on WIPO in general and the PCT in particular.

In May and June, two WIPO officials participated in two meetings in Tokyo with representatives of industry, during which they gave lectures and answered questions on the PCT, and visited several industrial enterprises in Tokyo, Nagoya and Osaka in order to discuss the advantages of the PCT for Japanese industry.

In October, two WIPO officials participated in Munich in a PCT seminar hosted by a non-governmental organization of attorneys.

In November, a meeting on the PCT was held in Lyon (France) by an academic institution with the participation of representatives of industry and patent agents. A lecture was given by a WIPO official.

In December, a WIPO official gave a lecture on the PCT in Munich at a meeting of a non-governmental organization of engineers.

Also in December, a WIPO official gave lectures on the PCT in Lusaka (Zambia) at the seminar held in conjunction with the annual session of the Council of ARIPO.

*Visits.* In January, a Deputy Director General and another WIPO official visited the Spanish Registry of Industrial Property in order to discuss problems connected with the accession of Spain to the PCT.

In February, a Deputy Director General and another WIPO official visited the EPO in order to discuss problems connected with Spain's accession to the PCT.

In February, a Deputy Director General visited government authorities in Canada in order to discuss, in particular, the ratification of the PCT by Canada.

In April, a WIPO official visited the Spanish Registry of Industrial Property in order to discuss

problems connected with Spain's accession to the PCT.

In April, an official of the United States Patent and Trademark Office and a WIPO official visited the EPO in order to discuss PCT matters.

In May, a Deputy Director General of WIPO visited government authorities in Iceland in order to discuss, in particular, the accession of Iceland to the PCT.

In May, three officials of the EPO visited WIPO in order to discuss PCT matters.

In May and June, two WIPO officials visited the Japanese Patent Office in order to discuss PCT matters.

In July, two officials of the German Patent Office visited WIPO in order to discuss PCT matters.

In September, two government officials of Canada visited WIPO in order to discuss, in particular, the ratification of the PCT by Canada.

In October, two WIPO officials visited the German Patent Office and the EPO in order to discuss PCT matters.

In December, a WIPO official visited the German Patent Office and the EPO in order to discuss PCT matters.

*Operational Services and Statistics.* During 1986, the International Bureau of WIPO received the "record copies"<sup>1</sup> of 7,952 international applications from the "receiving Offices," that is, the Offices with which international applications were filed.

The number of international applications filed,<sup>2</sup> in the same year, according to information provided by the receiving Offices, amounted to 8,082. The total numbers of international applications filed in each calendar year since the beginning of PCT operations are as follows:

June to December 1978	687
1979	2,734
1980	3,958
1981	4,321
1982	4,713
1983	5,050
1984	5,733
1985	7,305
1986	8,082

The increase in filings was 10.64% in 1986 as compared with 1985.

The table below shows the country of origin of international applications whose record copies were received by the International Bureau in 1986 and the corresponding percentages.

<sup>1</sup> The original of an international application as filed is called "record copy."

<sup>2</sup> This number is higher than the number of record copies given in the following paragraph because by the end of 1986 not all record copies of international applications filed had been received by the International Bureau.

Country of Origin *	Record copies received *	
	Number	Percentage
Australia	396	4.98
Austria	96	1.21
Belgium	40	0.50
Brazil	24	0.30
Bulgaria	1	0.01
Denmark	141	1.77
Finland	144	1.81
France	454	5.71
Germany (Federal Republic of)	1,033	13.00
Hungary	77	0.97
Italy	155	1.95
Japan	690	8.68
Luxembourg	4	0.05
Mauritania (OAPI)	1	0.01
Monaco	3	0.04
Netherlands	54	0.68
Norway	83	1.04
Republic of Korea	21	0.26
Romania	1	0.01
Soviet Union	117	1.47
Sri Lanka	2	0.03
Sweden	604	7.60
Switzerland **	241	3.03
United Kingdom ***	786	9.88
United States of America	2,784	35.01
Total	7,952	100.0

\* The record copies were received from the national Office of the country. However, nationals and residents of the following countries can file either with the EPO or with their national Offices (the figures which appear below in brackets after the name of the country divide the above total of record copies received in 1986 into those received from the national Office (before the slant) and those received from the EPO (after the slant)): Austria (80/16), Belgium (35/5), France (448/6), Germany (Federal Republic of) (518/515), Italy (92/63), Luxembourg (2/2), Netherlands (42/12), Sweden (594/10), Switzerland/Liechtenstein (181/60), United Kingdom (781/5). Altogether, 694 record copies were received in 1986 from the EPO as receiving Office, which represents 8.73% of the total number of record copies received in 1986. The receiving Office for nationals and residents of Mauritania and Sri Lanka is the International Bureau of WIPO.

\*\* The national Office of Switzerland is the receiving Office also for nationals and residents of Liechtenstein.

\*\*\* The national Office of the United Kingdom is the receiving Office also for residents of Hong Kong and the Isle of Man.

The average number of Contracting States designated per international application (on the basis of the record copies received in 1986) was 13.48 in 1986. The average number of designation fees payable, however, was 5.93. This difference is due to the fact that in the case of the designation of several countries for regional (European or OAPI) protection, only one designation fee is due and the fact that each designation beyond the first 10 for which designation fees are due is free of charge. The difference also shows that applicants eliminate a certain number of designations—made at no cost at the time of filing—by the time they pay the designation fee, a natural and desirable result of the PCT procedure. The new maximum amount of the designation fee (equivalent to 10 times the amount of the designation fee) was payable in 11% of the applications filed in 1986.

The table below shows the total of designations for the year broken down according to the designated States and the number of times a Contracting State is designated per 100 international applications, expressed as a percentage.

Designated State	Number of designations for national and/or regional protection *	
	Number of designations	Percentage of designations
Australia	3,473	43.67
Austria	5,758	72.41
Barbados	549	6.90
Belgium	5,868	73.79
Brazil	2,089	26.27
Bulgaria	698	8.78
Democratic People's Republic of Korea	760	9.56
Denmark	2,563	32.23
Finland	2,140	26.91
France	7,001	88.04
Germany (Federal Republic of)	7,331	92.19
Hungary	1,033	12.99
Italy	6,416	80.68
Japan	6,399	80.47
Luxembourg	5,380	67.66
Madagascar	605	7.61
Malawi	603	7.58
Monaco	677	8.51
Netherlands	6,264	78.77
Norway	2,450	30.81
Republic of Korea	2,342	29.45
Romania	861	10.83
Soviet Union	1,532	19.27
Sri Lanka	630	7.92
Sudan	590	7.42
Sweden	6,188	77.82
Switzerland **	6,021	75.72
United Kingdom	7,299	91.79
United States of America	5,041	63.39
OAPI ***	598	7.52

\* Only one designation is counted where a State member of the EPO is designated both for national protection and for a European patent. In 1986, a European patent was asked for in 7,235 record copies, which represents 90.98% of the cases.

\*\* Includes the simultaneous designation of Liechtenstein.

\*\*\* Includes the simultaneous designation of Cameroon, Central African Republic, Chad, Congo, Gabon, Mali, Mauritania, Senegal and Togo.

The languages in which the international applications received in 1986 by the International Bureau were filed and the corresponding percentages are as follows:

Language of filing	Number of applications	Percentage of total
Danish	72	0.90
Dutch	18	0.23
English	4,817	60.58
Finnish	63	0.79
French	542	6.82
German	1,331	16.74
Japanese	652	8.20
Norwegian	40	0.50
Russian	118	1.48
Swedish	299	3.76
Total	7,952	100.00

In 1986, 831 demands for international preliminary examination under Chapter II of the PCT were filed with the Offices indicated below, which act as International Preliminary Examining Authorities. In the following table, these demands are broken down according to the International Preliminary Examining Authorities having received the demands, and the corresponding percentages are indicated.

Authority (country or organization)	Number of demands	Percentage of total
Australia	83	10.00
Austria	5	0.60
Japan	30	3.61
Soviet Union	—	—
Sweden	304	36.58
United Kingdom	127	15.28
EPO	282	33.93
Total	831	100.00

Entries relating to the 7,644 international applications which were published in the form of PCT pamphlets (in English, French, German, Japanese or Russian, depending on the language of filing) were published on the same day in the *PCT Gazette*. The numbers of international applications published as pamphlets in each of the above-mentioned languages (and the corresponding percentages) are as follows:

Language of publication	Number of applications published	Percentage of total
English	5,044	65.99
French	493	6.45
German	1,282	16.77
Japanese	726	9.50
Russian	99	1.29
Total	7,644	100.00

#### *Madrid Agreement Concerning the International Registration of Marks*

**Registration of Marks and Connected Tasks.** WIPO continued to perform the tasks provided for in the Madrid Agreement. In 1986, the total number of registrations effected was 9,167. To this figure should be added 8,242 renewals under the Nice and Stockholm Acts of the Madrid Agreement. The total number of registrations and renewals effected during 1986 was therefore 17,409, as compared with 13,696 in 1985. The total number of changes recorded in the International Register of Marks increased to 18,306, as compared with 15,610 in 1985. The total number of refusals recorded during 1986 was 35,635, as compared 30,115 in 1985.

WIPO continued its *Trademark Search Service*, a service open to the public for identifying identical or similar marks among those registered. The total number of trademark searches carried out during 1986 was 1,220, as compared with 1,478 in 1985. This service ceased its activities on December 31, 1986.

**Information Service.** The review *Les Marques internationales*, containing the publication of registrations of marks, renewals and changes recorded in the International Register, continued to appear each month.

In February, replacement pages to update the *Guide to the International Registration of Marks* were issued in English, French and Spanish.

#### *The Hague Agreement Concerning the International Deposit of Industrial Designs*

**Receiving Industrial Designs and Connected Tasks.** WIPO continued to perform the tasks provided for in the Hague Agreement, in particular the registration and monthly publication (in the periodical *International Designs Bulletin/Bulletin des dessins et modèles internationaux*) of industrial designs deposited with it. In 1986, the total number of international deposits was 1,962 and the total number of prolongations and renewals was 654, as against 1,799 and 601, respectively, in 1985.

In February, a new version of the *Guide to the International Deposit of Industrial Designs* was published in English, French and Spanish.

### **VI. Cooperation with States and Organizations in Matters Concerning Industrial Property**

#### **Objective**

The objective is to ensure that, through regular contacts between WIPO on the one hand and the governments of States and international organizations on the other, there should be full awareness of what is being done and planned on either side in order mutually to inspire more and more useful activities, to combine forces whenever possible and to avoid unnecessary duplication.

#### **Activities**

WIPO continued to cooperate with States, with intergovernmental organizations and with international and national non-governmental organizations.

#### *States*

**Austria.** In April, a Deputy Director General had discussions in Vienna on matters of mutual interest with the Vice-President of the Austrian Patent Office.

**Canada.** In February, a Deputy Director General had discussions in Ottawa with the Minister, Department of Consumer and Corporate Affairs and other high officials of that Department, as well as of the Department for External Affairs, the Department of Communications, the Patent Office and the Canadian

International Development Agency (CIDA), on Canada's possible ratification of the PCT, the international registration of marks, the harmonization of patent laws, the protection of integrated circuits, biotechnological inventions and other matters of mutual interest.

*France.* In March, a Deputy Director General had discussions in Paris with the Director General and Deputy Director General of the National Institute of Industrial Property (INPI) on WIPO's activities concerning protection against counterfeiting in trademarked goods, the harmonization of patent laws, the international registration of marks, the protection of integrated circuits and biotechnological inventions, and other matters of mutual interest.

In December, the Director General had discussions with the Minister for Industry, Posts and Telecommunications and Tourism in Paris.

*Germany (Federal Republic of).* In July, a Deputy Director General participated in the ceremony commemorating the 25th anniversary of the German Federal Patent Court.

*Japan.* In March, an International Symposium on the Role of the Industrial Property System in Economic and Technological Development was organized by the Japanese Patent Office (JPO) in Tokyo, in cooperation with WIPO and with the financial support of UNDP. The 26 participants came from Bangladesh, China, India, Indonesia, Iran (Islamic Republic of), Malaysia, Pakistan, the Philippines, Republic of Korea, Sri Lanka, Thailand and Viet Nam. Several nationals of Japan also participated. Lectures were given by the Deputy Director General and other officials of the JPO, as well as by a Deputy Director General of WIPO and another official of WIPO.

In May, the Permanent Representative of Japan in Geneva conferred on the Director General, on behalf of His Majesty the Emperor of Japan, the decoration of the First Class Order of the Sacred Treasure. The citation says, among other things, that the decoration is "in recognition of the meritorious services [the Director General has] rendered as well as [his] leadership for the protection of intellectual property throughout the world."

In October, a WIPO official gave a lecture on WIPO's development cooperation program at a training course on the industrial property system in Tokyo, which was organized by the JPO, the Japan International Cooperation Agency and the Japan Institute of Invention and Innovation for government officials from developing countries, and took place during September and October.

In November, a WIPO official participated as a speaker in an industrial property training workshop in Tokyo, which was organized by the JPO for government officials of developing countries.

*Soviet Union.* In July, the Director General had discussions in Moscow with government officials on development cooperation matters and other questions of mutual interest.

*Spain.* In November, a Deputy Director General and a WIPO official attended, in Mexico City, the First Meeting of the Preparatory Council for the Establishment of an International Center for Patent Documentation in Spanish. The meeting was organized by the Government of Spain through its Registry of Industrial Property and the Ibero-American Cooperation Institute. It was attended by government officials of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Honduras, Nicaragua, Panama, Paraguay, Peru, Venezuela and officials of SIECA and JUNAC.

In November, two WIPO officials visited the Registry of Industrial Property in Madrid to study the computerization achievements of the Registry, in particular in the field of trademarks, in connection with the further development of the WIPO trademark system.

*Thailand.* In September, the Permanent Representative of Thailand in Geneva conferred on the Director General, on behalf of His Majesty the King of Thailand, the decoration of the Most Exalted Order of the White Elephant, Third Class Commander.

*Turkey.* In March, a WIPO official visited Ankara to discuss and finalize the project document of a UNDP-financed country project for the modernization of the industrial property system in Turkey.

*United States of America.* In January, a WIPO official had discussions in Washington, D.C. with government officials and organizations in the private sector on questions relating to various intellectual property matters.

*Yugoslavia.* In May, a WIPO official and three WIPO consultants from the EPO lectured at a national seminar on patent information, search techniques and substantive examination, organized by the Federal Patent Office. There were about 80 participants from the Government and industry. The WIPO official also discussed with government officials the proposed UNDP-financed country project for the modernization of the industrial property system in Yugoslavia.

#### *Intergovernmental Organizations*

*Council for Mutual Economic Assistance (CMEA).* In December, a Deputy Director General participated in a meeting of the heads of industrial property offices of the countries members of the CMEA which took place in Budapest.

*Customs Co-operation Council (CCC).* In April and May, a WIPO official participated in Brussels in meetings of the Permanent Technical Committee of the CCC devoted to the Role of Customs in Implementing Industrial Property and Copyright Law.

*European Patent Organisation (EPO).* In January and June, a Deputy Director General, and in December, a WIPO official, participated in sessions of the Administrative Council of the European Patent Organisation at the EPO headquarters in Munich.

In April and October, a WIPO official participated in meetings of the Working Party on Technical Information of the Administrative Council of the EPO in The Hague and Luxembourg.

In May, the Director General, accompanied by a Deputy Director General, had discussions in Munich with the President of the EPO on cooperation between WIPO and the EPO.

In November, the President of the EPO, accompanied by an EPO official, visited WIPO and had discussions with the Director General on cooperation between WIPO and the EPO.

*GATT.* In September, WIPO participated as observer in the session at Ministerial Level of the Contracting Parties to the General Agreement on Tariffs and Trade (GATT) which was held in Punta del Este, Uruguay.

*Organisation for Economic Co-operation and Development (OECD).* In January, a Deputy Director General and another WIPO official had discussions in Paris on possible cooperation between WIPO and OECD.

*Organization of the Islamic Conference (OIC).* In May, a WIPO official visited New York and held discussions with the Ambassador, Permanent Representative of the OIC to the United Nations, regarding the possibility of concluding a cooperation agreement between the two organizations. A draft agreement was discussed and re-submitted to the OIC.

In July, a WIPO official attended the second General Meeting between the secretariats of the United Nations system and the secretariat of the Islamic Conference. He discussed possible cooperation between WIPO and the OIC with officials of the OIC.

#### *Other Organizations*

In February, a Deputy Director General delivered a speech at a meeting of the New York Patent Lawyers Association (NYPLA) in New York City.

Also in February, a Deputy Director General met

with the Executive Director and President-Elect of the United States Trademark Association (USTA) in New York City. The meeting dealt, in particular, with counterfeiting in trademarked goods and the international registration of marks.

In March, a Deputy Director General and a WIPO official discussed with International Chamber of Commerce (ICC) officials in Paris matters of mutual interest, including WIPO's activities concerning measures against counterfeiting in trademarked goods, the harmonization of national patent laws, the protection of biotechnological inventions and integrated circuits and the creation of links between the Madrid Agreement and the envisaged Community Trade Mark. Also in March, a WIPO official participated in a meeting of the Commission on Industrial Property of the ICC in Paris.

In October, the Director General of WIPO and a WIPO official participated in a symposium on "Fighting Counterfeiting in International Trade" organized by the ICC at its headquarters in Paris.

Also in October, a WIPO official attended the meeting of the Intellectual and Industrial Property Commission of the ICC in Paris.

In March, the Director General delivered an address at the 32nd Conference and General Assembly of the Pharmaceutical Trade Marks Group (PTMG) in London.

In May, the Director General participated in a meeting of the Administrative Council of the Center for the International Study of Industrial Property (CEIPI) in Paris.

In September, a WIPO official participated in the 29th Congress of the International League for Competition Law (LIDC) which took place in Lucerne.

Also in September, a Deputy Director General participated in the Ninth Congress of the Inter-American Association of Industrial Property (ASIPI), which took place in Washington. He presented a report on WIPO activities in that region.

In November, a WIPO official attended the inaugural conference of the Association of European Trademark Proprietors in Vienna.

In December, two WIPO officials attended the inaugural meeting of the "International Association of Producers and Users of Online Patent Information" in London. The participants, representing 24 enterprises, patent offices and organizations, unanimously agreed to establish the Association and then adopted the constitution of the Association and elected its Council. Furthermore, the participants extended, in their capacity as members of the Association, a standing invitation to the International Bureau of WIPO to be present in the General Meeting and in the meetings of the Council of the Association, and to advise the Association in its work.



## Studies

### The Socio-Economic Rationale of the Swedish Patent System\*

S. NIKLASSON\*\*

It is said about some highly industrialized countries, possibly including Sweden, that they have gone miraculously and directly from barbarism to degeneration, without the usual interval of civilization. That is a judgment, the justification of which may be disputed. It is an indisputable fact, however, that Sweden has moved with extreme speed from the tragedy of economic insufficiency to the bliss of the advanced industrial society without spending much time on testing different models. In less than a century, Sweden developed from a poor rural society, which could not feed its small population, to one of the wealthiest welfare States in the world.

The reasons are manifold. Our country was richly endowed with raw materials such as iron ore and wood. We were fortunate to develop a foreign policy based on the principle of non-alliance in peace and neutrality in war, which enabled us to escape—albeit barely—the destruction of wars. Since the effectiveness of such a policy really depends on a country's credibility, it has acted as a strong incentive for self-sufficiency in civil and military production. Lacking the flamboyancy of central European politics, our social life gradually developed on the basis of consensus, which ensured social stability. One of the foremost reasons for the extraordinarily rapid development of Sweden was the quick absorption of new industrial techniques from abroad as well as the entrepreneurial spirit shown in developing indigenous products and markets for them. The political readiness to accept the consequences of free international trade, i.e., the international division of labor, or with a modern term structural adjustment, has also played an important role.

The relevance of the Swedish experience to the situation in developing countries may be questioned. Yet, despite all the obvious differences in terms of cultural background, demographic structure, geographical conditions, etc., our approach may be of some interest if for no other reason than because we were in a situation

similar to that of many developing countries when the industrial revolution in Europe started in the late 19th century.

Privileges close to exclusive patent rights were not unknown in Sweden in previous times. The dramatic expansion of industrial activities and trade in the 19th century, however, gave rise to an intense debate about the rationale of a modernized patent system. Economic liberalism flourished and produced laws prohibiting, *inter alia*, restrictive business practices. The liberals were not in favor of the monopoly rights inherent in the new patent system perceived. They felt that the reward of an inventor should not be guaranteed by legal protection offered by society but be determined exclusively by supply and demand on a free market.

But the pioneers of industry and the developers of new inventions held that an inventor had a natural property right to his own ideas and that he ought to receive some sort of guaranteed reward for the service rendered to society by his invention. It was also argued that an inventor, receiving a reward in terms of the possibility of commercializing the invention under the protection of society, would be willing to disclose the secrets of the invention, thereby stimulating competition and furthering technological progress.

The growing industrial competition made the liberals lose the argument and a pioneering international effort aimed at designing a new patent concept was initiated. By the end of the 19th century, most countries in Europe had adopted patent laws based on the ideas developed during a couple of major international conferences.

Of course, the national patent systems in Europe, including the Swedish one, have been gradually adapted to evolving circumstances. It is remarkable, however, that the underlying concepts have survived the test of history.

So, indeed, have some of the fundamental problems, which remain unsolved. But the debate whether the foundation of the patent system is primarily the individual's remuneration or society's benefit seems to have come closer to a conclusion. As the political importance of economic and, in particular industrial, activities has become increasingly apparent, the promotion of industrial development has become the major policy

\* Introductory speech delivered at the International Centre of Insect Physiology and Ecology (ICIPE) Round Table on the theme "A More Relevant Patent System for Africa," held in Nairobi on January 21 and 22, 1987.

\*\* Director General, Swedish Patent and Registration Office.

rationale of industrial property protection. In Sweden, this promotional effect occurs in the following ways.

The patent system encourages the dissemination of technical information, which widens the base of new technical developments and contributes to saving development costs.

The development of new products is increasingly risky and costly. In addition to the growing significance of technology as a means of competition, the mere pace of technical evolution forces industry to invest ever-growing funds in R & D. Since the traditional markets may be too small to support such investments and the write-off periods become shorter and shorter, more effective marketing is required. The patent system contributes to ensuring the return on such investments. In other words, it works as a powerful investment incentive. This is of particular relevance to smaller companies, because big enterprises normally are better able to absorb risks of this kind because of their greater financial strength, their established market position, etc.

The patent system also entails personal incentives for inventors. The monopoly rights granted by society give the inventor an opportunity for remuneration, the size of which will be determined by the market success of the invention. This argument in support of the patent system is not as powerful as the others mentioned, since rewards to inventors can be arranged in many other ways, not least by R & D grants.

One of the most important functions of the patent system in a country such as Sweden, heavily dependent on foreign trade, is the role of the patent in commercial transactions. A small inventor, lacking means to exploit his ideas commercially, is frequently at a disadvantage in negotiations with bigger enterprises having such resources. To such an inventor, the legal title of a patent is often invaluable. It embodies certain rights given to the inventor by society and it represents an official evaluation of his invention, which may be translated into money in subsequent negotiations with commercial partners.

Many companies cannot afford to develop new technologies on their own. A quicker and less costly solution is to acquire such technologies from another company through a licensing arrangement. A prerequisite for such an arrangement is normally that the licensor enjoys intellectual property protection. In other words, the systems protecting industrial property also foster commerce and trade.

Although Swedish foreign policy is based on the idea of self-sufficiency, Sweden is a very active partner in the international division of labor. She exports half of her industrial produce and imports as much. It follows that major parts of the economy, in particular the industrial sector, are heavily specialized. The high degree of specialization means that Sweden is dependant on foreign technology in many important areas. In order to obtain such technology, an effective system for protecting the industrial property of the sellers is indis-

pensable. Such a system is also required to ensure reciprocal protection of our own technologies sold abroad.

Attention should be drawn to yet another factor that has underscored the importance of industrial property protection in Sweden and elsewhere. I am referring to the increasingly frequent violations of property rights. According to calculations by the International Chamber of Commerce, 5 to 8% of world trade are counterfeit products manufactured with stolen technologies, false marks or imitated designs. Not only watches, fashion products and toys are the subject of such activities but, what is more important, so too are drugs, electronic, lifesaving medical equipment, engines and vehicles, weapon systems and even things as highly controlled as components for the space shuttle. These violations of property rights have serious implications not only for the property owners but indeed also for public health and order and, in exceptional cases, even for national security. Of course, legal countermeasures can be introduced at the national level but, by definition, counterfeiting is an international problem requiring adequate international solutions. The inadequacy of present international cooperation in this area has recently led the trade negotiators in GATT to put this issue on the agenda of the forthcoming trade round.

Industry is not likely to wait for the outcome of government negotiations, however. It is in the process of adopting a dual approach to dealing with the problem. One element in that approach seems to be more aggressive behavior in respect of claiming its rights. Another is a more cautious attitude towards the sale and licensing of advanced technologies.

Certainly, increasingly painful experiences will make industry less inclined to cooperate with partners in countries which lack a reasonably effective system for the protection of industrial property rights.

The arguments launched in favor of a patent system in Sweden have led us to a number of operational conclusions.

Firstly, we have come to realize that our patent granting procedure ought to produce patents of high quality. This means that the granting of a patent should be preceded by careful examination of the novelty, inventive step, industrial applicability, etc., of the invention. The alternative would be not to undertake any search or substantive examination. This alternative means that the courts would have to assume the examining role of the patent office. However, in view of the traditionally lengthy and costly patent court procedures, the latter approach, it seems to us, implies distinct disadvantages to the small inventor, having only modest financial means. That is why Sweden has opted for the first alternative, which means that an inventor, having received a patent for a modest fee, can be reasonably sure that his idea is new, innovative and industrially applicable, etc. Such an examined patent also carries an immediate commercial value.

Secondly, and for more or less the same reason, we feel that the patent fees ought to be kept low, in



particular the initial procedural fees, the size of which may determine the will of an inventor to make use of the granting system. If the inventor, having received a patent, wants to keep it alive over a period of several years, the reason normally is that he has been able to exploit the patent commercially. Accordingly, his capacity to pay fees will have improved. That is why renewal fees in Sweden and many other countries have become progressively higher.

Thirdly, we think that the enormous treasure of technical knowledge contained in patent documentation ought not to be used only for the purposes of granting patents, but be made available to inventors and enterprises, irrespective of whether or not they are in the process of applying for a patent.

As an illustration of the gains to be made from effectively using patent information, I can mention that the Swedish Patent Office rejects 2,000 applications every year on the ground of lacking novelty. Let us assume modestly that six man-months of engineering work are behind each of these applications. This means that 1,000 engineer years have been invested in vain. Assuming that the value added of an engineer is \$50,000, the loss is \$50,000,000. That amount could have been saved had the applicants commissioned the Patent office to make a state-of-the-art search or a novelty search before they proceeded with their development work. Of course, they could also have made proper use of the patent information publicly available in our reading rooms.

Fourthly, we have adopted a pragmatic and restrictive approach to compulsory licensing, that is official permission to utilize an invention notwithstanding a granted patent. We do acknowledge, as do the Paris Convention for the Protection of Industrial Property and many national patent laws, that a State might wish to see inventions worked in its territory for a variety of reasons pertaining to its national interest, for instance, national security and industrial development. Consequently, we have incorporated a limited number of provisions in our patent law providing for compulsory licenses in specific circumstances. However, these provisions have hardly ever been used. The reason is that the provisions cannot really be made effective in practice, since they cannot force the holder of the patent to give away the supplementary know-how normally required to work the invention.

Despite the fact that Sweden is often referred to as a "socialist" country, we do not believe in a patent philosophy according to which nebulous ideas about technology being the heritage of mankind would encroach upon the respect of individual ownership rights. If the fundamental objective of the patent system is to foster industrial development, such a philosophy would be counterproductive in terms of practical implications.

In view of the territorial limitations of national patent systems, the inventor who desires protection on a broader international market will have to apply for

patents in several countries. It follows that the patent offices of these countries will have to do more or less the same work on the applications concerned. Obviously, this is irrational and overly costly. In order to bring about improved cost-efficiency in the Swedish Patent Office as well as better service to the applicants, Sweden strongly supports international cooperation in the area of industrial property. We are strong advocates of the Patent Cooperation Treaty and are proud to serve as an International Searching Authority. In 1978, we joined the European Patent Convention and we are also endeavoring to intensify the already existing cooperation among the Nordic countries.

I might add a comment on a more personal note. Having basically a business and government background I noted with some surprise, when taking on my present assignment, that the patent granting operation is dominated by primarily legal considerations. While the patent system by definition and necessity is full of legal intricacies, the commercial significance of industrial property rights should not be ignored. That is why I feel that more attention ought to be given to the situation before a patent application has been filed and after the patent has been granted. Such a broad perspective is likely to inspire further operational conclusions in respect of what a patent system can do to facilitate the development of new technical ideas and to improve the use of patents as a means of transferring technology by way of licensing or otherwise.

More specifically, patent offices might offer preapplication services in, for instance, the following areas:

- an inventor or enterprise facing a technical problem should be able to get adequate information from the patent office on existing solutions before investing in indigenous development work. Such information should enable the inventor to identify potential license partners;

- enterprises about to take strategic decisions on the orientation of future R & D activities should have the possibility of asking the patent office to map out specific technical areas in terms of the state of the art, the degree of competition, the extent of exclusive rights, the maturity and expiry of such rights, etc.;

- inventors having developed technical ideas should be offered the opportunity of having novelty searches made by the patent office before they consider applying for patents. If requested, the search report might specifically indicate risks of violating existing rights.

Post-granting services might include:

- notification by the patent office, on a patent holder's request, of cases in which the holder's patent is cited in the process of examining other patent applications;

- the patent office might introduce a variety of measures designed to bridge the gap between patent holders and manufacturers. Such measures might entail cooperation with other official or private bodies, such as

banks, insurance companies, tax agencies, development grant authorities, communication services, etc.;

— in addition to official gazettes containing legally required data about applications and patents, patent offices might consider publishing commercially appropriate information about patents in a more appetizing form.

Generally speaking, the increasing pace of development seems to make the technical and commercial

life cycle of processes and products shorter. Furthermore, the borderlines between scientific discoveries and industrial applications appear to become increasingly blurred. This confronts industrial property protection systems, many of which, at least conceptually, are virtually a hundred years old, with new challenges. If there is no timely and adequate response to these challenges, those of us who are responsible will be marching backwards in the future.

# Calendar of Meetings

## WIPO Meetings

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

**1987**

- May 4 to 15 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- May 5 to 8 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property
- May 11 to 13 (Geneva) — Vienna Union: Working Group on the International Classification of the Figurative Elements of Marks
- May 11 to 15 (Paris) — Committee of Governmental Experts on Dramatic, Choreographic and Musical Works (convened jointly with Unesco)
- May 18 to 23 and 26 (Geneva) — Consultative Meeting on the Revision of the Paris Convention (Third Session)
- May 25 to 29 (Geneva) — Committee of Experts on the Protection Against Counterfeiting (Second Session)
- May 28 (Geneva) — WIPO Coordination Committee (Extraordinary Session)
- June 4 and 5 (Ithaca) — Symposium on the Protection of Biotechnological Inventions
- June 11 to 19 (Washington) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning
- June 15 and 16 (Geneva) — Symposium on Effective Protection of Industrial Property Rights
- June 22 to 26 (Geneva) — Madrid Union: Working Group on Links Between the Madrid Agreement and the Proposed (European) Community Trade Mark
- June 22 to 30 (Geneva) — Berne Union: Executive Committee (Extraordinary Session) (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)
- June 29 to July 3 (Geneva) — Committee of Experts on Biotechnological Inventions and Industrial Property (Third Session)
- July 1 to 3 (Geneva) — Rome Convention: Intergovernmental Committee (Ordinary Session) (convened jointly with ILO and Unesco)
- September 2 to 4 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Patent Information for Developing Countries
- September 7 to 11 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)
- September 14 to 19 and 22 (Geneva) — Consultative Meeting on the Revision of the Paris Convention (Fourth Session)
- September 21 to 30 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, Budapest, TRT, Vienna and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union): Ordinary Sessions
- October 5 to 9 (Geneva) — Committee of Governmental Experts on Works of Applied Art (convened jointly with Unesco)
- November 2 to 6 (Geneva) — Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Fourth Session)
- November 23 to December 4 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- December 3 and 4 (Geneva) — Joint Unesco-WIPO Consultative Committee on the Access by Developing Countries to Works Protected by Copyright (convened jointly with Unesco)
- December 7 to 11 (Geneva) — Committee of Governmental Experts on the Printed Word (convened jointly with Unesco)

## UPOV Meetings

**1987**

- June 2 to 4 (Bamberg) — Technical Working Party for Vegetables
- June 10 to 12 (Copenhagen) — Technical Working Party on Automation and Computer Programs
- June 23 to 25 (Geneva) — Technical Working Party for Agricultural Crops
- October 13 and 14 (Geneva) — Technical Committee
- October 15 and 16 (Geneva) — Administrative and Legal Committee
- October 17 (Geneva) — Subgroup on Biotechnology
- October 19 (Geneva) — Consultative Committee
- October 20 (Geneva) — Meeting with International Organizations
- October 21 and 22 (Geneva) — Council

## Other Meetings Concerned with Industrial Property

### 1987

June 1 to 5 (Vienna) — European Patent Organisation: Administrative Council

June 7 to 11 (Dublin) — Union of European Practitioners in Industrial Property: Congress

June 8 to 12 (Sofia) — Bulgarian Group of the International Association for the Protection of Industrial Property: International Symposium on Protection of Industrial Property and Promotion of Economic Cooperation

June 16 to 19 (Strasbourg) — Center for the International Study of Industrial Property: Seminar on Licensing and the Transfer of Technology (first module: License Contracts and the Transfer of Technology)

July 20 to 22 (Cambridge) — International Association for the Advancement of Teaching and Research in Intellectual Property: Annual Meeting

September 4 to 6 (Stockholm) — International League for Competition Law: *Journées d'études*

September 22 to 25 (Strasbourg) — Center for the International Study of Industrial Property: Seminar on Licensing and the Transfer of Technology (second module: Strategy and Procedures for the Transfer of Technology)

December 7 to 11 (Munich) — European Patent Organisation: Administrative Council

### 1988

June 27 to July 1 (Cannes) — International Federation of Industrial Property Attorneys: World Congress

September 15 to 18 (Angers) — International League for Competition Law: 30th Congress